

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.98 of 2023

Arising Out of PS. Case No.-169 Year-2002 Thana- TARAPUR District- Munger

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1. Rajendra Prasad Modi @ Rajendra Modi S/o Late Banarsi Modi, R/o Village- Asargani, P.S.- Asarganj, Distt- Munger.
 2. Naresh Prasad @ Naresh Modi @ Naresh Prasad Modi S/o Late Banarsi Modi, R/o Village- Asargani, P.S.- Asarganj Distt- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Dinesh Prasad Modi S/o Late Banarsi Modi, R/o Village- Asargani, P.S.- Asargani, Distt- Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Deep Nishi, Adv.

For the Respondent/s : Mr. Amitesh Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 10-04-2023

Cr. Revision No. 98 of 2023 with I.A. No. 1 of 2023.

Learned counsel for the petitioner submits that the present Cr. Revision Application has been filed after expiry of period of limitation on 02.10.2021 and the total delay in filing the instant Cr. Revision is 1 year 20 days.

Learned counsel for the petitioner submits that the cause of delay has been explained in paragraph no.3 of the petition.

Upon considering the same, let the application for extension of period of limitation is hereby allowed and, as such, delay in filing the Cr. Revision is hereby condoned and I.A. No. 1 of 2023 is hereby allowed.



Learned counsel for the petitioner further submits on merit that the judgment and order dated 02.07.2021 passed by the Additional Sessions Judge-Ist, Munger in connection with Criminal Appeal No. 16 of 2015 has been dismissed and the order dated 16.07.2015 passed by J.M.F.C. in G.R. Case No. 1682 of 2002 lodged under Section 323, 325 of Indian Penal Code has been confirmed, in which, the petitioner was convicted and sentenced to undergo simple imprisonment for six months for offence under Section 323 of I.P.C. and simple imprisonment for one and half year and fine of Rs.1,000/- for offence under Section 325 of I.P.C., in default of payment of fine, the convict will have to undergo imprisonment for additional twenty days.

Learned counsel submits that he is well aware that he has filed this application in the revisional jurisdiction where the scope of revision lies upon the legality, propriety and correctness of the order under challenge.

Learned counsel submits that the orders under challenge are illegal due to the reason that the ocular evidence does not support the injury, because it has come in the evidence that the petitioner had assaulted by *khanti* (iron rod) having pointed shape on one side on the person of victim, by which, the victim's ring finger was fractured. He further submits that *khanti* is a sharp cutting weapon by which lacerated wound is not



possible and, therefore, convicting that accused had attacked by *khanti* is not appropriate and it is illegal finding and not a correct finding.

On this point alone counsel for the petitioner want to set-aside the judgment and order of appellate court as well as trial court.

Learned counsel for the State opposes the contention of counsel for the petitioner and submits that a *khanti* is basically iron rod. It is nowhere mentioned that what type of hit it was, it is vertical or horizontal but it is true that horizontal hit shall always cause hard and blunt injury and by which fracture is not possible.

In this view of the matter, this Court is of the opinion that the finding of original court as well as appellate court is absolutely legal and correct and there is no need of any interference in the aforesaid orders.

With this observation, the present Cr. Revision Application stands dismissed.

(Dr. Anshuman, J.)

Ritik/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

