

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Revision No. 1050 of 2015

1. Simant Saurav @ Simant Saunabh son of Shiv Prasad Sahu
 2. Shiv Prasad Sahu Son of Mahadeo Sahu,
Both are resident of East Gola Road, P.O. + P.S. + District
Lohardaga
- Petitioners**

Versus

The State of Jharkhand

.....Opposite party

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. On 06.03.2024

Pronounced On: 24 .04.2024

1. Present Criminal Revision is directed against Judgment dated 29.07.2015 passed by learned Sessions Judge, Lohardaga in Criminal Appeal No. 21/2014 whereby and whereunder the learned Sessions Judge has partly allowed the appeal filed by the petitioners against the Judgment and Order of learned trial court dated 26.02.2014 passed in G.R. Case No. 437 of 2009 arising out of Senha P.S. Case No. 62/2009 whereby and whereunder the petitioners were held guilty for the offences under Section 323 and 504 I.P.C. and directed to undergo SI of six months each for the offences 323 and 504 I.P.C. Both sentences were directed to run concurrently and the appellate court has upheld the conviction of petitioners only for the offence under Section 323 IPC and acquitted from the offence under Section 504 IPC and upon hearing on the point of sentence the learned court extended the benefit under Section 3 of Probation of Offenders Act, 1958 to the petitioners and directed them to be released after due admonition, which has been assailed in this revision.
2. Shorn of unnecessary details the prosecution story in a narrow campus is that on 28.02.2009 at about 5.00 p.m. the informant Sri Ram Gulam Sharma the then S.D.P.O. Lohardaga received information about blockage of road at Barwa Toli to Baxi Deepa due to Durga Puja procession and two persons riding on a motorcycle from wrong side blocked the road. The sub-ordinate police personnel stopped

them but both persons riding on motorcycle used criminal force and violence against the police personnel and also tried to provoke the public against them. The motorcycle riders also did not produce driving license of the vehicle and disclosed their names as Shiv Prasad Sahu and Simant Saurav and also indulged in abusing the police personnels and obstructing in discharge of their lawful duties.

3. On the basis of above information FIR was registered for the offences under Section 341, 353, 323, 504/34 IPC and after conclusion of investigation, charge sheet was also submitted against the aforesaid offences against the above named two accused persons. Cognizance was also taken by the concerned trial court for the aforesaid offences but after appearance the cognizance order was challenged by petitioners in Criminal Revision No. 375 of 2011 in the Hon'ble Jharkhand High Court and the petitioners were discharged from the offences under Section 341 and 353 IPC and trial proceeded against them only for the offences under Section 323/504 read with Section 34 IPC. After conclusion of trial, the petitioners were held guilty and sentenced as stated above and their appeal was also partly allowed and they were released under Section 3 of the Probation of Offenders Act instead of awarding substantive sentence of imprisonment.
4. Learned counsel for the petitioners has challenged the concurrent findings of the court below on the following grounds:-
 - (i) Except police personnel no independent witnesses were examined by the prosecution although large number of public were present at the time of alleged occurrence.
 - (ii) No specific overt act has been attributed against the petitioners separately as to who assaulted and gave blows to which of the police officers. No charge under Section 34 IPC was framed. Hence, both the petitioners could not be convicted simultaneously. The exact words used by the petitioners which amounts to

intentional assault has been mentioned by many witnesses, hence, the appellate court rightly acquitted the petitioners for the offence 504 IPC but fell in error while upholding the conviction under Section 323 IPC.

(iii) The prosecution story is not believable by any stretch of imagination as per the evidence of the witnesses examined in this case. Hence, impugned Judgment passed by learned trial and appellate court is liable to be set aside, allowing this revision.

5. On the other hand, learned APP has opposed the aforesaid contentions raised on behalf of the petitioners and submitted that there is no merits in the points of arguments raised on behalf of the petitioners. The scope of revision is very limited in concurrent findings of the learned trial court and appellate court. Moreover, the petitioners have been treated very leniently and sympathetic approach has been shown in their favour by the appellate court while extending the benefit under Section 3 of the Probation of Offenders Act 1958 and releasing them after due admonition. Hence, impugned order does not warrant any interference by way of this revision which has no merits and is fit to be dismissed.
6. I have gone through the Judgment of both the courts below and find that both the courts below have meticulously examined and appreciated the evidence of ocular witnesses and also the injured P.W. 3 Jai Jai Kumar, who was punched in his stomach and dashed by present petitioners, while regulating the traffic. Under the scenario of this case, the plea of petitioners about non examination of any independent witness cannot be sustained and there is no requirement of law that conviction cannot be maintained on the basis of evidence of police personnels, who are also victim of the crime.
7. On careful perusal of the impugned Judgments, I do not find any perversity in the Judgments of both the courts below and there is no reason for interference by way of this revision. In my considered view this revision is devoid of merits and fit to be dismissed.

8. In view of above discussion this revision petition is hereby dismissed.
9. Let LCR and copy of the Judgment be sent to the concerned court below.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi

Date: 24 /04/2024

Rajnish/- N.A.F.R.