

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.520 of 2023

Arising Out of PS. Case No.-1177 Year-1998 Thana- PURNIA COMPLAINT CASE District-
Purnia

=====

JAI NARAYAN YADAV @ JAINU YADAV S/O Late Kewal Yadav R/O
Village- Chandpur, Bangala, P.S- Jankinagar, Distt.- Purnea.

... .. Petitioner/complainant

Versus

1. The State of Bihar
2. Vishnu Dev S/O Late Tanuk Lal Yadav R/O Village- Chandpur, Bangala,
P.S- Jankinagar, Distt.- Purnea.
3. Anil Yadav S/O Late Sahdeo Yadav R/O Village- Chandpur, Bangala, P.S-
Jankinagar, Distt.- Purnea.
4. Ramdeo Yadav S/O Late Tanuk Lal Yadav R/O Village- Chandpur, Bangala,
P.S- Jankinagar, Distt.- Purnea.
5. Jai Kumar Yadav S/O Late Sahdeo Yadav R/O Village- Chandpur, Bangala,
P.S- Jankinagar, Distt.- Purnea.

... .. Opposite Party/Respondents

=====

Appearance :

For the Petitioner : Mr. Manish Kumar, Advocate

For the State : Mr. Nand Kishore Prasad, APP.

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
CAV ORDER

9 13-05-2026 The present criminal revision petition has been filed

for setting aside the judgment dated 25.11.2022 passed by

learned 10th Additional Sessions Judge, Purnea in Criminal

Appeal No. 21 of 2016/ CIS No. 23 of 2016 (arising out of

Complaint Case No. 1177 of 1998) whereby and whereunder the



concerned court has acquitted the private respondents/opposite parties of the charges under Sections 323 and 420 of the IPC.

2. As per complaint case, complainant/ petitioner, his five brothers and widow of deceased brother along with the successors made partition with mutual consent and on the basis of said mutual partition, they are possessing the land in their respective share. It is further asserted in the complaint petition that complainant's sister-in-law/Ashiya Devi needed money for solemnization of marriage of her daughter and for that purpose she agreed to sell out the land in share of her husband bearing Khata No. 25, Khesra No. 3677, Rakba 9.5 decimal to the complainant. It is further averred that an agreement was entered into between the complainant and Ashiya Devi that out of the total consideration money of Rs. 11,000/-, the complainant would initially pay Rs. 8,000/- to Ashiya Devi as advance money and the rest amount of Rs. 3,000/- and other miscellaneous expenses would be paid at the time of execution of registered deed. It is further averred that in pursuance of aforesaid agreement, the complainant paid Rs. 8,000/- to Ashiya Devi. It is further averred that in terms of agreement, complainant made arrangement of rest amount of Rs. 3,000/- and other miscellaneous expenses but when request was made



by the complainant to execute the registered deed, initially Ashiya Devi took excuses on one pretext or other and lastly on 11.10.1998 beside Ashiya Devi, Vishnudeo Yadav, Ramdev Yadav, Birendra Yadav, Anil Yadav and Jay Kumar Yadav, all armed with fatal weapons, made intrusion into the house of the complainant and demanded the agreement paper back and when same was protested, all the accused persons assaulted the complainant mercilessly after tying his hands. It is further averred that when complainant's brother came to his rescue, he was also assaulted by the accused persons. Upon hearing the commotion, villagers came and saved the complainant and his brother.

3. On the basis of complaint petition, complaint Case No. 1177 of 1998 was filed. The complainant has produced six witnesses viz. CW-1/ Geeta Devi, CW-2/ Hazari Yadav, CW-3/ Vidyanand Yadav, CW-4/ Jai Narayan Yadav @ Jainu Yadav (complainant), CW-5/ Siya Ram Prasad Yadav and CW-6/ Md. Yakub.

4. Defence has also adduced two witnesses viz. D.W. 1 Dilip Yadav and D.W. 2 Upendra Rai. They have stated that complainant does not want to pay proper price of the land and when land was not sold to him, he has filed the false complaint



case.

5. It is evident from the judgment dated 14.03.2016 passed by learned Judicial Magistrate, 1st Class, Purnea in Complaint Case No. 1177 of 1998, Trial No. 1187 of 2009 that cognizance has been taken under Sections 323 and 420 of the IPC and charge has also been framed against the private respondents under the same section. Further statement of accused persons under Section 313 of the Cr.P.C. has been recorded.

6. Learned counsel for the petitioner/complainant has submitted that vide judgment dated 14.03.2016, all the private respondents have been convicted under Sections 323 and 420 of the IPC and, accordingly, they have been sentenced to undergo simple imprisonment for one year each under Section 323 of the IPC and to undergo simple imprisonment for three years each along with fine of Rs. 5,000/- under Section 420 of the IPC by the learned Judicial Magistrate, 1st Class, Purnea. He further submits that learned Additional Sessions Judge-X, Purnia set aside the order of Judicial Magistrate, 1st Class and acquitted all the private respondents vide impugned judgment dated 25.11.2022 without application of judicial mind and, hence, the impugned judgment is liable to be set aside.



7. Learned counsel for the State has submitted that, *prima facie*, it appears that the present case is based upon the agreement between the parties and the appellate court has acquitted all the respondents of the charges under Sections-323 and 420 of IPC. He further submits that the appellate court has recorded the reasoning that the complainant Jai Narayan Yadav has not been examined after charge on account of which the defence did not get opportunity to cross-examine him. Hence, the evidentiary value of such witness has no significance in the eye of law. It has also been quoted by the appellate court that CW-2/ Hazari Yadav has not stated that respondents assaulted him (Hazari Yadav), Ashiya Devi and the complainant. CW-1/Gita Devi has also not stated anything regarding assault. He further submits that, in the matter of acquittal, the revisional court has limited jurisdiction to oversee whether any illegality, irregularity or impropriety has been committed by the appellate court and counsel of the petitioner has also failed to point out any illegality, irregularity or impropriety in the impugned judgment. Hence, judgment of acquittal passed by the appellate court is justified and legal and no interference is required.

8. After going through the material available on record, it is evident that the appellate court has recorded the



finding that only two witnesses, namely Gita Devi and Hazari Yadav have been examined and they have also been cross-examined by the defence after charge and their evidence can be analyzed in support of the complaint petition. CW-1 Gita Devi has stated in the cross-examination after charge that she does not know khata, khesra and boundary of the land in question, hence, genesis of the dispute has not been supported by the said witness. Further, CW-1 has not stated anything regarding assault. CW-2/ Hazari Yadav is a hearsay witness as he has stated that he heard that private respondents made intrusion into the house of the complainant and assaulted him but during cross-examination after charge CW-2 has not stated anything regarding assault. Rest four witnesses, namely, Vidya Nand Yadav, Jai Narayan Yadav (complainant), Siya Ram Prasad Yadav and Md. Yakub have not been examined after charge, as a result of which defence has not got opportunity to cross-examine the aforesaid witnesses. Even the complainant has not been cross-examined after charge. In this way, the contents of allegation made by the complainant have no significance in the eye of law. Further, Ashiya Devi has already died and she has not been examined in the case. In this way, the very allegation made in the complaint petition lacks authenticity as Ashiya Devi



is the person who had allegedly entered into the agreement to execute sale deed and the story of complainant begins with the initiation of Ekrarnama/Jarbayanama initiated by Ashiya Devi which has not been proved in absence of examination of Ashiya Devi who has died.

9. It is settled law that, unless there is a perverse finding in the impugned order/judgment, no interference is required. In the present case, the appellate court, while passing the judgment of acquittal, has analyzed the evidence with the sound reasoning. The contention of learned counsel for the State is quite tenable and sustainable in the light of given facts and circumstances of the case. Thus, in the opinion of this Court, the appellate court has taken a plausible view based on the evidence available on the record. The view taken by the appellate court cannot be held to be bad or perverse. Under such circumstances, no case for interference with the impugned judgment is made out.

10. In the result, the present criminal revision petition preferred against the judgment of acquittal dated 25.11.2022 passed by the learned 10th Additional Sessions Judge, Purnea in Criminal Appeal No. 21 of 2016/ CIS No. 23 of 2016 (arising out of Complaint Case No. 1177 of 1998) is dismissed at the



admission stage itself.

11. Pending interlocutory application(s), if any, shall
also stand disposed of.

(Alok Kumar Pandey, J)

shahzad/-

U		T	
---	--	---	--

