

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1418 of 2019

Arising Out of PS. Case No.-203 Year-2008 Thana- GHORASAHAN District- East
Champaran

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Kush Kumar Son of Late Ramcharitar Rai, Resident of Village- Barwakala,
P.S.- Ghorasahan, District- East Champaran. Petitioner/s
Versus

1. The State of Bihar.
 2. Prashant Kumar Son of Vindeshwari Singh, Resident of Village- Barwakala,
P.S.- Ghorasahan, District- East Champaran. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Kundan Kumar, Adv.
For the Respondent/s : Mr. Jitendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 21-04-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The present Cr. Revision Application has been filed for setting-aside the judgment dated 16.08.2019 passed by Additional Sessions Judge, XVI, East Champaran, Motihari passed in Criminal Appeal No. 03 of 2014 arising out of Trial No. 21 of 2013 (G.R. No. 941 of 2008), by which, the Appellate Court has set aside the judgment dated 05.12.2013 passed by Judicial Magistrate, 1st Class, Sikrahana, Motihari in G.R. No. 941 of 2008 (Trial No. 21 of 2013).

Learned counsel for the petitioner submits that in the said G.R. No. 941 of 2008 there were two accused and both the accused were acquitted of charge frame under Section 323, 504 & 379 of I.P.C. He further submits that being aggrieved and



dissatisfied with the order of trial court, the informant has preferred appeal bearing Criminal Appeal No. 03 of 2014, vide order dated 16.08.2019 passed in said criminal appeal, both the accused persons were held guilty under Section 323 of the Indian Penal Code and was directed to surrender before the trial court within one month from the date of production of this order and trial court is directed to pass order under Section 3 of Probation of Offenders Act. It was also directed to release both the accused persons after due admonition adopting the proper procedure laid down under the provisions of Probation of Offenders Act. Learned counsel submits that petitioner has preferred present criminal revision against the said decision in which petitioner was held guilty.

Learned counsel for the State has raised preliminary objection that it is a case in which two accused persons were originally acquitted in G.R. No. 941 of 2008 (Trial No. 21 of 2013) but both were held guilty in appeal bearing Criminal Appeal No. 03 of 2014 (CIS No. 03 of 2012), the court has directed to surrender to both the accused within one month and trial court is directed to pass order under Section 3 of Probation of Offenders Act, it was also directed to release both the accused persons after due admonition vide order dated 16.08.2019. He



further submits that in compliance of the said order dated 16.08.2019 both the accused appeared before the lower court who passed order of due admonition on 30.09.2019 thereafter both the accused were released. Subsequently after lapse of two month of the said order, one of the accused person who was released after due admonition has preferred this criminal revision. Learned counsel for the State submits that since petitioner has accepted the due admonition in compliance of order of appeal and thereafter released, so the criminal revision is not maintainable and it is infructuous.

Upon going through the records and upon considering the points of both the parties and pleadings. The admitted situation is like this that the present case is Ghorasahan P.S. Case No. 204 of 2008 (Trial No. 21 of 2013), in which there were two accused persons who were acquitted vide judgment dated 05.12.2013. The informant has preferred criminal appeal and in the said appeal vide order dated 16.08.2019 both the accused persons were held guilty under Section 323 of the Indian Penal Code but instead of imposing any sentence on them the appellate court has directed them to surrender before the trial court within one month and trial court was directed to pass order under Section 3 of Probation of Offenders Act and it



was also directed to release both the accused persons after due admonition according to the procedure laid down under the provisions of Probation of Offenders Act. Both the accused persons thereafter not taken any action and not opted to prefer any revision and vide order dated 30.09.2019 the order passed by appellate court dated 16.08.2019 in Criminal Appeal No. 03 of 2014 was implemented in its spirit and sense. After passing two months of the said period of implementation of the said order dated 30.09.2019 one of the accused who has been released on probation has preferred the criminal revision, in which, he has challenged the order dated 16.08.2019 which he has already complied on 30.09.2019.

In this view of the matter, this Court is of the opinion that petitioner was not aggrieved from the said order and he has complied the order, as such, cause of action for filing the present Cr. Revision has already become infructuous and hence, the present Cr. Revision Application stands dismissed as having become infructuous.

(Dr. Anshuman, J.)

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