

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.957 of 2018

Arising Out of PS. Case No.-308 Year-2009 Thana- DUMRA District- Sitamarhi

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1. Krishnandan Singh Son of Late Surendra Singh Resident of Village - Rasalpur, P.S.- Dumra, District - Sitamarhi.
 2. Maruti Nandan Singh @ Marut Nandan Kumar Son of Kirshna Nandan Singh Resident of Village - Rasalpur, P.S.- Dumra, District - Sitamarhi.
 3. Rahul Kumar @ Maya Shankar Kumar Son of Kirshna Nandan Singh Resident of Village - Rasalpur, P.S.- Dumra, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Dr. Ramanand Singh Son of Late Girija Singh Resident of Village - Rasalpur, P.S.- Dumra, District - Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Madhubala Verma, Adv.
For the O.P. No. 2	:	Mr. Shailendra Kumar Dwivedi, Adv. Ms. Anjali Kumari, Adv.
For the Respondent/s	:	Mr.Sri Prem Kumar Jha, Adv. Mr. Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

12 20-08-2024 With the consent of both the parties heard finally.

2. This criminal revision has been preferred by the applicants/accused persons being aggrieved with the judgment dated 16.04.2018 passed by the First Additional Sessions Judge, Sitamarhi in ST No. 443/10, whereby the learned Sessions Judge convicted the applicants for the offence punishable under Section 385 of I.P.C. and sentenced them rigorous imprisonment for three years. The applicant/accused-Rahul Kumar has been further convicted for the offence punishable under Section 387



of I.P.C. and for this offence he has been sentenced rigorous imprisonment for three years.

3. According to the case of prosecution on 21.09.2009 at about 09:30 A.M. all the accused persons along with other nine-ten persons equipped with arms reached the spot i.e. the land of informant-Ramanand Singh. They tried to catch the informant, but the informant fled away from the spot, the accused persons reached his home, and all of them assaulted the complainant with the help of lathi and other arms and due to that the complainant Ramanand Singh sustained injuries on his body. It was further alleged that, at the time of incident all the accused persons also snatched some gold ornaments and wrist watch from the possession of the complainant. Written complaint made by the complainant on the basis of said offences under Section 143, 323, 341, 504, 506, 385 and 379 of I.P.C. has been registered, and, after completion of investigation charge-sheet has been filed for the offences punishable under Section 341, 323, 504, 385, 379 & 307 of I.P.C. and after taking cognizance the Trial Court frame the charges.

4. During course of the trial on the basis of compromise arrived between both the parties, the Trial Court acquitted the accused persons for the offences punishable under



Section 323, 341, 379 & 325 of I.P.C.

5. During course of the trial, the prosecution examined as many as ten witnesses and exhibited some documents. In their statement recorded under Section 313 of Cr.P.C. applicants/accused persons pleaded their innocence however, no defense witnesses has been examined by the accused persons. Learned Trial Court after conclusion of trial convicted and sentenced the applicants as mentioned earlier in this judgment. Hence this revision.

6. Learned counsel for applicants submit that without being sufficient evidence available on record the Trial Court has wrongly convicted the applicants for the offences punishable under Section 385 of I.P.C. as well as under Section 387 I.P.C., to the accused-Rahul Kumar.

7. Learned counsel submit that in the written complaint which has been lodged by the complainant there is no mention of the fact that at the time of incident the applicants/accused persons herein demanded money as ransom from the complainant. In the statement recorded under section 161 of Cr.P.C. also, this fact is missing. Further, there are material contradictions/omissions occurred in the statement of above witnesses. Thus, the conviction of the applicants for the offence



punishable under Section 385 of I.P.C. and under Section 387 of I.P.C. is not sustainable and applicants are entitled to get benefit of doubt.

8. Learned counsel for respondent-state supported the impugned judgment of trial court and submit that considering the evidence available on record the Trial Court has rightly convicted the applicants for the aforesaid offences.

9. I have heard both the counsels, perused the evidence adduced by the prosecution before the Trial Court and also gone through the other materials available on record.

10. Bare perusal of the written complaint Annexure P-1 clearly shows that in the written complaint there is no mention of the fact that, at the time of incident these accused persons/applicants have demanded money as ransom from the complainant.

11. In the statement of witnesses recorded under section 161 of Cr.P.C. also, this fact is missing. The complainant as well as other witnesses, first time in the court at the time of recording their statement stated that at the time of incident the accused persons demanded money as ransom. Since, this fact is not mentioned in the FIR as well as statement of witnesses recorded under Section 161 of Cr.P.C. Therefore, it is clear that all the



witness have enlarged their statement during course of recording their statement in the court. Therefore, on the basis of above, the conviction of the applicants under section 385 of I.P.C. as well as conviction of the accused-Rahul Kumar for the offence punishable under Section 387 of I.P.C. is not sustainable and accused persons are entitled to get benefit of doubt.

12. Accordingly, this revision is allowed, all the accused persons have been acquitted from the charges under Section 385 of the I.P.C., the accused-Rahul Kumar also acquitted from the charges under Section 387 of IPC.

13. The record to be sent back to the Trial Court for the needful.

(Arvind Singh Chandel , J)

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