

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1060 of 2019

Arising Out of PS. Case No.-1375 Year-2000 Thana- PATNA COMPLAINT CASE District-
Patna

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Bal Manohar Jalan, Son of Late Hiralal Jalan, Resident of Village - Quilla
House, Patna City, P.S.- Chowk, Dist.- Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. Suresh Prasad, Sri Bhagera Prasad, Resident of Village - Bhitri Begampur,
P.S.- Chowk, Dist.- Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Ajay Kumar Thakur, Advocate Ms. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate Mr. Mudit Meet, Advocate
For the Respondents	:	Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

15 13-02-2026 The present Criminal Revision Petition has been preferred
by the Petitioner against the impugned judgment dated
15.07.2019 and order of sentence dated 15.07.2019 passed by
learned Court of Sessions Judge, Patna in Criminal Appeal No.
277 of 2011, whereby in pursuance of the Criminal Complaint
bearing Complaint Case No.1375(C) of 2000 corresponding to
Trial No.1243 of 2010, learned Court of Judicial Magistrate 1st
Class, Patna had found four accused persons including the
Petitioner guilty under Section 323 and 384 of the Indian Penal
Code and all the convicts were sentenced to R.I. for one year
and to pay a fine of Rs.500/- Under Section 323 IPC and R.I. for
three years and fine of Rs. 1,000/- under Section 384. However,



in the Criminal Appeal filed by four convicts including the Petitioner, the other three convicts were acquitted of all the charges but the conviction of the Petitioner, Bal Manohar Jalan was part set aside and part upheld. The Petitioner was acquitted of charge under Section 384 IPC, but he was found guilty under Section 323 IPC and even sentence under Section 323 was modified by giving benefit by releasing him on probation under the Probation of Offenders Act and with direction to the Petitioner to pay compensation amount of Rs.10,000/- to the victim.

2. Hence, the present Criminal Revision Petition has been filed by the Petitioner.

3. Learned counsel for the Petitioner submits that as per the material on record, the very conviction of the Petitioner is not sustainable and the judgment of conviction under Section 323 IPC is full of perversity of finding of facts. There is apparent contradictions in the finding of the Court in view of the fact that the victim has alleged that he was assaulted by all the four accused but learned Appellate Court has acquitted all the other three accused but he has not acquitted the Petitioner herein.

4. He further points out that there is no cogent evidence



on record to show that the alleged victim was assaulted by him. He further clarifies that as per the statement of the victim, he was treated subsequent to the assault by a doctor but during the trial, no medical prescription regarding treatment or any injury report has been brought on record by exhibiting the same but learned Trial Court as well as learned Appellate Court has committed serious error of law by reading the injury report which was not exhibited. A document being in the file and being a part of record are two distinct concepts. Unless any document is exhibited and brought on record for consideration of the Court during the Trial, the Trial Court or any Appellate Court is not permitted to read it for passing the judgment. This perversity is apparent on record. Whereas learned Trial Court referring to the injury report, has believed that the victim had got injury.

5. He also points out that learned Trial Court and learned Appellate Court has disbelieved the case of the victim against all other accused and they have also not believed the prosecution case against the other co-accused in regard to the assault, whereas the allegation of the alleged victim is that he was assaulted not only by the Petitioner but also by other co-accused. But there is no basis for the Trial Court or the



Appellate Court to find that the allegation of the victim against the Petitioner is proved. The whole conviction is based on surmises and conjectures without any supporting evidence on record.

6. However, learned APP for the State submits that there is no illegality or infirmity in the impugned judgment of conviction and the order of sentence and the Petitioner has been rightly convicted and sentenced by learned Trial Court as well as learned Appellate Court.

Extent and Scope of Revisional Jurisdiction of High Court

7. Before I proceed to consider the rival submission of the parties, it is desirable to see the extent and scope of revisional jurisdiction of High Court. As per the statutory provisions and judicial precedents, it is settled principle of law that the revisional jurisdiction conferred upon the High Court is a kind of paternal or supervisory jurisdiction under Section 397 read with Section 401 Cr.PC in order to correct the miscarriage of justice arising out of judgment, order, sentence or finding of subordinate Courts by looking into correctness, legality or propriety of any finding, sentence or order as recorded or passed by subordinate Courts and as to the regularity of any proceeding of such inferior Courts.

8. However, the exercise of revisional jurisdiction by the



High Court is discretionary in nature to be applied judiciously in the interest of justice.

9. Under revisional jurisdiction, the High Court is not entitled to re-appreciate the evidence for itself as if it is acting as a Court of appeal, because revisional power cannot be equated with the power of an Appellate Court, nor can it be treated even as a second appellate jurisdiction. Hence, ordinarily, it is not appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Trial and Appellate Court, unless there are exceptional situations like glaring error of law or procedure and perversity of finding, causing flagrant miscarriage of justice, brought to the notice of the High Court. Such exceptional situations have been enumerated by Hon'ble Apex Court on several occasions which are as follows:-

(i) when it is found that the trial court has no jurisdiction to try the case or;

(ii) when it is found that the order under revision suffers from glaring illegality or;

(iii) where the trial court has illegally shut out the evidence which otherwise ought to have been considered or;

(iv) where the judgment/order is based on inadmissible evidence, or;



(v) where the material evidence which clinches the issue has been overlooked either by the Trial Court or the Appellate Court or;

(vi) where the finding recorded is based on no evidence or;

(vii) where there is perverse appreciation of evidence or;

(viii) where the judicial discretion is exercised arbitrarily or capriciously or;

(ix) where the acquittal is based on a compounding of the offence, which is invalid under the law.

10. However, it has been cautioned by Hon'ble Supreme Court that the aforesaid kinds of situations are illustrative and not exhaustive.

11. In regard to revisional jurisdiction, one may refer to the following judicial precedents:

- (i) Akalu Ahir and Ors. vs Ramdeo Ram
(1973) 2 SCC 583
- (ii) K. Chinnaswami Reddy vs State of A.P.
1962 SCC Online SC 32
- (iii) Duli Chand Vs Delhi Administration
(1975) 4 SCC 649
- (iv) Janta Dal Vs H.S. Chowdhary & Ors.
(1992) 4 SCC 305
- (v) Vimal Singh Vs Khuman Singh & Anr.
(1998) 7 SCC 323
- (vi) State of Kerala Vs. Puttumana I. J. Namboodiri
(1999) 2 SCC 452
- (vii) Thankappan Nada & Ors. Vs. Gopala Krishnan
(2002) 9 SCC 393
- (viii) Jagannath Chaudhary Vs. Ramayan Singh
(2002) 5 SCC 659
- (ix) Bindeshwari Prasad Singh @ B.P. Singh & Ors.



- Vs. State of Bihar (Now Jharkhand) & Anr.
(2002) 6 SCC 650
(x) Manju Ram Kalita v. State of Assam
(2009) 13 SCC 330
(xi) Amit Kapoor v. Ramesh Chander
(2012) 9 SCC 460
(xii) Ganesha Vs. Sharanappa & Anr.
(2014) 1 SCC 87
(xiii) Shlok Bhardwaj v. Runika Bhardwaj & Ors.
(2015) 2 SCC 721
(xiv) Sanjaysinh R. Chavan Vs. D. G. Phalke
(2015) 3 SCC 123
(xv) Malkeet Singh Gill v. State of Chhattisgarh
(2022) 8 SCC 204

Present Case

12. Coming to the case on hand, I find glaring perversity apparent on record in view of the fact that the injury report which is not exhibited and was not a part of the Court record for consideration has been read for passing the judgment which is not permissible as per law. If the injury report is excluded from the consideration of the Court for passing the judgment, there is no other evidence to show that he has been assaulted by the Petitioner because his oral evidence has not been believed against other co-accused, who, as per allegation assaulted the victim. It is totally whimsical to believe the same allegation against the Petitioner and not against the other co-accused without any evidence on record. As such, seeing the perversity apparent on record, I find that the the conviction is not sustainable.



13. Hence, Appellate Judgment upholding the conviction under Section 323 IPC is not sustainable.

14. This petition stands allowed, accordingly setting aside the impugned order.

15. The records of the Courts below be sent back forthwith along with a copy of this order.

(Jitendra Kumar, J.)

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