

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.531 of 2018**

Arising Out of PS. Case No.-937 Year-2000 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. Raja Yadav @ Raja Raut, son of Late Sakhichand Yadav.
 2. Bigu Raut @ Bigu Yadav, son of Thag Raut. Both are resident of Village- Bakhariya, Police Station- Majhauria, District- West Champaran.

... .. Petitioner/s

Versus

1. State of Bihar.
2. Hirdya Nand Yadav @ Hirdya Yadav, son of Bal Deo Yadav, resident of Village- Bakhariya, Police Station- Majhauria, District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Adv.
For the Respondent/s : Mr. Dr. Ajeet Kumar

**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

Date : 06-02-2019

I.A. No. 1762 of 2018

This interlocutory application has been filed for condoning the delay in filing this criminal revision application.

For the reasons mentioned in the application sufficient cause has been shown for not filing the criminal revision application within time, as such the delay in filing the criminal revision application is condoned.

The interlocutory application is allowed.

Criminal Revision No. 531 of 2018

Heard parties.

2. This Criminal Revision has been filed for setting



aside the order dated 12.10.2017 passed by 1st Additional Session Judge-cum-special Judge, West Champaran at Bettiah in Cr. Appeal No. 107 of 2013 arising out of Complaint Case No. 937 of 2000 by which Cr. Appeal was dismissed as well as judgment of conviction and order of sentence dated 23.09.2013 passed in Complaint Case No. 937 of 2000 passed by Judicial Magistrate 1st Class, West Champaran at Bettiah by which petitioners have been convicted under Section 418 and 420 read with 34 of IPC and sentenced to undergo rigorous imprisonment for two years and fine of Rs. 1000/- .

3. Complainant/opposite party No. 2 had filed a complaint case alleging therein that on 27.10.1999 accused Bigu Yadav registered one katha of land after receiving consideration of Rs. 11000/- and subsequently he asked the complainant to return the said land as he had entered into a subsequent agreement with accused Raja Yadav on 15.10.1999 and sold said land to accused Raja Yadav on 01.02.2000 and as such complainant was cheated by both the accused.

4. The trial court after examining the complainant on S.A. and inquiry witnesses took cognizance of the offence under Sections 418, 420/34 of IPC and after recording the evidence before charge framed the charges under Sections 418, 420/34 of



IPC. The accused persons denied the charges and claimed to be innocent.

5. Prosecution has examined altogether four witnesses in support of charge and also produced five documents which were marked as Exhibit 1, 2, 3, 3A, 3B, 3C and 4 in support of its case.

6. After considering the evidence of prosecution, the trial court held that accused Bigu Yadav is nephew of accused Raja Yadav and both in collusion with common intention cheated complainant Hridya Nand Yadav by dishonest concealment of fact. Accused Bigu Yadav and Raja Yadav were aware of existence of sale deed dated 27.10.1999 and again sold the same land and cheated the complainant. Accused Raja Yadav and Bigu Yadav have cheated complainant with dishonest intention. The trial court has held that three prosecution witnesses have supported the prosecution case and defence has failed to bring any reasonable doubt or contradictions, and on considering the entire facts and materials available on record has held that prosecution has succeeded in proving its case beyond all reasonable doubt and held them guilty for the offence punishable under Sections 418, 420/34 of IPC and accordingly convicted them and sentenced to undergo rigorous



imprisonment for two years and fine of Rs. 1000/- under Section 418/34 of IPC and in default to undergo simple imprisonment for one month and further convicted them under Section 420/34 of IPC and sentenced to undergo rigorous imprisonment of two years and fine of Rs. 1000/- and in default to undergo simple imprisonment of one month. Both the sentences shall run concurrently.

7. Against the order passed by the trial court petitioners preferred Cr. Appeal before the Session court being Cri. Appeal No. 107 of 2013 which was heard by 1st Additional Session Judge-cum-special Judge, West Champaran at Bettiah and same was dismissed by order dated 12.10.2017 affirming the judgment of conviction and order of sentence of trial court against which petitioners have preferred the present criminal revision.

8. After hearing the parties and considering the judgment of conviction and order of sentence passed by trial court and affirmed by appellate court, this Court does not find any illegality, irregularity or error in the order passed by the courts below convicting the petitioners under Sections 418, 420/34 of IPC. However, considering the age of petitioners and also in view of the fact that it was their first offence, the period



of sentence is modified to one year rigorous imprisonment under section 418/34 of the Indian Penal Code and fine of Rs. 5000/- each and in default of payment of fine to undergo one month simple imprisonment and one year rigorous imprisonment under Section 420/34 of the Indian Penal Code and fine of Rs. 5000/- each and in default of payment of fine to undergo one month simple imprisonment. Both sentences to run concurrently.

Subject to above modification, the criminal revision is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.02.2019
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