

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.849 of 2022

Arising Out of PS. Case No.-358 Year-2012 Thana- PHULWARISHARIF District- Patna

Pappu Kumar, S/o Gajendra Sharma R/v- Gajachak Mahammadpur, P.S.-
Janipur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bijendra Sharma S/o Shri Suresh Singh @ Suresh Sharma R/v- Gajachak Mahammadpur, P.S.- Janipur, District- Patna
3. Shantosh Sharma S/o Ramshani Singh R/v- Gajachak Mahammadpur, P.S.- Janipur, District- Patna
4. Suresh Sharma @ Suresh Singh S/o Late Chandra Hans Singh R/v- Gajachak Mahammadpur, P.S.- Janipur, District- Patna
5. Priyanka Devi S/o Suresh Sharma @ Suresh Singh W/o Sudhir Kumar R/v- Manjhauli, P.O.- Anda Pakauri, P.S.- Phulwari Sharif, District- Patna
6. Guria Kumari D/o Suresh Sharma @ Suresh Singh W/o Kunal Kumar R/v- Rauniya, P.O.- Karai, P.S.- Naubatpur, District- Patna
7. Pammi Kumari D/o Suresh Sharma @ Suresh Singh W/o Bittu Kumar R/v- Jaitipur Jalalpur, P.O and P.S.- Naubatpur, District- Patna
8. Satya Sharma S/o Late Amika Singh @ Bhukal Singh R/v- Gajachak Mahammadpur, P.S.- Janipur, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Senior Advocate Mr.Dineshwar Prasad Singh, Advocate
For the State	:	Mr.Bharat Lal, APP
For the O.P. Nos. 2 to 8	:	Md. Nurul Hoda, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 19-08-2025

I.A.No.01 of 2023

This interlocutory application has been filed for condoning the delay of about 155 days in preferring this revision application.

2. For the reasons mentioned in this interlocutory application, I am satisfied that the petitioner was prevented from



sufficient cause in preferring this revision application within time.

3. Accordingly, this interlocutory application is allowed and the delay in filing this application is hereby condoned.

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4. The petitioner is aggrieved by the order 24.03.2022 passed by the learned Additional Sessions Judge-IX, Patna in Sessions Trial No. 125 of 2015 whereby and whereunder the learned trial court acquitted all the seven accused persons facing trial in this case under Section 232 of the Code of Criminal Procedure (hereinafter referred to as 'the Code') for charges under Sections 307 and 379 read with Section 34 of the Indian Penal Code.

5. Heard learned senior counsel appearing on behalf of the petitioner and learned counsels appearing on behalf of the opposite parties.

6. The learned senior counsel appearing on behalf of the petitioner submits that perusal of order-sheet of the learned trial court would show that though summons were issued and bailable/non-bailable warrants were also issued, but there is no service report of summons or execution report of warrants on record. Thereafter, this petitioner was taken into custody in



some other matter and remained in custody from 22.02.2021 till June 2022. The evidence in this case was closed on 09.03.2022. The petitioner was not having any knowledge about the proceeding before the learned trial court and his requirement for appearance as a witness in the said case. The learned senior counsel further submits that the learned trial court acquitted all the accused persons under Section 232 of the Code, but it overlooked the provision under Section 230 of the Code wherein it has been provided that the court shall issue any process for compelling the attendance of any witness or the production of any document or other thing. But the record does not show any steps was taken for compelling the attendance of the witnesses. The learned senior counsel, thus, submits that the impugned order could not be sustained as there is non-compliance of the legal provisions and the learned trial court did not take effective steps for ensuring the presence of witnesses before it.

7. On the other hand, learned counsel appearing on behalf of opposite parties vehemently contends that there is no infirmity in the impugned order. The learned counsel submits that after framing of charge on 20.08.2015, the matter has been fixed for evidence by the learned trial court and, thereafter, the learned trial court took a number of steps including issuance of



summons to the witnesses, issuance ofailable and non-ailable warrants and, thereafter, issuance of a letter to the Senior Superintendent of Police, Patna for securing the presence of the prosecution witnesses. Thereafter, *Dasti* summons were issued against the witnesses and it was received by the learned APP on 13.12.2019. When the witnesses were not produced even on subsequent dates, finally the evidence of the prosecution was closed on 09.03.2022. Since there was no evidence, the learned trial court rightly acquitted the accused persons. Therefore, there is no infirmity in the impugned order.

8. Having regard to the rival submission and on perusal of record, it is apparent on face of the record that the grievance of the petitioner is mostly against the prosecution agency whose duty is to ensure the execution of the orders of the court. It is evident from the record that the learned trial court took several steps for ensuring presence of witnesses before it without any prayer being made on behalf of the prosecution in terms of Section 230 of the Code. In this manner, the matter has been kept pending for six years for recording the evidence of the prosecution. The petitioner is the informant of the case and after the matter reached the stage of trial, he did not show any interest and did not inquire what was expected from him. He was taken into custody on 22.02.2021, ie., after about six years



of commencement of evidence of the prosecution. The petitioner could not put all blame on the court for non-appearance of the witnesses and consequent acquittal of the accused persons under Section 232 of the Code. Merely because there is no service/execution report of summons/warrants, the same would not make the impugned order bad in the eyes of law considering the efforts taken by the court. If the prosecution failed to bring the witnesses, the courts are not expected to keep the matter pending for all time to come. Further, the record does not show that the court was unduly hasty in closing the evidence and delivering acquittal order.

9. Therefore, in the light of aforesaid facts and circumstances, I do not find any illegality, impropriety or infirmity in the impugned order and hence, the order dated 24.03.2022 needs no interference by this Court.

10. Accordingly, finding no merit in the present petition, the same is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2025
Transmission Date	21.08.2025

