

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.619 of 2024

Arising Out of PS. Case No.-27 Year-2001 Thana- KARPI District- Jehanabad

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Dharmendra Yadav @ Dharmendra Singh Son Of Late Deo Nandan Yadav
Resident Of Village - Titra Tola Bashi Bigha, Police Station - Karpi Now
Rampur Chauram in the District of Arwal

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Adv., Mr. Pankaj Kumar, Adv.
For the State	:	Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 06-02-2025 This is an application under Section 397 read with section 401 of the Code of Criminal Procedure, instituted against the petitioner, on the basis of a suo motu complaint dated 16th February, 2001 submitted by the S.H.O., Rampur Chauram P.S. alleging, inter alia, that on 16th February, 2001 he received a secret information that some miscreants assembled with fire-arms at village- Titra Tola Basti Bigha. The S.H.O., along with Police force conducted a raid at about 6:30 A.M. in the house of one Dharmendra Yadav and conducted search in presence of local witnesses. On search, the Police party recovered one country made pistol loaded with .315 bore cartridge from the possession of the accused/petitioner. The said fire-arm and cartridge was seized under proper seizure-list in



presence of independent witnesses. The seized property was examined by the Arms Experts during investigation. After obtaining the report of the Arms Experts and order of sanction for prosecution, Police submitted charge-sheet against the petitioner.

2. The above mentioned case (Karpi P.S. Case No. 27 of 2001) was transferred to the Court of learned Judicial Magistrate, Ist Class, Jehanabad. The case was re-numbered as Trial No. 152 of 2019, charge was framed against the accused under Section 25(1-b)a/26 of the Arms Act. On conclusion of trial, the learned Magistrate convicted the accused and sentenced him to suffer rigorous imprisonment for three years with fine of Rs.1,000/- for the offence punishable under Section 25(1-b)(a) read with Section 26 of the Arms act, in default of payment of fine, the petitioner was directed to undergo rigorous imprisonment for 30 days and both the sentences were directed to be run concurrently.

3. The convict preferred an appeal before the learned Additional Sessions Judge-II, Jehanabad against the Judgment and order of conviction and sentence passed by the learned Judicial Magistrate, Ist Class at Jehanabad, the said Appeal was registered as Criminal Appeal No. 53 of 2019. Learned



Appellate Court disposed of the Appeal on 30th April, 2024. The Judgment and order of conviction and sentence, passed by the trial court was affirmed by the Court of Appeal.

4. Hence, the instant Criminal Revision.

5. At the outset, this Court records that the scope of Criminal Appeal and Criminal Revision against an order of conviction and sentence is absolutely different. In Criminal Appeal, the Court can re-assess and re-appreciate the evidence, but there is no scope for the Revisional Court to re-appreciate the evidence against an order of conviction and sentence, except in cases of glaring error, non-appreciation of material evidence causing illegality and irregularity, the Court cannot look into the evidence on record, which was recorded and adjudicated by both the courts below.

6. Bearing the above principle in mind, let me now consider the impugned Judgment, passed by the Court of Appeal on 30th April, 2024. On perusal of the impugned Judgment, it is found that prosecution examined as many as 10 witnesses. Amongst the witnesses examined by the prosecution, the independent witnesses did not come forward to support the prosecution case. One of the Police personnel, in his deposition, did not support the prosecution case, while he deposed that the



petitioner was arrested from one Chitra More, but the prosecution case is that he was apprehended and a fire-arm with a live cartridge was recovered while he was in his house. Thus, there is contradiction with regard to place of occurrence. Neither the trial court nor the Court of Appeal considered the above mentioned discrepancies and ignored the same, noting that those are minor discrepancies which does not affect the prosecution case.

7. However, on careful perusal of the impugned Judgment, I find that the Court of Appeal has considered the evidence adduced by all the witnesses and accepted the statement of the Police Officers on oath, on the ground that there was no enmity between the petitioner and the witnesses and there is no ground set forth for false implication of the accused.

8. At the same time, I am not unmindful to note that for having a country made fire-arm with a live cartridge, the petitioner has been facing trial for almost 25 years. During this period of time, he suffered immense mental trauma and material sufferings. He had to face the trial with the threat of imprisonment for last 25 years. The Appellate Court did not consider the said fact as a mitigating circumstances while



affirming the order of sentence. When the petitioner committed the offence, minimum punishment for wrongful possession of a fire-arm was one year. Subsequently, by way of amendment, the period was extended to two years, which may extend up to five years. Since, the petitioner is facing trial in connection with Karpi P.S. case No. 27 of 2001 from 2001, this Court is of the view that though, this Court is not in a position to alter the order of conviction, sentence of the petitioner is reduced to one year with fine of Rs. 500/- for the offence punishable under Sections 25(1-b) a/26 of the Arms Act.

9. The period of sentence already undergone by the petitioner shall be set off against the actual period of imprisonment.

10. With the above modification, the instant Criminal Revision is disposed of.

(Bibek Chaudhuri, J)

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