

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1350 of 2018

Arising Out of PS. Case No.-1617 Year-2007 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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Maheshwar Singh S/o Late Bindeshwari Singh, Resident of Village-
Dakrama, Police Station Hathauri, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar
2. Baliram Singh S/o Late Jangli Singh, Resident of Village-Dakrama, P.S-
Hathauri, District- Muzaffarpur.
3. Himanshu Kumar S/o Vinay Singh, Resident of Village- Dakrama, P.S-
Hathauri, District-Muzaffarpur.
4. Vijay Singh S/o Baliram Singh, Resident of Village-Dakrama, P.S- Hathauri,
District- Muzafarpur.
5. Ajay Singh S/o Baliram Singh, Resident of Village-Dakrama, P.S- Hathauri,
District- Muzafarpur.
6. Binay Singh S/o Baliram Singh, Resident of Village- Dakrama, Police
Station- Hathauri, District- Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Gopal Prasad, Advocadte Mr. Navendu Kumar, Advocate
For the Respondent/s	:	Mr. Nityanand Tiwari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 18-02-2020 This revision application has been preferred for

setting aside the judgment dated 31.07.2018 passed by learned

Additional District and Sessions Judge-II, Muzaffarpur in Cr.

Appeal No. 56 of 2015 by which the learned Additional District

and Sessions Judge-II, Muzaffarpur has been pleased to set

aside the judgment and order dated 11.05.2015 passed by

learned Judicial Magistrate 1st Class, Muzaffarpur in Complaint

Case No. 1617 of 2007, corresponding to Trial No. 2114 of



2015. The learned Judicial Magistrate 1st Class, Muzaffarpur had in course of trial come to a conclusion that charge under Section 379 of the Indian Penal Code was not proved beyond all reasonable doubts against the accused persons but the charges under Sections 147, 323 and 435 of the Indian Penal Code have been proved. After convicting the accused persons for the aforesaid offences, the learned Magistrate directed them to furnish a bond under Section 4 of the Probation of Offenders Act for a period of three years.

In appeal preferred by the accused persons the learned Additional District and Sessions Judge-II, Muzaffarpur, however, found huge discrepancies in the statement of the complainant witnesses both on the point of assault as well as on setting the mango trees on fire and after noticing those contradictions, the learned appellate court allowed the appeal and set aside the judgment of the learned trial court.

In the revision preferred before this Court, it has been contended that the learned appellate court could not appreciate the fact and did not take into account while passing the impugned order that in proof of the burnt trees two photographs were also exhibited on which no objection was ever made and further ground has been raised that the contradictions in the



statement of the prosecution witnesses were very minor which could have been ignored.

On perusal of the impugned judgment of the appellate court, this Court finds that the learned appellate court has noticed that no witness had supported the allegation that 20-25 mango trees were burnt. What is noticeable from paragraph 8 of the impugned judgment of the learned appellate court is that in the complaint petition the complainant had set up the date of cause of action as a continuing cause of action on 31.05.2007 to 02.07.2007. The learned appellate court has correctly recorded that the offences which have been allegedly proved against the accused persons are not in the nature of continuing offence.

Regarding the allegation of assault also huge contradictions have been found in the statement of the complainant witnesses. It also appears that both the parties are co-sharers and they had a dispute over the possession of the orchard.

The learned appellate court has found that the allegation of burning of the mango trees were not proved as no evidence of the burning of trees could be brought to the notice of the learned trial court and the fact that the occurrence was not reported to the Police Station further has gone against the



complainant as the learned appellate court has taken a view that had these facts been reported to the police then no evidence of burning of the trees would have been available and therefore to avoid that situation the complaint case was filed.

Mr. Navendu Kumar, learned counsel for the petitioner has submitted before this Court that the learned appellate court has committed error of record inasmuch as the court has failed to appreciate that there are witnesses consistent on the point that the mango trees were burnt which the learned appellate court could not appreciate.

On this issue as well this Court has considered the submission of learned counsel for the petitioner and finds from the judgment of the learned trial court itself that while considering the deposition of the prosecution witnesses the learned trial court has disbelieved them on certain issues whereas in respect of burning of mango trees the statement of the P.W.2, P.W.3, P.W.4, P.W.5 and P.W.6 have been believed which contradict the case of the defence that both the parties had dispute over a Semal tree and there was a Panchayati also in this regard and because of that dispute a false case was lodged against the accused persons.

In the opinion of this Court, sitting in its revisional



jurisdiction it would not be just and proper for this Court to re-appreciate the evidences and take a different view of the matter from that of the view taken by the learned appellate court.

While considering the scope and ambit of the revisional jurisdiction of the High Court in such matters the Hon'ble Apex Court has repeatedly held that in revisional jurisdiction the Court is not supposed to deal with the evidences and impose its opinion on the opinion of the learned trial court. It has been held that unless it is a case of perversity and/or non consideration of any material on the record, no interference is called for by the revisional court.

This Court having gone through the judgment under revision, in view of the discussions made hereinabove finds no perversity with the impugned judgment and hence, no interference is called for by this Court.

This revision has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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