GAHC010210432014

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./297/2014

PURSHUTOM SINGH @ PURUSOTTOM KR. SINGH
S/O LT. SITARAM SINGH R/ONOKHROY BALUPARA GAON P.O. BORGURI,
P.S. TINSUKIA DIST. TINSUKIA, ASSAM.

VERSUS

THE STATE OF ASSAM and ANR

2:SRI SUBRAJYOTI BARDHAN
S/O SUNIL KR. BARDHAN R/O SHANTIPARA
DIBRUGARH
DIST. DIBRUGARH
ASSAM

Advocate for the Petitioner : MR.S CHAMARIA

Advocate for the Respondent : MR.S BORTHAKURR-2

Linked Case : Crl.M.C./615/2014

SRI PURSHUTOM SINGH @ PURUSOTTOM KR. SINGH
S/O LT. SITARAM SINGH R/O NOKHROY BALUPARA GAON
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DIBRUGARH DIST. DIBRUGARH
ASSAM.

Advocate for : MR.M PHUKAN
Advocate for : appearing for THE STATE OF ASSAM and ANR.: Advocate , appearing for 2, respectively.

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 04-12-2020

1. Heard Mr. S. Chamaria, learned counsel for the petitioner and Mr. S. Borthakur, learned counsel for the informant-respsondent No.2. Also heard Mr. BB Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This revision petition is filed under Section 397 read with Section 401 of the CrPC against the impunged judgment and order dated 05.07.2014, passed by the learned Sessions Judge, Tinsukia in Criminal Appeal No. 7(1) of 2014 whereby the learned Sessions Judge having dismissed the appeal filed by the petitioner, uphold the conviction and sentence of the petitioner.

3. The petitioner was convicted under Section 447 of the IPC and sentenced to pay fine of Rs. 500/- and in default of fine S.I. for 20 days. On his conviction under Section 323 of the IPC sentenced to imprisonment for 3 months and fine of Rs. 1000/- with default

stipulation.

4. As per prosecution case, on 22.01.2013, when the informant Subrojyoti Bardhan was in the office of the Deputy Director of of Food and Civil Supply, Tinsukia, alongwith one Chani Churan, the petitioner assaulted him. An FIR was lodged by the respondent No. 2, on the basis of which Tinsukia P.S. Case No. 40/2013 was registered under Sections 447/325/294/506 of the IPC. On completion of investigation, charge sheet was filed by the police and eventually the petitioner stood on trial. The learned Magistrate convicted the petitioner under Sections 447/323 of the IPC and awarded sentences as indicated hereinabove. The said judgment was carried forward to appeal which also came to be dismissed. Hence, this revision petition.

5. The learned counsel for the petitioner has not contested the findings of the learned court below recording conviction of the petitioner under Sections 323/447 IPC. However, submission of the learned counsel for the petitioner is that the offence was trivial in nature and as such, the sentence of imprisonment may be modified to fine only. The above submission of the learned counsel for the petitioner is fairly conceded by the learned Additinal Public Prosecutor, Assam and also learned counsel for the informant-respondent No. 2.

6. I have perused the evidence which is annexed to the revision petition. Having considered materials on record and the facts and circumstances under which the occurrence took place as well as the sentence of imprisonment awarded by the learned trial court, I am of the view, that no fruitful purpose would be served by sending the petitioner to jail for 3 months after laps of 7 years of the occurrence. Accordingly, the substantive sentence of imprisonment awarded to the petitioner by the learned trial court as well as by the learned appellate court under Section 323 IPC is hereby modified to sentence of fine alone for Rs. 1000/- in default of payment, S.I. for 1 month. So far the conviction and sentence under Section 447 IPC is concerned, no interference is called for.

7. With the above modification in the sentence, this revision petition is partly allowed.

8. The petition is accordingly disposed of.

JUDGE

Comparing Assistant