2026:JHHC:31858

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 490 of 2017

Bimal Poddar @ Bimal Kumar Poddar, S/o Sri Brij Mohan Poddar, R/o B.T. Road, Upper Bazar, P.O.-Ranchi, P.S.-Kotwali, Dist.-Ranchi

.... Petitioner

Versus

The State of Jharkhand **.... .... Opposite Party**

For the Petitioner : Mr. Deepankar, Adv.
For the State : Mr. Sanat Kumar Jha, A.P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

J UDGMENT

C.A.V. on 25.08.2026 **Pronounced on 30/10/2026**

1. Heard the arguments of learned counsel for the petitioner and Learned A.P.P. for the State.

2. The instant criminal revision is preferred against the judgment dated 10th February, 2017 passed in Cr. Appeal No. 64 of 2015 by the learned Addl. Judicial Commissioner-VI, Ranchi, whereby and whereunder, the learned Appellate Court has upheld the judgment and order of conviction and sentence of the present petitioner dated 24th March, 2015 passed by the learned S.D.J.M., Ranchi in G.R. No. 983/1996, whereby and whereunder, the petitioner has been convicted for the offence under Section 49(2)b and 49(3)d of Bihar Finance Act and sentenced to undergo S.I. of one year and fine of Rs. 1000/- under Section 49(2)b of Bihar Finance Act and S.I. of two years and find of Rs. 1500/- under section 49(3)d of Bihar Finance Act.

Factual Matrix:-

3. The factual matrix giving rise to this case is that Assistant Commercial Tax Commissioner, Special Area, Ranchi lodged a detailed a written complaint with Kotwali P.S under letter No 202 dated 18.04.1996 stating inter alia that the Government of Bihar has taken a decision to enquire as to whether the Provisions of Bihar Finance Act 1981 and Central Sales Tax Act 1956 are duly compiled with in case of purchase and sale of Vanaspati oil. Accordingly, a team was formed under chairmanship of Sri A. Haidar, the then Commercial Tax Assistant Commissioner, special Area, Ranchi and Sri Deepak Sharan Sinha, Commercial Tax Officer, Aditiyapur Circle, Jamshedpur were sent to Madhya Pradesh, Punjab and Utter Pradesh to check regarding Proforma -F and sale/purchase of Vanaspati and edible oil by the manufacturer and business men of out of the State. The above team collected the data from (i) Sharawasri Purohit & Co., New Cotton Market Nagpur, (ii)Sharwasri Rajadihraj Industries Ltd. Shiwani M.P, (iii) Sharwasri Amrit Vanaspati Co. Ltd U.P, (iv) Sharwasri Modi Vanaspati Ltd. Modinagar U.P, (v) Sharwasri Kishannand and Co. and Oil Industries, Gaziyabad and Proforma - F submitted by them regarding articles sold and prices mentioned therein. Similarly, the Deputy Commissioner of Gaya area also submitted data and Form – F detail. All those data and information were inquired into by Sri Pradeep Kumar,

Commercial Tax officer, Special area, Ranchi and compared with the data contained in Form - F submitted by the then partners of Sarwasri Jokhiram Parmeshwar Lal. The partners are Sri Vimal Kumar- present accused/appellant, Damodar and Sri Raj Kumar Agarwal. It is alleged that several differences were found in the Form- F submitted by the partners of aforesaid Sarwasri Jokhiram Parmeshwar Lal in comparison to the prices declared in Form - F of aforesaid outside of the State manufactures and business men. It became clear that in the year 1989-90 and 1990-91 the above Ranchi business men suppressed the sale amount of Rs. 12,45,180.00/- and did not pay the dues sale tax with mala-fide intention to evade tax.

4. They also submitted their statutory form - F fraudulently and under forged practice. It is alleged that the transaction table of impugned Sarwasri Jokhiram Parmeshwar Lal was also checked and it was found that in the statutory form - F correct name of foods imported was mentioned but to avoid tax wrong and false undervalued entries were made in transaction table with the wrong name of goods. It was also mentioned that upon Vanaspati/dalda the tax rate is higher than the mustard oil. The firm of the accused showed mustard oil in place of dalda/vanaspati oil and avoided taxes. In the year 1990-91 a sale amount of Rs. 72.91,200/- was suppressed and thereby avoided payment of tax of Rs. 7,32,682/-. In the year

1990-91 the firm of the accused used form - F for Amit Vanaspati Co. Ltd showing price as Rs. 5,72,200.00/- and used form - F to Sarwasri Modi Vanaspati manufactures, Modinagar showing price as Rs. 12,74,200.00/- whereas those were not issued in their favour at all from the concerned Regional Commercial Tax Office.

Thereby in the year 1990-91 edible oil for a sum of Rs. 18,49,400.00/- was imported upon such form-F which were not at all issued by the concerned Regional Commercial Tax office and thereby the firm of the accused evaded tax of Rs. 1,86,604.00/-.

In the year 1990-91 a total of Rs. 94,31,600/- sale value was suppressed. The company of the accused thereby did not pay the correct sale taxes and misused the provisions of Bihar Finance Act and also misused the statutory Proforma F and provisions of Central Sales Tax Act.

5. On the basis of above written typed complaint, F.I.R. being Kotwali P.S case no 194/1994 dated 08.04.1996 for the offence under Section 49(2)b and 49(3)d of Bihar Finance Act and 420/406/467/468/471/474/379/120-B of IPC was lodged against present accused
6. After completion of investigation, charge-sheeted was submitted for the aforesaid offence against the accused.
7. The accused denied from the charges leveled against him and claimed to be tried.

8. In the course of trial, altogether 6 witnesses were examined by the prosecution :-

P.W.-1	Brij Bihari Ram (I.O.)
P.W.-2	Gunu Sindhu Dorrya Guru
P.W.-3	Sanjay Kr. Srivastava
P.W.-4	Philip Toppo
P.W.-5	Pradeep Kumar
P.W.-6	Ashok Kumar Sinha

9. Apart from oral testimony of the witnesses, following documentary evidence has also been adduced by the prosecution:-

Ext.-1	Endorsement on typed statement of FIR
Ext.-2	Formal F.I.R.
Ext.-3	Attested Xerox copy of list of form-F issued to the firm of the accused along with attested Xerox copy of comparison chart.
Ext.-4	Production-cum-seizure list containing sign of informant
Ext.-5	Self attested Xerox copy of transaction table of firm of accused with his signature
Ext.-6	Typed petition
Ext.-7	Sanction order

10. The prosecution has also adduced the following material exhibits:-

M. Ext.-I	Proforma Form D 145345

M. Ext.-II	Corresponding sale sheet of above
M. Ext.-III	Form F No. D 145336
M. Ext.-IV	Corresponding sale sheet of above
M. Ext.-V	Form F No. D 145312
M. Ext.-VI	Corresponding sale sheet of above
M. Ext.-VII	Form F No. D 145335
M. Ext.-VIII	Corresponding sale sheet of above
M. Ext.-IX	Form F No. D 145356
M. Ext.-X	Form F No. D 145353
M. Ext.-XI	Form F No. D 145352
M. Ext.-XII	Form F Eight in number
M. Ext.-XIII	Form F Two in number

11. On the other hand, no oral or documentary evidence has been adduced on behalf of the defence rather pleaded his innocence and false implication.

12. The learned trial Court after evaluating the unimpeachable evidence adduced by the prosecution acquitted from the charges for the offence under I.P.C. but convicted the petitioner for the offence under Bihar Finance Act and sentenced him, accordingly.

13. The convict preferred an appeal before the learned Appellate Court (Addl. Judicial Commissioner-VI, Ranchi) which was also dismissed.

Submissions on behalf of petitioner: -

14. Assailing the concurrent findings of the Courts below, the learned counsel for the petitioner has raised following points:-

- The main thrust of the petitioner is that for prosecuting under Bihar Finance Act, sanction is required in terms of Section 49(5) by the Commissioner but in the present case, sanction was granted by Joint Commissioner who was also not examined as a witness.
- The learned trial Court as well as appellate Court has failed to appreciate that no material evidence has been adduced to substantiate the charge against the petitioner alone whereas it is admitted that there were other partners of the firm also. The prosecution has not proved that the present petitioner was responsible for day to day work and carrying out the affairs of the firm alone. Therefore, the conviction and sentence of the petitioner is not legally sustainable.
- It is further submitted that the main I.O. (second I.O.)who has conducted considerable part of the investigation has not been examined, therefore, several material contradictions and discrepancies crept in the evidence of witnesses, could not get explained and caused serious prejudice to the defnece which has

occasioned failure of justice and the impunged judgment of conviction and sentence of the appellant is based upon conjecture and surmises which are liable to be set aside allowing this revision.

Submissions on behalf of the State:-

15. Per contra, Learned A.P.P. has defended the judgment of learned trial Court as well as the appellate Court on merits by stating that both the Courts below have very wisely and aptly gone through the record of the case and rightly found the petitioner guilty. It has further been submitted that the petitioner was responsible for day to day work of the firm and it is also settled principal that every partners acts with each as an agent. There is no plea of the defence that he was not active partner in carrying out the business of the firm and doing all other business activities including the submission of sales tax etc. Similarly, the question of sanction accorded by joint commissioner also does not affect the judgment passed by the learned trial Court and appellate Court with concurrent findings. The petitioner has failed to point out as to how failure of justice has occasioned in this case due to non-examination of second I.O. and sanction accorded by joint commissioner for prosecution of the accused. There is no legal substance in the grounds raised on behalf of the petitioner challenging the concurrent findings of the learned

trial Court as well as appellate Court. There is no merit in this revision, which is fit to be dismissed.

Analysis, reasons and decision:

16. I have gone through the record of case along with impugned judgment passed by the learned Appellate Court as well as trial Court in the light of contentions raised on behalf of respective parties.

17. The sole point for consideration in this revision is as to "whether the conviction and sentence of the petitioner suffers from any error of law, calling for any interference in this revision?

18. Perusal of the material exhibits reveals that there are some discrepancies with regard to goods which are clearly apparent and these discrepancies with regard to goods has been intentionally made to evade commercial tax. The learned appellate Court in para-12 of its judgment has very minutely gone through the documentary evidence brought on record and has mentioned each of the discrepancies found with regard to goods to evade the commercial tax which makes it clear that the firm of the accused has played foul play to evade commercial tax which is punishable under Bihar Finance Act.

19. The Hon'ble Apex Court in the case of ***Amit Kapoor v. Ramesh Chander*** reported in ***(2012) 9 SCC 460*** has held that :

> **12.** Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinize the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.
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> **13.** Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner.

20. In view of the above discussions and reasons, I find no legal substance in the arguments of learned counsel for the petitioner regarding the guilt of the present petitioner in the concurrent findings of the learned Courts below. Accordingly, this revision **stands dismissed.**

21. Consequently, the bail granted to the petitioner vide order dated 19.03.2018 during pendency of this revision, is hereby

cancelled and he is directed to surrender before the learned Trial Court within two months from the date of this Judgment to undergo the remaining period of sentence awarded to him by the learned trial Court, failing which, the learned trial Court shall take all coercive steps for arrest and detention of the petitioner for sustaining the remaining period of sentence awarded to him.

22. Pending I.A(s), if any, is also disposed of, accordingly.

23. Let a copy of this judgment along with trial Court record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi
Date:- 30/10/2026
Basant /-**NAFR**
Uploaded On: 30/10/2026