

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.59 of 2019

Arising Out of PS. Case No.-104 Year-2002 Thana- NAWADA MUFFASIL District- Nawada

1. Darogi Yadav S/O Late Jehal Yadav, Resident of Village - Akauna, P.S.- Muffasil, Distt - Nawada.
2. Basant Yadav S/O Darogi Yadav resident of village- Akauna, P.S.- Muffasil, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Ram Chandra Thakur S/O- Dwarik Thakur, Resident of village- Akauna Dih, P.S.- Muffasil, District- Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Krishna Deo Raj, Advocate
For the Respondent/s : Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 11-01-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. An order of conviction under Section 323 read with Section 149 of the I.P.C. passed by the Appellate Court and sentence of imprisonment that was undergone by the petitioners is challenged in the instant instant revision on the ground that the injuries found in the body of the injured persons did not tally with the statement of the accused persons, inasmuch as one of the injured stated that he was assaulted by *Bhala* but no injury by *Bhala* was found in his body, another witness stated that he was injured by Lathi, however, no such injury was found from



the injury report of the said person.

3. It is also submitted by the learned advocate for the petitioners that the informant has not been examined in the instant case. Secondly, one of the injured persons was also not examined the evidence on record is not only scanty but also unreliable to word in conviction against the accused, so is the instant revision.

4. It is needless to say that in revisional jurisdiction exercising the power under Section 397(1) read with Section 401 of the Cr.P.C., this Court is not in a position to examine the evidence on record a fresh.

5. The learned advocate for the petitioners admits that the injured persons suffered injury during a free-fighting between two groups. It is needless to say that in order to hold a person guilty for committing offence under Section 323 of the I.P.C., medical evidence is not necessary, if any injured appears and states on oath during Trial that he was subjected to simple hurt, and the Trial Court accepts such evidence as reliable and trust-toward, the Court is within its power and jurisdiction to hold the accused guilty and to convict and sentence him.

6. In the instant case, the Court of appeal passed a sentence of imprisonment for the particular period which was



undergone by the accused persons, though both the Trial Court and the Court of Appeal convicted the accused persons under Section 323 read with Section 149 of I.P.C., the Appellate Court took lenient view in respect of sentence.

7. As I have already held that against concurrent finding of fact on the point of charge under Section 323/149 of the I.P.C., the Revisional Court cannot re-appreciate the evidence on record.

8. I do not find any merit in the instant criminal revision and accordingly, the same is dismissed.

(Bibek Chaudhuri, J)

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