

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.970 of 2024

Arising Out of PS. Case No.-148 Year-2010 Thana- SIRDALA District- Nawada

Ravindra Prasad @ Ravindra Kumar Son of Amrit Prasad Resident of Village-
Pandeydih, P.S.- Sirdalla, District -Nawada

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manju Devi Wife of Ramkhelawan Prasad Resident of Village- Pandeydih,
P.S.- Sirdalla, District -Nawada

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Mukherjee, Advocate Mr. Pramod Kr. Verma, Advocate Mr. Ganesh Sharma, Advocate
For the State	:	Mr. Sunil Kumar Pandey, APP
For the O.P. No.2	:	Mr. Niraj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 07-05-2025 The instant revision at the instance of the convict/accused of Sirdala P.S. Case No.148 of 2010 is filed challenging correctness, legality and propriety of the order of conviction and sentence passed by the learned Additional Chief Judicial Magistrate-V, Nawada for committing offence under Section 324 of the I.P.C. and sentencing the petitioner to undergo imprisonment for two years under Section 324 of the I.P.C. The order of conviction and sentence was affirmed by the learned Additional District & Sessions Judge-I, Nawada in Criminal Appeal No.35 of 2018 vide order dated 04.07.2024.

2. While assailing the order of conviction and



sentence passed by the Trial Court and affirmed by the Court of Appeal, the learned Advocate for the petitioner submits that the alleged incident took place on 24.04.2010, but the complaint was filed before the Court of the learned Chief Judicial Magistrate, Nawada on 06.05.2010 under Section 156(3) of the Cr.P.C.

3. Sirdala P.S. Case No.148 of 2010 was registered on the basis of an order passed by the learned Chief Judicial Magistrate, Nawada directing the SHO of the concerned police station to treat the complaint filed by the informant as FIR and to proceed with the investigation of the case. Thus, the first objection taken on behalf of the petitioner is delay in registration of Sirdala P.S. Case No.148 of 2010 after a lapse of more than 15 days of the alleged occurrence.

4. Secondly, the learned Advocate for the petitioner submits that from the evidence, it is clear that there was land dispute between the parties, as a result of the land dispute litigations are going on. The informant previously filed criminal cases against the family of the petitioner. Both the Courts below did not considered as to whether G.R. Case No.2029 of 2010, arising out of Sirdala P.S. Case No.148 of 2010 (hereinafter described as said case), is the result of animosity and false suit



between the parties.

5. Thirdly, the learned Advocate for the petitioner submits that the ocular witnesses of the occurrence are the informant herself, her sons and husband they are close relatives of the informant and highly interested in the outcome of the case. Therefore, their evidence ought to have been scanned and scrutinized with a pinch of salt.

6. It is submitted by the learned Advocate for the petitioner that PW-7 was turned hostile and did not support the prosecution case. PW6 did not utter a single word against the petitioner, from his evidence it is clear that he came to the spot after alleged incident took place. Both the courts below did not consider the above-mentioned aspects and flatly relied on the evidence on behalf of the prosecution.

7. Learned Advocate on behalf of the petitioner also submits that the Courts below did not consider the evidence of the defence witnesses where they stated that the informant was the aggressor in the said incident and the accused/petitioner only retaliated.

8. Learned Advocate on behalf of the private opposite party/informant, on the other hand, supports the case of the petitioner on the ground that there was no dispute that on



24.04.2010, the informant received a sharp cutting injury on the parietal region of her head. The injury report was exhibited by the medical officer, who treated the informant after the occurrence. The injury report of the petitioner was corroborated by the medical report. It is further submitted by the learned Advocate for the informant that when the informant was assaulted by a sharp cutting weapon, ingredients of Section 324 of the I.P.C. ought to be held to be proved.

9. The incident which took place on 24.04.2010 was corroborated by the husband and children of the informant in course of their evidence, only because they are close relatives of the informant, their evidence cannot be discorded because the argument advanced by the learned Advocate on behalf of the petitioner cannot be accepted that an injured person and her close relatives would leave aside the real culprit and filed a false case against an innocent person only for land dispute between the parties.

10. The learned Advocate on behalf of the informant also submits that delay in lodging FIR in the instant case is of no consequence because the informant went to the local police station immediately after the incident to lodge FIR, police refused to accept FIR from the informant, then only she filed a



complaint before the learned Chief Judicial Magistrate, Nawada with a prayer to send the said complaint to the jurisdictional police station for registration of a police case and investigation. Therefore, there may be some procedural delay but it would not affect the prosecution case.

11. Thus, it is submitted by the learned Advocate for the informant that this Court does not have any ground to interfere over the orders of conviction and sentence passed by the Trial Court.

12. The learned Additional Public Prosecutor for the State has also supported and adopted the argument advanced by the learned Advocate for the informant.

13. Having heard the learned Advocates for the parties and on careful perusal of the impugned judgment as well as the Lower Court Record, this Court finds that the learned Advocate for the petitioner has raised the first objection against the impugned order on the ground that the courts below did not consider inimical relationship between the parties.

14. In this regard, this Court records that a plea of enmity is a double-edged weapon. Enmity may be the reason of institution of a false case and on the other hand enmity may also be the reason for causing a crime by the offender. Therefore, the



case of enmity ought to be looked into on both the perspective.

15. Bearing this principle in mind, if the propriety of the impugned judgments is assessed one would find that indisputably on 24.04.2010, the informant received a sharp cutting injury on her parietal region on being assaulted by a sharp cutting weapon. The injury has been proved by the independent witness, namely, the Doctor and PW-7. The witnesses on behalf of the prosecution who were testified as ocular witnesses stated in same tune that the petitioner assaulted the informant with the help of a '*Gadasa*' on her head causing bleeding injury.

16. This fact has practically been corroborated by the defence witness, when they stated that it was the informant and her family members who were aggressors in the said incident. From this piece of evidence, it is ascertained that there was an incident took place between the informant and the accused and in the said incident the informant received injury on her head.

17. This part of evidence is found to be consistent while examining the evidence of the witnesses on behalf of the prosecution.

18. On perusal of the impugned judgment, I find that both the Courts below considered carefully the evidence on



record and came to a logical finding holding the petitioner guilty of committing offence under Section 324 of the I.P.C. and convicting him accordingly.

19. Therefore, this Court finds that the Trial Court did not commit any error in convicting the petitioner for the offence under Section 324 of the I.P.C.

20. With regard to sentence, it is submitted by the learned Advocate for the petitioner that the petitioner is in custody since 08.10.2024 and serving sentence. Thus, he has served sentence for about 07 months. The petitioner is a 'Gotiya' of the informant.

21. Considering such aspect of the matter, the Court can set off the period of punishment already undergone by the petitioner.

22. In the alternative, it is submitted by the learned Advocate for the petitioner that the petitioner may be released under the probation of offenders act and thirdly, under the facts and circumstances of the case, this Court ought to hold that the petitioner caused heart of the informant on provocation and therefore, he ought to be convicted under Section 334 of the I.P.C.

23. So far as the submission made by the learned



Advocate for the petitioner that the petitioner ought to be held convicted for committing offence under Section 334 of the I.P.C., this Court is of the view that this Court is not in a position to consider such submission on the ground that such defense was not taken by the petitioner during the trial of the case or during appeal.

24. In the revisional Court, the petitioner cannot claimed that the offence committed by him be brought down to an offence under Section 334 of the I.P.C. Moreover, this ground was not even taken by the petitioner in his revision. Therefore, this Court has not in a position to accept such submission made by the learned Advocate for the petitioner.

25. Under the facts and circumstances of this case, I am also not convinced that the petitioner should be released on probation of offenders act. Now comes the question with regard to quantum of sentence. Both the courts below directed the petitioner to suffer simple imprisonment for two years for the offence under Section 324 of the IPC.

26. The incident took place on 24.04.2010 the petitioner faced trial till 04.07.2024 i.e. for about 14 years when the criminal appeal was disposed of. Subsequently, he has filed the instant revision. Now he is in custody in the correctional



home and serving sentence. The petitioner has passed under tremendous mental trauma and agony during these 14 years. Therefore, this Court is of the view the period of simple imprisonment of two years should be reduced by one year.

27. Therefore, the instant revision is disposed of, modifying the sentence under Section 324 of the IPC passed against the petitioner and directing him to suffer simple imprisonment for one year for the offence under Section 324 of the IPC, all other sentences, regarding payment of fine etc. are affirmed.

28. Lower Court Records be returned to the Court below.

(Bibek Chaudhuri, J)

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