

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.29 of 2022

Arising Out of PS. Case No.-283 Year-2008 Thana- GHOSI District- Jehanabad

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Bhola Singh @ Rakesh Kumar S/O Satendra Sharma R/o village-
Mahmadpur, P.S.- Ghoshi, District- Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajesh Kumar S/o Late Vidyanand Singh R/o Village- Mahmadpur, P.S.-
Ghosi, Distt- Jahanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Ashok Kumar Singh, APP
For the O.P. No. 2	:	Mr. Hridayal Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 18-02-2026

Heard learned counsel for the parties.

2. The present revision petition has been filed for setting aside the judgment and order dated 24.11.2021 passed by learned Additional Sessions Judge-III, Jehanabad in Criminal Appeal No. 01 of 2016/16 of 2019, whereby and whereunder the judgment and order of conviction and sentence dated 10.12.2025 passed by learned Additional Chief Judicial Magistrate, Jehanabad in G.R. No. 2416 of 2008 (Tr. No. 275 of 2015), by which the petitioner has been sentenced to



undergo rigorous imprisonment for three years and fine of Rs.2,000/- for the offence under Section 325 of the Indian Penal Code and in case of default in payment of fine the convict was to further undergo S.I. for a term of one month, has been affirmed by the learned appellate court and appeal has been dismissed.

3. Briefly stated, the facts of the case are that Ghosi P.S. Case No. 283 of 2008 was filed by Rajesh Kumar (P.W.3) with regard to the occurrence stated to have taken place on 13.11.2008, wherein he has stated that while he was in his *khalihan* he saw that accused-petitioner Bhola Singh was cutting the ridge (*Aari*) between their *khalihan*. When he tried to stop him, accused-petitioner Bhola Singh started assaulting and abusing him. The other family members of Bhola Singh, namely Ravindra Sharma, Rakesh and Birendra Singh also came and started assaulting the informant and when the sister of the informant, namely Reena Kumar came to his rescue, she was assaulted by *lathi* and thereafter, villagers came and saved them. The case was registered for the offences under Sections 341, 323, 325, 504/34 of the Indian Penal Code and after completion of the investigation, police submitted charge sheet and thereafter, trial proceeded. After conclusion of trial, the learned



trial court acquitted co-accused persons Ravindra Sharma and Birendra Singh and accused-petitioner Bhola Singh was convicted and sentenced to undergo R.I. for three years and fine of Rs.2,000/- for the offence under Section 325 of the Indian Penal Code. Thereafter, the petitioner filed Criminal Appeal No. 01 of 2016/16 of 2019 before the learned Sessions Court which was dismissed by the learned appellate court. The petitioner approached this Court impugning the aforesaid two judgments and orders.

4. Learned counsel for the petitioner submits that the impugned judgment of conviction and order of sentence are bad in law as well as on facts and there was no sufficient material on record before the learned subordinate courts for convicting the petitioner. There was no proper appreciation of evidence as well as law. The orders have been passed merely on surmises and conjectures. Learned counsel further submits that for the same occurrence, the informant has also filed a complaint case on 18.11.2008 before the learned Chief Judicial Magistrate, Jehanabad vide Complaint Case No. 955 of 2008 in which the complainant was examined and cognizance was taken. After appearance of the accused persons, when no evidence was adduced by the complainant, the learned trial



court discharged all the accused persons including the petitioner vide order dated 11.06.2015. Therefore, prosecuting the petitioner for the occurrence of same day and on same set of facts is double jeopardy. Learned counsel further submits that the learned appellate court did not take into consideration the statement of the witnesses. From the evidence of P.W. 6, the doctor, the doubt is created over the fact that the sister of the informant received injury in her left or right leg. This fact has not been appreciated as there was no clarification about the injury of the sister of the informant. It has come in the evidence of witnesses that either two or four persons assaulted the sister of the informant, but according to doctor only one injury has been found on the person of the sister of the informant. Learned counsel further submits that the judgment of conviction and order of sentence passed by the learned subordinate courts could not be sustained as it suffers from illegality.

5. Learned counsel appearing on behalf of opposite party no. 2 submits that there is concurrent finding of two courts and the findings are well discussed taking into consideration all the point raised by the petitioner before this Court including the issue of double jeopardy. Learned counsel



further submits that the petitioner caused injury and fracture of left leg of the injured witness was found. Learned counsel further submits that the appellate court also considered the evidence and came to a finding that the learned Magistrate has rightly passed the judgment of conviction and order of sentence.

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

7. From the judgment of conviction of learned subordinate courts, I find that the learned subordinate courts properly appreciated the evidence on record and came to the finding of the guilt of the petitioner. The prosecution appears to have proved its case against the petitioner for causing injury to P.W. 1 Reena Kumari, who herself stated about the involvement of the petitioner in assaulting her with *lathi* and causing injury which was subsequently found to be grievous as fracture was found on her leg. Though some confusion has been caused due to the statement of P.W. 6, the doctor, who examined the sister of the informant at Sadar Hospital and stated about the injury on right ankle. However, this fact was also considered by the learned appellate court in detail and it was found to be an error in record regarding the injury of the sister of the informant as



the doctor further stated that the X-ray shows injury on the left and fracture on the left leg. This fact is also corroborated by exhibits 3 and 3/1. So, it appears only to be a slip of pen. Further, so far as the order on the ground of double jeopardy was concerned, the same was also considered by the learned appellate court which recorded its finding that as the accused persons have been discharged in the complaint case due to non-production of witnesses, the same would not be hit by Section 300 of the Code of Criminal Procedure. The other issue raised by the petitioner is not material for the present revision petition.

8. Therefore, in the light of aforesaid discussion, I am of the opinion that there appears no infirmity in the judgment of conviction and order of sentence passed by the learned appellate court as well as learned trial court finding the petitioner guilty for the offence under Section 325 of the Indian Penal Code. However, the petitioner suffered a lot due to ordeals of trial and considering the length of the trial, I am of the view that the lenient view regarding the sentence of the petitioner could be taken. Therefore, the sentence awarded to the petitioner is reduced to six months simple imprisonment. The petitioner is directed to surrender forthwith to serve the remaining part of sentence.



9. Accordingly, the present revision petition stands disposed of.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
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