

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.612 of 2024

Arising Out of PS. Case No.-4 Year-2006 Thana- MOHIUDDIN NAGAR District-
Samastipur

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Sudhir Kumar Das Son Of Late Swarath Das Resident Of Village -
Chakprano, Police Station - Mohiuddinnagar, District - Samastipur

... .. Petitioner/S

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Adv.

For the Respondent/s : Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

4 03-12-2024

I.A. No. 01 of 2024

This application has been filed for condonation of
delay in filing the revision application which is barred by 2
days.

2. Heard.

3. For the reasons stated in the application, delay in
filing this revision petition is condoned.

4. Interlocutory Application stands allowed.

Cr. Rev. 612 of 2024

With the consent of both the parties, heard finally.

2. This revision petition has been preferred by the
applicant being aggrieved with the judgment dated 23.04.2024
passed by the learned 1st Additional Session Judge, Samastipur
in Criminal Appeal No. 65 of 2006 whereby and whereunder,
the learned Appellate Court affirmed the order of conviction of



the applicant passed by the learned Judicial Magistrate First Class, Samastipur in T.R. No. 2546 of 2006, arising out of Mohiuddin Nagar Police Station No. 04 of 2006 whereby, the learned Trial Court convicted the applicants for the offences punishable under Section 25(1-B)/35, 26/35 of the Arms Act.

3. According to the case of prosecution, on 30.01.2006, the informant Assistant Sub Inspector Shila Nath Singh along with the police party went for a raid and at about 08:45 P.M. they found that two persons were fleeing from the spot, at that time both were lashed with rifle, present applicant was caught hold by the raid party on the spot, another co-accused Soli Ray fled away from the spot, on being searched from the applicant one country made rifle and two live cartridges of .315 bore were seized. On the basis of information given by A.S.I Shila Nath Singh offences was registered and statements of witnesses were recorded under Section 161 of Cr.P.C. and after completion of investigation charge-sheet was filed before the learned JMFC. Learned JMFC framed the charges against the accused persons for the alleged offences, prosecution examined as many as six witness. In his examination under Section 313 of Cr.P.C. the applicant pleaded his innocence. After conclusion of trial the learned trial court



convicted and sentence both the accused persons namely Sudhir Kumar Das and Soli Ray for the offences punishable under Section 25(1-B)A/35 and 26/35 of the Arms Act and sentenced them RI for three years respectively for both the offences with a fine of Rs. 3000/- respectively with default stipulation.

4. The said judgment of conviction has been assailed by both the accused person before the learned Appellate Court. The learned Appellate Court vide order dated 23.04.2024 partly allowed the appeal and acquitted Soli Ray from all the charges leveled against him, however, conviction of the present applicant has been affirmed, sentence imposed by the Trial Court has also been affirmed, hence this revision petition has been preferred by the applicant.

5. Learned counsel for the petitioner submit that without any sufficient evidence available on record the learned Trial Court wrongly convicted the applicant which has been also wrongly affirmed by the learned appellate court, applicant is entitled to get benefit of doubt, as there is no sufficient evidence available on record. He further submits that if this Court finds that alleged offences has been committed by the applicant, it is prayed by the counsel that considering the detention period of the applicant in this case and further considering the fact that he



has no any previous antecedent, he may be sentenced for the period already undergone by him in this case.

6. Learned State counsel opposes the prayer made by the counsel for the petitioner and submits that looking to the gravity of the offence both the courts below has rightly sentenced the applicant which does not warrant any interference.

7. Heard both the counsels, perused the impugned judgment passed by the trial court as well the judgment passed by the Appellate Court and other material available on record.

8. Perusal of both the judgment passed by both the courts below clearly shows that all the prosecution witnesses have supported the case of prosecution against the present applicant. From the evidence given by the prosecution, it is established that at the time of the incident, the applicant was caught hold by the raid party and at that time he was carrying in his possession one rifle of .315 bore and also possessed two live cartridges of .315 bore. The finding recorded by both the courts below are in accordance with the evidence available on record. Therefore in considered view of this Court also, both the courts below has rightly convicted the applicant for the offences as mentioned herein above.



9. Accordingly, the conviction of the applicant for the aforesaid offences is affirmed.

10. With regard to the sentence part of both the courts below is concerned, considering the fact that applicant is facing this *lis* from 2006 meaning thereby from the last 18 years, and he has no any previous criminal antecedent and he has a family behind him. I am of the view that the sentence imposed upon him by both the courts below is liable to be reduced. Accordingly, the applicant now is sentenced for the aforesaid offences for RI for one year respectively for both the offences with fine of Rs. 3000/- respectively for both the offences, on default of depositing the fine, he may be sentenced further RI for three months respectively. According this revision is partly allowed.

11. Order of this Court be sent to the concerned Trial Court to do the needful further.

(Arvind Singh Chandel , J)

Siddharth Soni/-

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