

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.274 of 2024

Arising Out of PS. Case No.-358 Year-2013 Thana- MAKHDUMPUR District- Jehanabad

1. Dharamveer Kumar @ Avinash Kumar Son of late Hardev Singh Resident of Village- Tehta, P.S.- Makhdumpur (Tehta), Dist.- Jehanabad
2. Sheela Devi Wife of Dharamveer Kumar @ Avinash Kumar Resident of Village- Tehta, P.S.- Makhdumpur (Tehta), Dist.- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL REVISION No. 571 of 2024

Arising Out of PS. Case No.-358 Year-2013 Thana- MAKHDUMPUR District- Jehanabad

Swarnalata Kumari @ Kumari Swarnalata, Wife Of Late Radhey Prasad
Village -Tehta, Ps -Makhdumpur, District -Arwal

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL REVISION No. 274 of 2024)

For the Petitioner/s : Mr.Birend Kumar, Advocate
For the Respondent/s : Mr.Md. Matloob Rab, APP 34
For the O.P. No. 2 : Mr.Girish Chandra Sharma, Advocate

(In CRIMINAL REVISION No. 571 of 2024)

For the Petitioner/s : Mr.Girish Kumar Sharma, Advocate
For the Respondent/s : Mr.Shailendra Kumar Singh, APP
For the O.P : Mr.Birendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

13 10-02-2025

Criminal Revision. 274 of 2024.

1. It is submitted by the learned Advocate for the petitioners on instruction that the petitioners want to withdraw the instant application as he has already suffered the sentence as



a whole.

2. In view of such submission, the instant Criminal Revision be disposed of as withdrawn.

Criminal Revision. 571 of 2024

3. This is an application under Section 401 of the Cr.P.C. filed by the informant/petitioner praying for enhancement of sentence granted by the Court of Appeal in Criminal Appeal No. 83 of 2018 sentencing the appellants for rigorous imprisonment of one year and fine of Rs. 5,000/- each, in default, simple imprisonment for one month each by modifying the sentence of imprisonment of 3 years passed by the learned Judicial Magistrate, 1st Class, Jehanabad.

4. It is pertinent to mention her that the petitioner faced trial under the charge for the offence punishable under Sections 406, 420 and 34 of the IPC on the allegation that they committed breach of trust in respect of a sum of Rs. 4,50,000/- from the informant/de facto complainant, on the pretext that the petitioner would deposit the said money in a fixed deposit policy in P.A.C.L. India Ltd. However, the petitioner did not deposit the said money and misappropriated the same.

5. It is held by the Trial Court vide judgement dated 11th of October, 2018 that the prosecution was able to bring



home the charge under Sections 406 and 34 of the IPC and convicted the petitioner accordingly.

6. The petitioner was heard on the point of sentence and the learned Magistrate sentenced them to suffer rigorous imprisonment for 3 years with fine of Rs. 5,000/- each, in default simple imprisonment for 3 months each.

7. Against the judgement and order of conviction and sentence, the petitioner preferred an appeal before the learned Addl. Sessions Judge II at Jehanabad which was registered as Criminal Appeal No. 83 of 2018. The said appeal was disposed of on 3rd of February, 2024 by which the order of conviction against the petitioner was affirmed but the sentence was modified by reducing the period of imprisonment for one year in place of 3 years, fine amount was, however, upheld by the Trial Court.

8. It is submitted by the learned Advocate for the informant/petitioner that the learned Court of Appeal has committed patent illegality and material irregularity in reducing the order of sentence without considering the evidence on record that the opposite parties/accused persons misappropriated a sum of Rs. 4,50,000/- from the petitioner on the pretext that they would create a fixed deposit policy in the name of the



petitioner for the said sum.

9. It is further contended by the learned Advocate for the petitioner that the accused persons have already served the sentence and were released from the correctional home. Therefore, the petitioner would not get an opportunity to realise the money which was misappropriated.

10. I have perused the impugned order passed by the learned Court of Appeal.

11. The Court of Appeal considered that the accused persons were aged about 41 years and 40 years respectively on the date of delivery of judgement. They are young in age. There was no previous history of criminal activity or commission of any offence attributed against the accused persons. Therefore, the learned Court of Appeal reduced the sentence.

12. On perusal of the materials on record and the reasons cited by the learned Court of Appeal, I do not find any illegality or material irregularity for interference against the order of sentence exercising revisional jurisdiction of this Court.

13. Another important matter ought not to be lost sight of.

14. In the instant revision, the informant/petitioner did not make the accused persons opposite parties. Therefore, they



were not given opportunity to defend themselves and only the State of Bihar has been made party.

15. While retaining the quantum of sentence, this Court is of the view that neither the Trial Court nor the Court of Appeal considered the provision of Section 357 (1) (d) of the Cr.P.C. with regard to payment of compensation of the informant/petitioner.

16. Therefore, while maintaining the sentence, this Court passes an order directing the Trial Court to pass relevant order under Section 357 (1) (d) of the Cr.P.C. for payment of compensation to the informant/petitioner after giving notice to the accused persons. The said proceeding of payment of compensation shall be concluded within 3 months from the date of communication of this order.

17. With the above direction, the instant Criminal Revision is disposed of.

18. Let a copy of this order be sent to the learned Trial Court for hearing on the point of compensation, giving opportunity to the State, informant and the accused persons.

(Bibek Chaudhuri, J)

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