

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL REVISION No.44 of 2019

Arising Out of PS. Case No.- Year-1111 Thana- District-

Ishwar Chandra Pandey, Son of Late Rameshwar Pandey, Resident of Village
- Rajapur, P.S.- Kateya, District – Gopalganj

... .. Petitioner

Versus

1. State of Bihar
2. Bachcha Pandey, Son of Late Ram Subhag Pandey, Resident of Village -
Rajapur, P.S.- Kateya, District - Gopalganj

... .. Respondents

Appearance :

For the Petitioner : Mr. Ranjeet Kumar Pandey, Advocate
For the State : Mr. Akhileshwar Dayal, APP
For the O.P. No.2 : Mr. Shashank Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

Date : 14-02-2025

The present Revision Petition has been preferred by the petitioner against the Appellate Judgment dated 18.09.2018 passed by learned Additional Sessions Judge-Ist, Gopalganj in Criminal Appeal No. 06 of 2018, whereby learned Sessions Court has allowed the appeal setting aside the judgment of conviction and order of sentence dated 18.12.2017 passed by learned Additional Chief Judicial Magistrate-XVI, Gopalganj in



G.C No. 11 of 2008 corresponding to Trial No. 584 of 2017, whereby learned Trial Court had found the Opposite Party No.2/Bachcha Pandey guilty under Section 193 of the Indian Penal Code and had acquitted him of the charges under Section 420 and 466 of the Indian Penal Code.

2. The brief facts of the case is that there was a title suit bearing no. 71 of 1968 in the Civil Court, Gopalganj in regard to the land in question. In that suit, there was decree in favour of the petitioner herein and in pursuance of the decree, delivery of possession was to be made on 24.11.2007. Even civil appeal bearing no. 27 of 2007 was filed by the Opposite Party no.2 herein in the District Civil Court, but stay sought by the Opposite Party No.2 herein in the said appeal against the petitioner herein was not granted. It further transpires that just two days prior to the date fixed for delivery of possession in favour of the petitioner, the Opposite Party No.2 herein preferred one petition before learned S.D.M. for preventive measure alleging that the petitioner herein was bent upon to make construction over the land in question, which might result into breach of public peace. In pursuance of the petition before learned S.D.M, learned S.D.M had directed status quo to be maintained on the landed property in question. However, it



came to the notice of learned S.D.M that the delivery of possession was already to be made in favour of the petitioner herein. Hence, he vacated his order regarding the status quo and set up an inquiry into the statement made by the Opposite Party No.2 in his petition before him, and, hence, after inquiry report of the Circle Officer, he directed lodging of complaint under Section 420, 466 and 193 of the Indian Penal Code.

3. In pursuance of the complaint lodged, trial started before learned Judicial Magistrate and Opposite Party No.2 herein was found to be guilty under Section 193 of the Indian Penal Code, but was acquitted of charges under Section 420 and 466 of the Indian Penal Code. Even conviction under Section 193 IPC was set aside by learned Appellate Court in Criminal Appeal No. 06 of 2018 filed by the Opposite Party No.2 herein, and, hence, the petitioner, being aggrieved, has preferred the present Revision Petition.

4. I heard learned counsel for the petitioner, learned APP for the State as well as learned counsel for the Opposite Party No.2.

5. Learned counsel for the petitioner submits that learned Appellate Court has acquitted the Opposite Party No.2 on the ground that prior to lodging complaint, no inquiry under



Section 340 Cr.PC was made, which is not true because as per record, after inquiry under Section 340 Cr.PC complaint was directed to be lodged against the Opposite Party No.2. Hence, the ground of acquittal made by learned Appellate Court is not sustainable.

6. He further submits that Opposite Party No.2 had made wrong statement in his petition before learned S.D.M. to procure favourable order, and, hence, the acquittal of the Opposite Party No.2 under Section 193 of the Indian Penal Code is sustainable in the eye of law.

7. However, learned APP for the State and learned counsel for the Opposite Party No.2 submit that there is no illegality or impropriety in the impugned judgment of learned Appellate Court below because the first and foremost requirement for application of Section 193 of the Indian Penal Code is making wrong statement before the court concerned, but as per the perusal of the petition for taking preventive measure, there is no wrong statement at all made by the Opposite Party No.2 before learned S.D.M., though there is concealment of material facts but concealment of material facts do not attract application of Section 193 of IPC.

8. Hence, even if the ground given by learned



Appellate Court for setting aside the conviction under Section 193 IPC is not sustainable, the conviction of the Opposite Party No.2 under Section 193 IPC was not sustainable on merit. Hence, the present revision petition is liable to be dismissed.

9. I considered the rival submissions advanced by the parties and perused the material on record.

10. From perusal of the petition filed by the Opposite Party No.2 before learned S.D.M., I find that there is no statement made by the Opposite Party No.2 in his petition which is contrary to established or undisputed facts, though I find that the Opposite Party No.2 has not disclosed all the relevant material facts for the proceeding. But there is no wrong statement regarding the civil suit, decree passed therein, execution proceeding thereof or appeal against the decree, though he has concealed that his application for stay was rejected by the Civil Appellate Court. He has also not disclosed that the execution proceeding was already under process for delivery of possession of the property in favour of the petitioner.

11. I further find that Section 193 of IPC is meant to maintain the purity of judicial proceeding, and, hence, parties are required not to give any wrong statement. Punishing the party under Section 193 IPC for concealment of some facts



would be far stretching.

12. Hence, in the given facts and circumstances, I find that Section 193 of IPC is not applicable, and, hence, there is no infirmity or illegality in the acquittal of the Opposite Party No.2 of the charge under Section 193 of the Indian Penal Code.

13. The present petition is dismissed, accordingly.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	NAFR
CAV DATE	NA
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