

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.169 of 2022

Arising Out of PS. Case No.-271 Year-1997 Thana- KORMA District- Sheikhpura

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1. Kapildeo Singh S/o Late Mathura Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura
 2. Umesh Singh S/o Late Mathura Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura
 3. Manoj Singh S/o Kapildeo Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura
 4. Sanoj Singh S/o Kapildeo Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura
 5. Vinay Singh S/o Kapildeo Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura
 6. Sabita Devi @ Sabitri Devi W/o Kapildeo Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura
 7. Nirmala Devi W/o Umesh Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar
2. Uma Shankar Singh S/o Late Jago Singh R/o village- Chare, P.S.- Korma, District- Sheikhpura

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bipin Kumar, Advocate Mr. Ravi Kant, Advocate
For the O.P. No. 2	:	Mr. Sheo Nandan Prasad, Advocate
For the State	:	Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 18-02-2026

Heard learned counsel for the petitioners and learned counsel for the opposite party no. 2 as well as learned APP for the State.

2. The present criminal revision has been filed against the judgment dated 02.02.2022 passed by the learned Additional



Sessions Judge-III, Sheikhpura in Criminal Appeal No. 09 of 2017 (Trial No. 04 of 2022), whereby and whereunder the learned appellate court partially allowed the appeal preferred by the opposite party no. 2 against the judgment dated 01.05.2017 passed by the learned Judicial Magistrate 1st Class, Sheikhpura in which the petitioners were acquitted of the charges against them. The learned Appellate Court, by the impugned judgment, remanded the matter back to the trial court to hear the matter on the point of sentence considering the absence of previous conviction of the petitioners and taking it to be a first offence, especially in the context of the Probation of Offenders Act.

3. Briefly stated, the facts of the case are that the informant/opposite party no. 2 has lodged Sheikhpura P.S. Case No. 271 of 1997 under Sections 147, 148, 149, 323, 324, 307 and 337 IPC, alleging therein that while the informant was returning after taking bath from a pond, the petitioners, variously armed with rifle, revolver, sword and rod, assaulted the informant with intention to kill him. It is also alleged that the informant was attacked on the head with a sword and the accused person broke his teeth by inserting the sword in his mouth. The motive behind the occurrence was that prior to the occurrence, the brother of the informant lodged a case against



the petitioners. On the basis of aforesaid *fardbeyan* of the informant/opposite party no. 2, Sheikhpura P.S. Case No. 271 of 1997 was registered against the petitioners. Thereafter, cognizance was taken under Sections 147, 148, 149, 323 and 325 of the Indian Penal Code and charges were framed under Sections 147, 148, 149 and 323 of IPC against the accused persons. The learned trial court after considering the available evidence and materials, vide judgment dated 01.05.2017, acquitted the petitioners/accused of all the charges. Aggrieved by the aforesaid judgment dated 01.05.2017, the informant/opposite party no. 2 preferred an appeal before the learned appellate court and the learned appellate court, vide judgment dated 02.02.2022, partially allowed the appeal and remitted the matter back to the learned trial court. The aforesaid judgment 02.02.2022 is under challenge before this Court in the instant revision petition.

4. Learned counsel for the petitioners submits that the impugned order is bad in the eye of law as well as on the facts of the case and it has been passed without application of judicial mind. Learned counsel further submits that the learned appellate court has not considered the fact that for want of evidence the petitioners have been acquitted by the learned trial court.



However, the learned appellate court, based on similar set of evidence, taking a different view from the learned trial court, went on to convict the petitioners under Sections 323 r/w Section 143 of IPC. Learned counsel further submits that the learned appellate court has also not considered the improbability of the accusation and that the witnesses were all interested witnesses. The doctor and the Investigating Officer were not examined and material contradictions were not taken into consideration by the learned appellate court. The land dispute between the parties has also not been taken into consideration. Learned counsel further submits that the order of the learned appellate court is illegal, arbitrary and unjust and passing such order has caused grave injustice to the petitioners. It is a completely mechanical exercise of power without application of judicial mind. Thus, the learned counsel submits that the order impugned is not correct and the same is liable to be set aside.

5. Learned counsel for the opposite party no. 2 as well as learned APP for the State vehemently oppose the submission made on behalf of the petitioners. Learned counsel for the opposite party no. 2 submits that there is no infirmity in the impugned order. The order of the learned appellate court is just and proper and has been passed after taking due consideration of



the evidence of prosecution witnesses.

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

7. When the learned appellate court takes a different view from the view taken by the learned trial court, it has to record its finding and give its reason for taking this different view. But, from the order of the learned appellate court, I find that the order is conspicuously silent on the reasons for differing view. Though, the learned appellate court has stated about evidence of witnesses, the same evidence was also considered by the learned trial court and disbelieved. Therefore, it appears the order impugned is non-speaking to that extent for not recording the reasons for taking a different view than the learned trial court and on this ground alone, it could not be sustained.

8. In different circumstances, this Court would have remitted the matter to the learned appellate court for passing an order afresh. However, considering the fact that the FIR was registered in the year 1997 and since then the petitioners have been facing the rigors of trial, I think no useful purpose would be served in remitting the matter back to the learned appellate court. Further, the conviction was only under Section 323 r/w



Section 143 of IPC as arrived at by the learned appellate court and thereafter, the learned appellate court referred the matter to learned trial court for passing order on the point of sentence. If the petitioner would have appeared before the learned trial court and the learned trial court had exercised the option of either releasing the petitioners after due admonition or releasing them on probation bond, the ordeal of the petitioners would have come to an end by this time. Therefore, for the ends of justice, I think it fit and proper that a *quietus* be given to the criminal proceeding which arose out of some trivial matter. Hence, the impugned judgment/order dated 02.02.2022 passed by the learned appellate court is set aside and the judgment/order dated 01.05.2017 of the learned trial court is restored.

9. Accordingly, the present revision petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.02.2026
Transmission Date	20.02.2026

