

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1101 of 2017

Arising Out of PS. Case No.-93 Year-1995 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Ramjee Sah Son of Late Harihar Sah, Resident of Village- Phulwariya, P.S.-
Dhaka, District- East Champaran. Petitioner/s

Versus

1. The State Of Bihar
2. Manjur Sah @ Manzoor Sah, Son of Late Ainul Sah,
3. Jalim Akhtar @ Zameel Akhtar, Son of Md. Suleman Sah,
4. Mirtunjay Sah @ Murtuza Sah, Son of Manzoor Sah, O.Ps No.2 to 4 are
resident of Village- Phulwariya, P.S.- Dhaka, District- East Champaran.
... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhay Kumar
For the Respondent/s : Mr.Dr. Ajeet Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
ORAL

Date : 31-08-2023

Heard learned Counsel for the petitioner and learned
Counsel for the State.

2. The petitioner is aggrieved by judgment and order,
dated 31.05.2017, passed, by learned 13th Additional Sessions
Judge, East Champaran, at Motihari, in Criminal Appeal No. 91 of
2012, whereby he has affirmed the judgment and order of acquittal
recorded in the judgment and order, dated 27.06.2012, passed by
learned Judicial Magistrate, 1st Class, Sikrahana, Motihari, in Trial
No. 1287 of 2012, arising out of Complaint Case No. 93 of 1995.

3. From perusal of the materials available on record, it is
evident that the Opposite Party Nos. 2 to 4 have been charged for



the offences punishable under Sections 323, 324, 379 and 504 of the Indian Penal Code. The learned Judicial Magistrate, 1st Class, Sikrahana, Motihari, in Trial No. 1287 of 2012, has recorded acquittal from the charge levelled against Opposite Party Nos. 2 to 4 giving them the benefit of doubt due to the contrary evidence of the prosecution witnesses. The said judgment and order has been affirmed by learned 13th Additional Sessions Judge, East Champaran, at Motihari, in Criminal Appeal No. 91 of 2012.

4. Learned Counsel appearing on behalf of the petitioner submits that there being no contradiction in the evidence of the witnesses, and the District Courts ought not to have allowed the Opposite Party Nos. 2 to 4 to be acquitted of the charges levelled against them on the ground, apart from others, that the District Courts have not considered the evidence of the private doctor (PW 6).

5. The considerations are entirely different while entertaining a petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, against orders of acquittal and conviction. The judgment and order recording acquittal of a person can be interfered with only when it can be shown that on the basis of materials on record, no other view, except conviction of the person charged, would have been possible. The petitioner



has failed to show any cogent materials to interfere with the judgments and orders impugned.

6. It is settled law that in revision against acquittal, the Court's interference would be required only if the findings are perverse. The revisional Court is not required to re-appreciate the evidence and if two views are possible on the basis of evidence, the view which is favourable to an accused should be accepted.

7. The presumption of innocence of an accused is the general principle of criminal jurisprudence. The presumption stands strengthened with the acquittal being recorded by the learned Trial Court. In the present case, there is concurrent finding of fact recorded by the learned Trial Court and the learned Appellate Court, holding Opposite Party Nos. 2 to 4 not to be guilty of the offences for which they were put on trial.

8. Accordingly, I do not find any compelling circumstance to interfere with the judgments and orders impugned.

9. This revision application is dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
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