

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.118 of 2019

Arising Out of PS. Case No.-136 Year-1994 Thana- KOCHADHAMAN District- Kishanganj

1. Rambilas Sah, Son of Late Doman Lal Sah R/o Village-Haldikhora, P.S-Kochadhaman Dist.-Kishnaganj
2. Rajendra Sah, Late Tej Lal Sah R/o Village-Miyanpur, P.S-Plasi Dist.-Araria
3. Satya Narayan Sah Late Tej Lal Sah R/o Village-Miyanpur, P.S-Plasi Dist.-Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Krishna Chandra, Adv
For the Respondent/s : Mr. Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 10-01-2024

1. Heard learned Advocate for the petitioner and learned APP for the State.

2. Petitioners are the accused persons in connection with Kochadhaman P.S. Case No. 136 of 1994 (G.R. No. 1090 of 1994, T.R. No. 1433 of 2018). In the said case, the accused persons were convicted for committing offence under Sections 324, 326 read with Section 34 of the Indian Penal Code and they were sentenced to suffer imprisonment for 1 year with fine of Rs. 1,000/- each for the offence under Section 324 of the Indian Penal Code and they were also sentenced to rigorous imprisonment for 3 years with fine of Rs. 2,000/- each for



offence, committed under Section 326 of the Indian Penal Code. The sentence of rigorous imprisonment on both counts were directed to be run concurrently.

3. The accused persons/petitioners preferred an appeal before the learned Sessions Judge, Kishanganj, challenging the judgement of conviction and order of sentence, passed by the learned Judicial Magistrate, 1st Class, Kishanganj by filing an appeal being Criminal Appeal No. 8 of 2018. The learned Sessions Judge, Kishanganj dismissed the above-mentioned Criminal Appeal and upheld the order of conviction. However, considering the long pendency of the case, the learned Sessions Judge reduced the sentence and directed that the accused persons/appellants would suffer sentence of six months for both the offences under Section 324 and Section 326 of the IPC, which would run concurrently.

4. The said order passed by the learned Appellate Court is under challenge in the instant revision.

5. Before dealing with the submissions made by the learned Advocate on behalf of the petitioners, this Court likes to record that the jurisdiction of the Revisional Court is only limited to consider the correctness, legality or propriety of any finding, sentence or order, recorded or passed and as to the regularity of



any proceeding of an inferior Court. While considering the correctness, legality or propriety of order of conviction and sentence, passed by the Trial Court and affirmed by the Court of Appeal, the Revisional Court cannot examine the evidence on record and come to a specific finding as to whether the learned Trial Judge or the Court of Appeal failed to appreciate the evidence adduced by the parties during trial. However, non-consideration of material evidence is a patent irregularity which is reversible under Section 397 read with Section 401 of the IPC.

6. Bearing the principles in mind, let me now consider the submissions made by the learned Advocate for the petitioners and the impugned judgements, passed by the Trial Court and affirmed by the 1st Court of Appeal.

7. It is submitted by the learned Advocate for the petitioners that during trial of G.R. Case No. 1090 of 1994, prosecution failed to examine the informant, as before examination the informant expired. It is also submitted by him that the evidence on record clearly suggest that there was land dispute between the parties. The place of occurrence was in the house of the petitioners. Thus, the learned Trial Judge ought to have held that the informant and his men and agents along with the injured, tress-passed into the house of the petitioners to



commit some offence. It is also submitted by the learned Advocate for the petitioners that amongst the witnesses examined, P.W. 1 and P.W. 2 are injured persons. P.W. 3 claimed to be the eye witness of the occurrence. In her evidence, she stated that P.W. 1 and P.W. 2 were assaulted on the date and time of occurrence but she did not specifically narrate the incident. P.W. 4 to P.W. 7 did not support the prosecution case and were declared hostile. P.W. 8 is the Investigating Officer and P.W. 9 is the Medical Officer, who examined P.W.s 1 and 2 on the date of occurrence.

8. On the basis of the above incident, the accused persons were convicted for committing offence under Sections 324 and 326 of the IPC read with Section 34 of the IPC.

9. It is further submitted by the learned Advocate for the petitioners that the incident took place on 18th of December, 1994 and about 20 years have elapsed. The learned Court of Appeal considered the mental agony of the petitioners, who faced trial for about 20 years and reduced the sentence. It is submitted by the learned Advocate for the petitioners that considering the long pendency of the case, the period of sentence may be further reduced. It is also submitted on behalf of the petitioners that they are in custody for last 2 months.



10. I have carefully perused the judgements of G. R. Case No. 1909 of 1994 and Criminal Appeal No. 8 of 2018. The learned Sessions Judge, Kishanganj in Criminal Appeal No. 8 of 2018 considered the plea as made on behalf of the accused persons that they have been suffering from mental agony due to pendency of the criminal case against them for about 20 years. Therefore, he reduced the sentence punishable under Section 326 of the IPC to rigorous imprisonment of 6 months only with fine.

11. Since, the Court of Appeal has already considered the plea of rejection of sentence, this Court is of the view that there does not have any ground for reduction of sentence further.

12. For the reasons stated above, I do not find any merit in the instant revision.

13. Accordingly, the instant revision is dismissed.

(Bibek Chaudhuri, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	12.01.2024
Transmission Date	12.01.2024

