

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL REVISION No.1531 of 2019

Arising Out of PS. Case No.-182 Year-2014 Thana- MAKHDUMPUR District- Jehanabad

1. Shailendra Das, S/o Late Braj Nandan Das,
2. Lalendra Das, S/o Late Braj Nandan Das
3. Chotu Das @ Chhotu Das, S/o Late Braj Nandan Das
4. Indal Das, S/o Late Braj Nandan Das
All resident of village- Nawada, P.S.- Makhdumpur, District- Jehanabad
5. Suresh Das S/o Late Yadu Das R/o village- Habalipur, P.S.- Ghosi, District-
Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shivendra Prasad, Adv
For the Respondent/s : Mr.Ram Naresh Ray (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

4 20-03-2020 **I.A No. 1 of 2020**

Heard learned counsel for the parties.

This interlocutory application has been filed for condoning the delay in filing criminal revision against the judgment and order dated 02.09.2019 passed by learned Additional District and Sessions Judge-III, Jehanabad in Criminal Appeal No. 16 of 2018, by which the learned appellate court has dismissed the appeal of petitioners.



Sufficient reasons have been shown in the application for condoning the delay in filing criminal revision application, as such delay in filing criminal revision application is hereby condoned.

I.A. No. 1 of 2020 is disposed of.

Criminal Revision No. 1531 of 2019

This criminal revision has been filed against the judgment & order dated 02.09.2019 passed by learned Additional District and Sessions Judge-III, Jehanabad in Criminal Appeal No. 16 of 2018 by which the learned Additional District and Sessions Judge-III, Jehanabad, has dismissed the appeal filed by the petitioners affirming the judgment of conviction under Section 379, 323 and 188 of IPC, passed by the trial court, however, the order of sentence has been modified as one year simple imprisonment under Section 379 of IPC, fine of Rs. 1000/- under Section 323 of IPC and one month simple imprisonment under Section 188 of IPC.

Petitioners had preferred criminal appeal before the Sessions Court, Jehanabad, against the judgment of conviction and order of sentence dated 23.01.2018 passed by learned Chief Judicial Magistrate, Jehanabad, in G.R. No. 1753 of



2014 (Trial No. 161 of 2018 wrongly recorded as Trial No. 161 of 2008 in the appellate court order) arising out of Makhdumpur P.S. Case No. 182 of 2014, whereby and whereunder the learned Chief Judicial Magistrate, Jehanabad had held petitioners guilty for the offence punishable under Sections 379, 323 and 188 of the Indian Penal Code and sentenced them to undergo two years simple imprisonment under Section 379 of IPC, one year simple imprisonment under Section 323 of IPC and one month simple imprisonment under Section 188 of IPC.

Present criminal revision petition has been listed on the mentioning made by learned counsel for the petitioners that he will confine his argument with respect to order of sentence only and will not challenge the concurrent findings of both the courts as far as judgment of conviction is concerned.

Submission of learned counsel for the petitioners is that the courts below have failed to appreciate that the witnesses were not consistent on material particulars of the prosecution case and also failed to appreciate that there was unexplained delay of 24 days in lodging the F.I.R. The court below failed to consider that the I.O. in his evidence has clearly stated that he has not mentioned about the uprooting o



the pillars which was clearly indicative of the fact that he had found no evidence as to uprooting of the pillars at alleged place of occurrence. No positive evidence was there with regard to the uprooting of the pillars at the place of occurrence. There is land dispute between the parties and petitioners were falsely implicated due to said land dispute.

Having heard the learned counsel for the petitioners as well as learned counsel for the State and after perusing the judgment of conviction and order of sentence passed by both the courts, it is apparent that the genesis of the incident is long pending land dispute between the parties. Petitioners are having no criminal antecedent and informant side has not suffered any serious injury and stolen article is a bicycle, accordingly, affirming the judgment of conviction, the order of sentence is modified to the period already undergone. Petitioners are directed to be released forthwith if not wanted in any other case.

The criminal revision petition is dismissed subject to aforesaid modification in order of sentence.

(S. Kumar, J)

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