

11.11.2022
Item No.4
BR

CRR 860 of 2003

In re : Nakul Mahato
.... petitioner

Mr. Santanu Mukherjee
... for the Petitioner

Mr. S.G.Mukherjee, Ld. P.P.,
Mr. Narayan Prasad Agarwal ,
Mr. Sandip Chakraborty for the State

Challenge in this revisional application is to the judgment passed by learned Additional District Judge, Raghunathpur in criminal appeal No. 9 of 2002 wherein learned appellate Court was please to affirm the judgment and order of conviction passed by learned Assistant Sessions Judge, Additional Court , Purulia in ST NO. 6 of 2002 arising out of SC Case No. 107 of 1999 The petitioner before this Court. Shri Nakul Mahato was found guilty of committing offense within the meaning of Section 324 of the Indian Penal Code and was sentenced to suffer imprisonment for two years by the learned trial Court. Learned appellate Court did not find any reason to differ with the decision taken by the learned trial Court. Hence by filing this application under Section 482 the petitioner challenged the very order of the learned appellate Court affirming the judgment and sentence imposed upon him in course of trial. It is pertinent to mention here that petitioner was enlarged on bail but consequent upon dismissal of the revisional application for default on 17th April, 2019, warrant of arrest was issued and since then the petitioner has been spending his days in correctional

home thereby serving out sentence on and from 20th June, 2021. Briefly stated the criminal administration of justice was set into motion by one Ananda Bauri who informed the Officer-in-Charge of Para Police Station in writing disclosing , inter alia that on 5th May, 1993 at about seven in the morning he was going down the road through Putulia to attend his office and when Nakul Mahato the petitioner before this Court along with his associates chased Ananda Bauri. Khagen Mahato , however came to his rescue and intervened; thereby Khagendra Nath Mahato incurred the displeasure and wrath of the petitioner and his associates. Petitioner landed blow of Tangi targeting the head of Khagendra Nath Mahato who intercepted the blow by raising his left hand in defence and sustained bleeding injury. Learned trial Court having considered the evidence on record was pleased to hold that Nakul Mahato committed the offense under Section 324 of the Indian Penal Code and accordingly order conviction as well as sentence was passed. Though the petitioner challenged the judgment of learned appellate Court but in course of hearing Mr. Mukherjee, learned counsel for the petitioner submits that this Court may consider only the sentence part of the judgment maintaining the order of conviction.

I have perused the evidence of the victim Khagen Mahato who stood the test of cross-examination . From the evidence of Khagendra Nath Mahato, PW 8 I find that being attracted by hue and cry the victim came out of the house and found that Ananda Bauri was being chased by Nakul Mahato and his associates. Khagendra Nath Mahato wanted to know the reason for such aggression and in reply he received two blows of sharp cutting weapon like Tangi on his head. He sustained

bleeding injury. Therefore, I do not find any room to interfere with the judgment passed by learned appellate Court affirming the judgment and order of conviction passed by learned trial Court. However, Mr. Mukherjee submits that the accused persons is the sole bread earner of the family who has been spending his days for nearly one year four months in correctional home.

This irresponsible act of assault by the petitioner has invited the trouble not only to his own life but he has placed the other family members, who are dependant on him in misery. They are also suffering because of the act committed by the convict.

There is however, no evidence that the petitioner committed any offense at any point of time earlier.

Considering the entire circumstances, I am inclined to alter the sentence. In stead of two years, ends of justice would be met if the petitioner is sentenced to suffer imprisonment already undergone.

The criminal revision is thus disposed of

A copy of the judgment be send down to the learned trial Court for information and necessary action.

The petitioner may be set at liberty forthwith.

The application, if any, is thus disposed of . Interim order, if any stands vacated.

All parties are to act on the server copy of this order duly downloaded.

Urgent certified copy if applied for therefore be made available upon compliance of requisite formalities.

(Siddhartha Roy Chowdhury, J.)

