

12.04.2022

Sl. No. 50.

Mithun.

Ct.No.42.

CRR/2310/2008

(Via Video Conference)

Sri Saktipada Gorai

Vs.

**The State of West Bengal
& Ors.**

Mr.Abhra Mukherjee, Adv.

Mr. Sauradeep Dutta, Adv.

...for the petitioner.

By a judgment dated 30th January, 2008 passed in Sessions Trial No.3 of 2007 arising out of Sessions Case No.315 of 2006, the learned Assistant Sessions Judge, (Additional Court) at Purulia acquitted the accused person of the charge under Sections 148/149/447/307 of the Indian Penal Code in accordance with the provision of Section 235(1) of the Code of Criminal Procedure.

The injured victim filed the instant revision challenging the legality, validity and propriety of the order of acquittal passed by the learned Trial Court in the aforesaid case. As the case was instituted on police report, the petitioner could not file any appeal under Section 378(4) of the Code of Criminal Procedure. The petitioner being the victim had no scope to file an appeal under the proviso to Section 372 of the Code as the said proviso came into force by virtue of Criminal Procedure (Amendment) Act, 2008 with effect from 31st December, 2009. So is the instant revision.

It is submitted by the learned Advocate that the petitioner that the learned Trial Judge failed to appreciate the evidence of the injured witness (P.W.5). He also failed to appreciate the medical evidence adduced by PW.7 which corroborated the ocular testimony of P.W.4 and P.W.9.

I have perused the impugned judgment. Without making any observation with regard to the appreciation of evidence, this Court is of the view that the evidence of the injured witnesses, eye witnesses and medical evidence were not properly considered in the impugned judgment. Therefore, the impugned judgment dated 30th January, 2008 is set aside.

The learned Court below is directed to write down fresh judgment in Sessions Trial No.3 of 2007 arising out of Sessions Case No.315 of 2006 on the basis of the evidence on record in accordance with law.

It is made clear that while writing down the judgment, the learned Trial Judge shall not be influenced by any observation made by this Court in the instant order.

The instant Criminal Revision is thus, **disposed of**.

(**Bibek Chaudhuri, J.)**