

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.146 of 2023

Arising Out of PS. Case No.-25 Year-2004 Thana- AKHODHIGOLA District- Rohtas

PRAVEEN KUMAR SINGH SON OF BRAJESH SINGH R/O VILLAGE-
TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS

... .. Petitioner/s

Versus

1. The State of Bihar
2. HARERAM SINGH SON OF GUPTESHWAR SINGH R/O VILLAGE-
TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS
3. RAMDEO SINGH SON OF LATE RAM JANAM SINGH R/O VILLAGE-
TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS
4. HRIDYA SINGH SON OF LATE RAM JANAM SINGH R/O VILLAGE-
TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS
5. RAMASHRAY SINGH SON OF LATE RAM JANAM SINGH R/O
VILLAGE- TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS
6. UPENDRA SINGH SON OF HAZARI SINGH R/O VILLAGE-
TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS
7. JAI RAM SINGH SON OF HAZARI SINGH R/O VILLAGE- TETRARH,
P.S.- AKORHI GOLA, DISTRICT- ROHTAS
8. HARIDWAR SINGH SON OF LATE BUDHARAM SINGH R/O
VILLAGE- TETRARH, P.S.- AKORHI GOLA, DISTRICT- ROHTAS

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Mishra
For the Respondent/s	:	Dr. Indihar Kumari

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 23-08-2024

Heard on admission.

2. This revision petition has been preferred by the applicant being aggrieved with the judgment of acquittal dated 12.12.2022 passed by the learned Judicial Magistrate, 1st Class, Dehri-on-Sone at Rohtas in G.R. Case No. 689 of 2004 arising out of Akori Gola P.S. Case No. 25 of 2004 in Tr. No. 1033 of 2012, whereby and whereunder the learned Judicial



Magistrate acquitted the respondent nos. 2 to 8 for the offence punishable under Sections 341, 323 and 504 of the Indian Penal Code.

3. Perusal of the impugned order clearly shows that the learned Trial Court on the basis of evidence adduced by the prosecution in the case arrived at the conclusion that there is no material available on record. On the basis of which, the accused persons were convicted for the offence punishable under Sections 341 and 504 of the Indian Penal Code.

4. With regard to the offence punishable under Section 323 of the Indian Penal Code is concerned, though P.W. 2 is supported the case of the prosecution but other prosecution witnesses have not supported his statement. P.W. 3 and P.W. 4 were also unable to state that the assailants were the respondents herein. The learned Trial Court on the basis of material contradictions and omissions occurred in the statement of witnesses and other grounds arrived at the conclusion that the offence under Section 323 of the Indian Penal Code is also not established.

5. The above findings recorded by the learned Trial Court is also based upon the material/evidence available on record which is neither perverse nor contrary to the records.



6. The Hon'ble Supreme Court *in the case of Budh Singh and Others V. State of U.P.* reported in 2006(IX) SCC 731 held in paragraph no. 9 as under:

9. The trial court, as noticed hereinbefore, recorded a judgment of acquittal upon assigning several reasons. Before advertng to the rival contentions of the parties, it will be beneficial to remind ourselves about the established principles of law that the High Court does not ordinarily set aside a judgment of acquittal in a case where two views are possible, although, the view of the appellate court is a more probable one. It is, however, true that the High Court, while dealing with a judgment of acquittal, is free to consider the entire evidence on record so as to arrive at a finding as to whether the views or the trial Judge are perverse or otherwise bad in law. The appellate court shall also be entitled to take into consideration as to whether in arriving at a finding of fact, the trial Judge has failed to take into consideration admissible evidence and has taken into consideration evidence brought on record contrary to law. Similarly, wrong placing of burden of proof may also be a subject-matter of the scrutiny by the appellate court.



7. The Hon'ble Supreme Court *in the case of Anjanappa V. State of Karnataka* reported in 2014(1) Cr. Law Journal, 368 held in paragraph no. 9 as under:-

9. It is well settled that an order of acquittal is not to be set aside lightly. If the view taken by the trial court is a reasonably possible view, it is not to be disturbed. If two views are possible and if the view taken by the trial court is a reasonably possible view, then the appellate court should not disturb it just because it feels that another view of the matter is possible. However, an order of acquittal will have to be disturbed if it is perverse. We have examined the trial court's order of acquittal in light of above principles. We are of the considered opinion that the High Court was justified in setting it aside as it is perverse.

8. The Hon'ble Supreme Court *in the case of Harijan Bhala Teja V. State of Gujrat* reported in A.I.R. 2016 S.C. 2065 held in paragraph no.12 as under:

12. No doubt, where, on appreciation of evidence on record, two views are possible, and the trial court has taken a view of acquittal, the appellate court should not interfere with the same. However, this does not mean that in all the cases where the trial court has recorded acquittal, the same should not be interfered with, even if the



view is perverse. Where the view taken by the trial court is against the weight of evidence on record, or perverse, it is always open for the appellate court to express the right conclusion after re-appreciating the evidence if the charge is proved beyond reasonable doubt on record, and convict the accused. In the present case, the High Court, after re-appreciating the evidence on record, has held, in paragraph 20, that the findings of the trial court were found perverse and not supported by the evidence on record.

9. In the light of the above observations made by the Hon’ble Supreme Court in the above mentioned cases and the observations made by the Trial Court in the impugned judgment, I do not find any merit in the revision petition. Hence, this revision petition is liable to be dismissed.

10. Accordingly, this revision petition is dismissed at the stage of admission itself.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2024
Transmission Date	29.08.2024

