

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.406 of 2018

Arising Out of PS. Case No.-40 Year-2013 Thana- INDUSTRIAL District- Bhagalpur

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Poonam Chaurasiya @ Poonam Devi, Wife of Sri Krishna Chourasiya,
Resident of Srinagar Colony Navtoliya Chowk, Near Tata Motors Showroom
(Shankar Motors) P.S. Industrial Area, District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar
2. Jai Prakash Mandal, S/o Late Mohan Mandal,
3. Ratna Devi, W/o Jai Prakash Mandal, Opp. Parties No.2 and 3 residents of
Navtoliya Chowka, P.S.- Industrial Area, District- Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Diwakar Upadhyaya, Advocate Ms. Preety Kunwar, Advocate
For the State	:	Mr. Dinesh Singh, A.P.P.
For the O.P. Nos. 2 & 3	:	Ms. Anita Kumari Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 25-07-2022 Heard Mr. N.K.Agrawal, learned Senior Counsel for

the petitioner and Ms. Anita Kumari Singh, learned counsel for

the opposite party nos. 2 and 3.

By the impugned judgment, learned appellate court
has set aside the judgment of conviction and order of sentence
dated 11.08.2016 passed by learned A.C.J.M. IX, Bhagalpur in
Industrial Area P.S. Case No. 40 of 2013 registered for the
offences punishable under Section 323 of the Indian Penal
Code. The learned A.C.J.M. had convicted the opposite party
nos. 2 and 3 for the offences punishable under Section 323 of



the Indian Penal Code and ordered them to undergo simple imprisonment for a period of three months and also to pay a fine of Rs. 1,000/-.

Learned Senior Counsel for the petitioner submits that in this case the informant (P.W.5) had alleged that the F.I.R. named accused pulled her down from her Zylo vehicle and all of them assaulted her. In course of trial, she supported her case and her injury was proved by Dr. Pawan Kumar Jha (P.W.9). The other witnesses had also supported the case and for that reason the learned trial court had convicted opposite party nos. 2 and 3 for the offence under Section 323 of the Indian Penal Code.

It is submitted that the learned appellate court has completely erred in interfering with the judgment of conviction and order of sentence merely on taking into consideration that the prosecution witnesses are inimical to the opposite party nos. 2 and 3. It is his submission that there is no reason why an inimical witness if supported the material particulars by other evidences cannot be believed.

On the other hand, Ms. Anita Kumari Singh, learned counsel for the opposite party nos. 2 and 3 submits that on a bare perusal of the appellate court's judgment it would appear that the prosecution witnesses are quite inconsistent. The



manner of occurrence as alleged is not corroborated by any material particulars and even the driver and maid of the informant have turned hostile.

Learned counsel, thus, submits that sitting in its revisional jurisdiction, this Court need not interfere with the judgment of acquittal unless the judgment is found to be perverse.

Having heard learned counsel for the parties and on perusal of the records as also the materials which have been noticed hereinabove, this Court agrees with the submission of learned counsel for the opposite party nos. 2 and 3 that the manner of occurrence as alleged is not duly proved and there is no independent material to corroborate the same.

Finding no perversity with the impugned judgment, this Court refuses to interfere with the same.

The revision application is, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

