

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.37 of 2021

Arising Out of PS. Case No.-50 Year-1999 Thana- BALIYA District- Begusarai

Raj Nandan Chaudhary Son Of Ganesh Chaudhary Resident Of Village-
Masudanpur, P.S.- Balia, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar
2. Mani Rai Son of Bhago Rai Resident of Village- Nauranga, P.S.- Balia,
District- Begusarai.
3. Pappu Jha Son of Ram Bilash Jha Resident of Village- Shahpur, P.S.- Balia,
District- Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Hare Krishna Prasad, Advocate
For the State	:	Ms. Anita Kumari Singh, APP
For O.P. Nos. 2 & 3	:	Mr. Bipin Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 29-06-2022 Heard learned counsel for the petitioner, learned counsel
for O.P. Nos. 2 and 3 and learned counsel for the State.

This revision application has been filed for setting aside of
the judgment dated 20.01.2020 passed by learned 8th Additional
Sessions Judge, Begusarai in Cr. Appeal No. 129 of 2014.

By the impugned judgment, the learned Appellate Court
has affirmed the judgment of acquittal of O.P. Nos. 2 and 3 passed
by the learned Judicial Magistrate, 1st Class, Begusarai in G.R. No.
652 of 1999, T.R. No. 2559 of 2014 arising out of Balia P.S. Case
No. 50 of 1999.

The case was lodged under the direction of the learned
C.J.M. when the petitioner lodged the Complaint Case No. 101C of
1999 and requested for sending the same to the Balia Police Station



for registering the first information report. The informant-petitioner is an Ex-Army personnel. According to him, for his own security purpose, he had obtained an arms licence and had purchased a rifle of the given description. On the alleged date of occurrence at about 05:00 P.M., the accused persons named in the complaint petition came at the house of the informant and surrounded him. It is alleged that one of the accused Naga Naresh pointed AK-56 on the informant and other accused persons were also armed with rifle and gun. This co-accused Naga Naresh took the complainant/informant inside the house and took out rifle and forty round of cartridges of the informant.

In course of investigation, police submitted a chargesheet under Section 386/34 IPC only against O.P. Nos. 2 and 3. Thereafter cognizance was taken and the case was tried before the learned Judicial Magistrate, 1st Class, Begusarai.

It further appears that in course of trial as many as 8 prosecution witnesses were examined. The learned trial court, however, disbelieved the prosecution witnesses and acquitted the O.P. Nos. 2 and 3.

In appeal, the learned Appellate Court noticed that in his cross-examination, the I.O. (PW 7) had stated that there was a rumour among the villagers that the informant had committed murder of one Angad Choudhary for which a panchayati was held at the house of Ram Bilas Jha at village Shahpur and the rifle of the



informant was taken away by the criminals. PW 8, who is another I.O., has stated about the supervision note of D.S.P. at paragraph 46 in which it is mentioned that the occurrence took place in the month of October or November, 1998 whereas the informant had mentioned the date of occurrence to be 31.01.1999. Learned Appellate Court noticed that the witnesses produced by the informant were his close kith and kin and there was no corroborating independent evidence, therefore, it would not be safe to convict the accused persons.

In course of argument, learned counsel for the petitioner has drawn the attention of this Court towards the observations of the learned Appellate Court in paragraph '8' of the judgment. It is his submission that no doubt the close kith and kin of the petitioner had deposed in course of trial but there is no reason as to why their testimony could not be believed.

Learned counsel, however, does not dispute that in the first information report (Exhibit 5), the thrust of the allegations were against co-accused Naga Naresh but in course of investigation, police did not submit a chargesheet against him. It is also not disputed that the informant had not challenged the action of the investigating agency in not submitting the chargesheet against the said co-accused Naga Naresh and some others who were named in the FIR.

Learned counsel for O.P. Nos. 2 and 3 has submitted that there are concurrent findings in favour of O.P. Nos. 2 and 3, the prosecution has failed to prove its case beyond all reasonable doubts,



thus, this Court sitting in its revisional jurisdiction may not like to disturb the concurrent findings of facts of the learned trial court as well as the Appellate Court as no perversity in the impugned judgment could be brought to the notice of this Court.

Having heard learned counsel for the petitioner and learned counsel for O.P. Nos. 2 and 3 as also on perusal of the records, this Court is of the considered opinion that the petitioner could not point out any perversity in the judgment of the learned Appellate Court. This Court being conscious of its limited jurisdiction and the scope of interference in a case of revision against acquittal would not be inclined to interfere with the concurrent findings of the learned trial court and the Appellate Court.

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

(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'.

