

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.948 of 2019

Arising Out of PS. Case No.-171 Year-2002 Thana- SITAMARHI District- Sitamarhi

Umesh Prasad @ Umesh Kumar Gupta Son of Late Ganga @ Ganga Prasad
@ Gudar Prasad Resident of Ward No.8, Village - Janki Asthan, P.S.-
Sitamarhi, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Shresta Rai Son of Late Mukhiya Rai Resident of Village - Riga Road,
Ward No.-01, P.S.- Sitamarhi, District- Sitamarhi
3. Rampreet Rai Son of Late Mukhiya Rai Resident of Village - Riga Road,
Ward No.-01, P.S.- Sitamarhi, District- Sitamarhi
4. Ramashray Rai Son of Late Mukhiya Rai Resident of Village - Riga Road,
Ward No.-01, P.S.- Sitamarhi, District- Sitamarhi
5. Bhola Rai Son of Late Asharfi Rai Resident of Village - Riga Road, Ward
No.-01, P.S.- Sitamarhi, District- Sitamarhi
6. Baidnath Rai Son of Late Asharfi Rai Resident of Village - Riga Road, Ward
No.-01, P.S.- Sitamarhi, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bhagya Narain Gupta, Adv. With
	:	Mr. Upendra Prasad, Adv.
	:	Mr. Sunil Kumar, Adv.
For the State/s	:	Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 10-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The present Cr. Revision Petition has been filed
against the order/ judgment dated 30.03.2019 passed by Ld.
Sessions Judge-V, Sitamarhi in Cr. Appeal No.47 of 2017 by
which learned court below has confirmed the order/ judgment
dated 26.05.2017 passed by ACJM-VII, Sitamarhi in G.R. Case

No. 683 of 2002 (Trial No. 1304 of 2017) under Sections 323 and 324 of I.P.C. in which O.P. No.2 to 6 were sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1000/- under section 323 of I.P.C. and R.I. for two years and to pay fine of Rs.1000/- under Section 324 of I.P.C. It was also directed that sentences of imprisonments shall run concurrently and the period already undergone has been ordered to set off and in default of payment of fine, the accused have been ordered to undergo simple imprisonments for 15 days.

Counsel for the petitioner submits that from the bare reading of Paragraph 9 of the said order passed by the Appellate Court, this appeal was dismissed but with modification in sentences, counsel submits that these two statements which are directory in nature is not sustainable in eye of law and therefore, it requires correction.

Counsel for the State submits that there is no illegality in the order and hence, no need of any correction.

After going through the argument and the pleadings as well as considering the jurisdiction of this court that this court is sitting in revisional jurisdiction where the question of legality, propriety and correctness have to be tested only.

Upon bare perusal of operative part of Paragraph 7, it

transpires that this court has held that “ I do not find any legality in the impugned judgment of conviction passed by Ld. ACJM-VII, Sitamarhi”. Since, the Court has not found any legality in the impugned judgment of conviction therefore, appeal is necessary to be dismissed and it has rightly been dismissed by the Court as mentioned in Paragraph 9.

In Paragraph 8, the Appellate Court has categorically held that order on sentence is being passed and i.e. appellants are directed to release on executive bonds under the Provisions of Section 4 of Probation of Offenders Act for maintaining peace for 2 years whereas in the Original Court, there was express conviction and fine in position as mentioned in the relief portion of this petition which has been modified by the court and therefore, this Court is of the confirm view that there is no infirmity in the expression made by the Appellate Court in Paragraph 9, hence, there is no need of any interference.

Accordingly, this Cr. Revision Petition is hereby dismissed.

(Dr. Anshuman, J.)

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