

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1571 of 2019

Arising Out of PS. Case No.-215 Year-2009 Thana- CHANPATIA District- West Champaran

DEEP NARAYAN RAM Son of Bhikhari Ram Resident of Village -Jabdaul
Ojha Tola, P.O. and P.S.- Chanpatia, Distt - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Adv., Mr. Kumar Gaurav, Adv.
For the Respondent/s	:	Mr. Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 07-02-2024

In Interlocutory Application No. 01 of 2020 filed by the petitioner praying for condonation of 31 days delay in filing the instant revision is taken up for hearing.

2. I have heard learned Advocate for the petitioner.

3. Learned Advocate for the State has not raised any objection if the delay is condoned.

4. On perusal of the application under Section 5 of the Limitation Act, I am satisfied that the petitioner was prevented from sufficient cause in preferring the instant revision within time. Therefore, delay is condoned.



5. The Application under Section 5 of the Limitation Act is allowed.

6. The instant revision is taken to file.

7. The instant revision is directed against the Judgment and order of affirmation of the order of conviction and sentence in Criminal Appeal No. 115 of 2012 (C.I.S. No. 384 of 2013) by the learned Additional District & Sessions Judge-VII, Bettiah, West Champaran on 20th August, 2019.

8. The petitioner was convicted under Sections 324/307/379 of the I.P.C. by the learned Juvenile Justice Board by a Judgment and order of conviction and sentence dated 28th September, 2012 in G.R. No. 3150 of 2019. The petitioner being a juvenile at the time of commission of offence was directed to be in custody for a period of three years in Special Home, Patna for committing the offence under Sections 324/307/379 of the I.P.C.

9. Indisputably the alleged incident took place on 8th November, 2009. Statement of the victim was recorded at G.M. Hospital, Patna on 11th November, 2009. On the basis of the initial statement of the victim F.I.R. was drawn by Chanpatia Police Station being Case No. 215 of 2009, under Sections 324/307/379 of the I.P.C. Police took up the case for investigation, submitted



charge-sheet against the petitioner showing him a juvenile at the time of commission of offence.

10. The Juvenile Justice Board took cognizance of offence on 24th February, 2010 and enquiry was held in order to probe juvenility of the petitioner in conflict with law vide order dated 20th August, 2010. The petitioner was declared a juvenile by the Board. Trial of the case started following framing of charge against the petitioner on 27th August, 2010. The Juvenile Justice Board convicted the petitioner vide Judgment dated 28th September, 2012 and sentenced him accordingly as narrated above.

11. An appeal being Criminal Appeal No. 115 of 2012 was filed on behalf of the petitioner, but by passing the impugned order dated 20th August, 2019, the said appeal was dismissed. Hence, the instant revision.

12. At the outset, before dealing with the submissions made by the learned counsels for the petitioner and the prosecution, I would state the scope of revision against an order of conviction and sentence. The jurisdiction of a revisional court is absolutely limited to consider the legality, validity and propriety of any finding, order or sentence passed by the trial court under the provision of Section 397(1) of the Cr.P.C. However, in cases where



orders are passed without considering the materials on record, without appreciation of the evidence on record or placing reliance on inadmissible evidence rendering the impugned order absolutely bad in law and there is error apparent on the face of the record, the revisional court can re-assess and re-appreciate the evidence.

13. Bearing the principle in mind, let me now consider the submissions made by the learned Advocate for the petitioner.

14. It is submitted by the learned Advocate for the petitioner that during trial, in all seven witnesses were examined. Amongst them PW.6 is the informant. It is found from the Fardbeyan as well as the evidence of the informant that at the relevant point of time he used to work as an Apprentice under a Carpenter namely Pramod Jha. On 8th November, 2009, in the evening, the juvenile came to the informant and told him that he would go to their village to meet his father, who was working in the paternal house of the informant. Then the informant and juvenile started towards the village of the informant by a Cycle. The informant was riding the Cycle while the juvenile was sitting on the Cycle. When they reached near a brick kiln, the juvenile told him to handover his mobile phone set to him. When the informant refused saying that the said mobile did not belong to him and some other person gave the mobile phone to him for



charging, the juvenile assaulted him with the help of knife, causing three incised wound on his abdomen.

15. It is pointed out by the learned Advocate for the petitioner that from the evidence of PW.1 Pramod Jha, it is asserted that he first saw the victim at Bettiah Hospital. On that point of time he was in senses. The Police did not record his statement at Bettiah Hospital. On the date of occurrence itself when according to PW.1, he was in senses. It is also contended by the learned Advocate for the petitioner, the victim was referred to Patna Medical College and Hospital from Bettiah Hospital. However, the victim was not admitted to Patna Medical College and Hospital. On the other hand, he was admitted to G.M. Hospital, Patna. According to the learned Advocate for the petitioner, if first information of the informant was recorded at Bettiah, there was not scope for concoction of further development of the story of the prosecution. Police recorded fardbeyan at G.M. Hospital, Patna on 11th November, 2019. Again after the expiry of 15 days, F.I.R. was recorded on 25th November, 2019. Belated recording of fardbeyan and inordinate delay in registering the case makes the entire case doubtful. Therefore, the petitioner would have been given the benefit of doubt during trial of the case as well as by the appellate court.



16. Delay in lodging F.I.R. by itself does not vitiate the entire prosecution story. When there is delay in lodging F.I.R., duty casts upon the Court to consider as to whether due to the delay prosecution, case vitiates or not. If in a case registered at a belated stage on the basis of a delayed fardbeyan, there may be chance that real culprit may not be implicated and some other person may face trial on being falsely implicated by the informant. Therefore, in case of delayed F.I.R., it is the duty of the court to scrutinize the case closely to come to a finding as to whether there was subsequent concoction, embellishment or development in the F.I.R. It is found from the Judgment delivered by the Juvenile Justice Board that in all seven witnesses were examined. From the evidence of P.W.1, whose testimony has been relied on by the learned Advocate for the petitioner, it is ascertained that the victim left his manufacturing centre on 8th November, 2009 in the evening along with the juvenile. Subsequently, the victim was found seriously injured by blows of knife on his abdomen. Number of people rushed to the place of occurrence hearing the hue and cry of the victim. They corroborated the evidence of P.W.-6, who is the informant in the case. No second name came forward during trial as the assailant of the victim. The defence Lawyer did not cross-examine the informant or other witnesses suggesting an alternative



cause of receiving injury by the victim. The injuries were proved by the Medical Officer.

17. In view of the above discussions, I do not find any illegality or irregularity in the finding and sentence passed by the trial court and affirmed by the court of appeal.

18. Accordingly, the instant revision is dismissed on contest.

(Bibek Chaudhuri, J)

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CAV DATE	
Uploading Date	
Transmission Date	

