
(2021) 02 JH CK 0128

In the Jharkhand High Court

Case No : Criminal Revision No. 796, 852 Of 2013

Haridwar Prasad Bhagat And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 307, 323, 324, 341, 419, 420, 458, 467, 468, 472, 471, 506

Code Of Criminal Procedure, 1973 — Section 161, 162, 313

Arms Act, 1959 — Section 27

Probation Of Offenders Act, 1907 — Section 360

Citation : (2021) 02 JH CK 0128

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Jasvinder Mazumdar, Tapas Roy

Final Decision : Dismissed

Judgement

1. Heard Mrs. Jasvinder Mazumdar, learned counsel appearing on behalf of the petitioners.

2. Heard Mr. Tapas Roy, learned counsel appearing on behalf of the opposite party-State.

3. The name of Haridwar Prasad Bhagat was deleted vide order dated 27.01.2021 as his legal heirs namely, Bijay Kumar Bhagat - Petitioner No. 2 in

Cr. Rev. No. 796 of 2013 and Ajay Kumar Bhagat - Petitioner in Cr. Rev. No. 852 of 2013 are already before this Court and if the case is ultimately

dismissed then the fine imposed upon Haridwar Prasad Bhagat will be realized from his two sons in equal proportion.

4. These two criminal revision petitions are directed against judgement dated 30.07.2013 passed by the learned Principal Sessions Judge, Pakur in Cr.

Appeal No. 44 of 2012 and Cr. Appeal No. 45 of 2012 whereby the appeals of the petitioners have been dismissed.

5. The learned trial court vide judgment of conviction and the order of sentence dated 31.08.2012 passed by the learned Judicial Magistrate, 1 st Class,

Pakur in G.R. Case No. 422 of 2005 (T.R. No. 325 of 2012) had convicted the petitioners alongwith Haridwar Prasad Bhagat under Sections 323,

324/34 of the Indian Penal Code and they were sentenced to undergo Rigorous Imprisonment for six months for offence punishable under Section

323/34 of Indian Penal Code and Rigorous Imprisonment for two years for offence punishable under Section 324/34 of Indian Penal Code. The

convicts were further sentenced to deposit fine of Rs. 2,000/- each for the offence under Section 324/34 of Indian Penal Code and in default of

payment of fine, one month extended Rigorous Imprisonment was directed to be given to them and all the sentences were directed to be run

concurrently.

Arguments on behalf of the petitioners

6. Learned counsel appearing for the petitioners in both the cases submitted that there were altogether six accused persons in the case, but only 3

have faced the trial as the other three accused could not be identified and ultimately, they were convicted and sentenced by the learned trial court. She

further submitted that all the accused persons were said to have assaulted, but only four injuries were found on the person of the informant and

accordingly the petitioners are entitled to benefit of doubt.

7. She further submitted that the informant of the case had suffered four injuries and out of that, one injury was by sharp weapon on the right palm of

the informant and the other three injuries were simple in nature caused by hard and blunt substance. She further submitted that there are material

contradictions in the evidence of the prosecution witnesses and accordingly, the petitioners should have been given benefit of doubt. The learned

counsel also submitted that there was land dispute between the parties which was a cause of false implication of the petitioners.

8. She further submitted that P.W.-1 is the eye-witness of the occurrence and this witness has not stated that Haridwar Prasad Bhagat had provoked

others for the assault whereas P.W.-11 had made such statement and therefore, there is contradiction in the evidence of P.W.-1 and P.W.-11, in as

much as, there is omission to that effect in the evidence of P.W.-1.

9. She submitted that there is land dispute between the parties and there was no reason for the petitioners to assault the informant-party, in as much

as, the case in connection with the land was decided by the Deputy Commissioner in favour of the petitioners which has come in the evidence of

P.W.-1. She also submits that in another criminal case which was filed against the convicts of the present case on 04.08.2005 by the informant- party

under Sections 467, 468, 472, 471, 419 and 420 of Indian Penal Code, the petitioners have been ultimately acquitted vide judgment dated 14.07.2017.

She also submitted that there is no motive for the petitioners to assault the informant-party.

10. She further submitted that the investigating officer of the case deposed that he came to the place of occurrence upon receiving a telephonic

information and he has also stated that the offence being cognizable, he had made a station diary entry, but the same has not been produced and

exhibited before the learned court below and accordingly, all the subsequent statements are statements under Section 162 of Code of Criminal

Procedure. She submits that the investigating officer has stated that blood-stained clothes were not handed over to the investigating officer and

consequently, the same has not been exhibited before the learned court below as material exhibit. She submits that on account of the aforesaid, the

conviction of the convicts of the present case cannot be sustained in the eyes of the laws.

11. The learned counsel has submitted that none of the weapons including knife, firearm, lathi and danda, which were said to have been used in the

occurrence, have been recovered by the investigating officer. She further referred to the judgment passed by the Hon'ble Supreme Court passed in

Criminal Appeal No. 374 of 2020 to submit that it has been held that in absence of cogent and clinching evidence against the accused, the accused are

entitled for benefit of doubt. She submits that in the facts and circumstances of the present case also, the convicts are entitled to benefits of doubt.

She submitted that the aforesaid aspects of the case have not been properly considered by the learned courts below and accordingly, the impugned

judgments passed by the learned courts below call for interference in revisional jurisdiction.

12. Without prejudice to the aforesaid submissions, the learned counsel for the petitioners also submitted that considering the nature of offence and the fact that the F.I.R. is of 30.08.2005 and there was land dispute between the parties and the present age of the petitioners namely, Bijay Kumar Bhagat and Ajay Kumar Bhagat are 60 and 58 years respectively and they have no criminal antecedent, some sympathetic view may be taken and the sentence may be appropriately modified. She further submitted that the petitioners are ready and willing to give some amount by way of victim compensation to the Informant-victim.

Arguments on behalf of the Opposite Party-State

13. Learned counsel appearing on behalf of the Opposite Party-State, on the other hand, submitted that there is concurrent finding of facts recorded by the learned courts below and there is no illegality or perversity in the impugned judgements. He submitted that the impugned judgements of conviction do not require any interference in revisional jurisdiction of this Court.

Findings of this Court

14. After hearing the learned counsel for the parties and considering the facts and circumstances and the materials available on record, this Court finds that the prosecution case is based on the fardbeyan of Ganesh Prasad Bhagat (P.W.-11) recorded by Sub-Inspector of Police of Pakur (Town) police station (P.W.-12) who is also the investigating officer of the case. The fardbeyan was recorded on 30.08.2005 at about 01:15 a.m. As per the fardbeyan, in the night of 29.08.2005 and 30.08.2005, the informant was at his house alongwith his mother. At about 12:45 A.M., the three convicts alongwith three unknown persons who had covered their faces entered into the house of the informant and Haridwar Prasad Bhagat (since deceased) was holding gupti in his hand, Bijay Prasad Bhagat was holding knife and Ajay Prasad Bhagat was holding pistol in his hand. The other three unknown persons were holding lathi and hasua in their hands. When they entered the house of the informant, Haridwar Prasad Bhagat (since deceased) provoked others to kill the Informant and on their provocation, Bijay Prasad Bhagat attacked the informant due to which he sustained injury in his right palm which started bleeding. Ajay Prasad Bhagat fired pistol upon him, which misfired and the other three unknown persons assaulted the informant by danda and fists and the accused persons fled away from the spot. As per the

fardbeyan itself, Haridwar Prasad Bhagat (since deceased) had fraudulently got registered his grandmother's property at Pakur and in this regard, the informant had filed a criminal case against him being Pakur (T) P.S. Case No. 142/2005 and the informant had protested against Haridwar Prasad Bhagat and his family members in grabbing the landed property of his grandmother which was the reason why the accused persons committed assault upon him.

15. On the fardbeyan of the informant Ganesh Prasad Bhagat, Pakur (T) P.S. Case No. 167/2005 dated 30.08.2005 was registered under Sections 458, 341, 323, 324, 506, 307/34 of the Indian Penal Code and Section 27 of the Arms Act. The charge- sheet was submitted under Sections 458, 341, 323, 506, 307/34 of the Indian Penal Code and Section 27 of the Arms Act. The learned Chief Judicial Magistrate, Pakur on 16.12.2005 found a prima facie case against the convicts under the same sections and took cognizance of the offence under the same sections and transferred the case to his personal file for commitment and on 26.04.2006, the case was committed to the Court of Sessions.

16. The court of the learned District and Sessions Judge, Pakur did not find a prima facie case under Section 307/34 of the Indian Penal Code and found a prima facie case under Sections 323 and 324 of the Indian Penal Code only against the convicts. Accordingly, charge was framed under Sections 323 and 324 of the Indian Penal Code against the convicts which was read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.

17. In course of trial, the prosecution examined altogether 13 witnesses to substantiate the case including the informant. P.W.-1 is Bhagirathi Devi who is the mother of the informant, P.W.-2 is Prakash Chandra Choudhary, P.W.-3 is Radha Pd. Rai, P.W.-4 is Hakik Ansari, P.W.-5 is Munilal, P.W.-6 is Rinku Chatterjee, P.W.-7 is Sheo Pd. Turi, P.W.-8 is Dilip Pandit, P.W.- 9 is Vishal Joseph, P.W.-10 is Pradip Sharma, P.W.-11 is Ganesh Pd. Bhagat who is the informant of the case, P.W.-12 is S.I. Nabin Chandra Das who is the Investigating Officer of the case and P.W.-13 is Dr. Bindeshwari Pd. Singh who is the doctor who had examined the injured-informant.

18. The prosecution exhibited the fardbeyan dated 30.08.2005 as Exhibit-1, the

entire fardbeyan of Pakur (T) P.S. Case No. 16 7 of 2005 of informant as Exhibit-1/1, the Formal First Information Report as Exhibit-2 and the injury report of the informant as Exhibit-3 as documentary evidences.

19. On 26.07.2012, the statements of the petitioners under Section 313 of Cr.P.C. were recorded wherein the petitioners totally denied the allegations and incriminating substances put to them and claimed to have been falsely implicated due to land dispute and also claimed to be innocent. The petitioners did not adduce any witness, but produced a certified copy of the Sale-Deed No. 2616/1997 which was marked as Exhibit-A and certified copy of order dated 19.11.2005 passed in M.R.P. Case No. 09 of 1998 and 10 of 1998 passed by the court of Deputy Commissioner, Pakur which was marked as Exhibit-B.

20. This Court finds that P.W.-1 is the mother of the informant. She has fully supported the prosecution case and stated that all the three convicts were the persons who had come to her house alongwith three other unknown persons who had covered their faces. She has stated that Bijay Kumar Bhagat assaulted her son Ganesh by knife who sustained cut injury and the other accused persons assaulted by lathi and danda. She has also stated that accused persons committed the offence due to property. During her cross-examination, she admitted that there is dispute in regard to the land in which her house is situated and that Haridwar Prasad Bhagat had fraudulently issued rent receipt of that land for which a case was filed before the D.C.L.R. in the court of Deputy Commissioner, Pakur in which appeal was dismissed. In her cross-examination, she admitted that she is not able to see at night without spectacles.

21. P.W.-2 was found to be a hearsay witness who stated that the informant reported the matter on telephone about the occurrence and he had seen the bleeding hand and injury over the body of the informant. He had taken the informant to the police station and thereafter, to the hospital.

22. P.W.-3 has stated that at the time of occurrence, he was sleeping and by hearing the noise, he came out and saw four to five persons speaking and he saw Haridwar Prasad Bhagat with 2-3 unknown persons who were speaking. When he went to the pond, he saw Ganesh in injured condition as his right hand was bleeding. However, in cross examination, he stated that he knew the informant for one to two years and he had purchased land

from him and his house was 100 feet away from the house of the informant.

23. P.W.-4 is the house guard of the informant. He has stated that he was on duty in the house of the informant and when he was relaxing at the back

yard of the house, he heard the noise and when he came, he saw that the right hand of the informant was bleeding. He has also stated that Haridwar

Prasad Bhagat was holding Gupti, Ajay Prasad Bhagat was holding pistol in his hand and other three accused persons were holding danda in their

hands. He stated that he saw the miscreants running away towards south and saw Haridwar prasad Bhagat and his son and also saw three persons

with covered faces. He identified the petitioners.

24. The other witnesses i.e. P.Ws.- 5, 6, 7, 8, 9 and 10 were declared hostile by the prosecution as they did not support the prosecution case.

25. The informant was examined as P.W.-11 who has fully supported the prosecution case and has specifically named Haridwar Prasad Bhagat who

was holding Gupti, Bijay Bhagat who was holding knife and Ajay Bhagat who was holding pistol and stated that they had come to his house with three

unknown persons with covered face. This witness further stated that Haridwar Prasad Bhagat was provoking Bijay and Ajay to kill his mother and

Bijay attacked upon him by knife, pursuant to which, he suffered injury in his right hand and Ajay fired pistol which misfired. The unknown persons

had assaulted him with lathi and fists and when they raised noise, the neighbours came and the accused persons escaped. He has stated that he used

telephone to inform the police who came to his house and recorded his fardbeyan and then he went to the hospital where he was treated. The

informant, during his cross-examination, has stated that he has enmity with the accused persons and he has filed a criminal case against them. He has

further stated in his cross-examination that a case was filed relating to certain plot of land which was pending before the Deputy Commissioner, Pakur

and his mother Bhagirathi Devi had received one Bigha of land from registered sale-deed from Haridwar Prasad Bhagat.

26. P.W.-12 is the investigating officer of the case who recorded the fardbeyan of the informant. He has supported the prosecution case. He had

recorded the statement of the informant and other witnesses and had received the injury report and recorded the statements of the accused persons.

Thereafter, he handed over the investigation to the officer-in- charge, as he was

transferred. In his cross-examination, he has stated that he received the information of occurrence on telephone and he recorded the report in the case-diary. He has further stated that he had not investigated regarding the civil dispute between the informant and the accused persons and the informant had not given blood-stained clothes to him and he had not recovered any weapon or blood from the place of occurrence.

27. P.W.-13 is the doctor who had stated that on 30.08.2005, he examined the informant and found altogether four injuries, out of them, one was caused by sharp cutting weapon on the right palm, though it was simple in nature and the others were caused by hard and blunt substance and were simple in nature.

In cross-examination, he has been cross-examined on the point that the injury no. 1 i.e. sharp cutting injury can be self-manufactured and the other injuries are possible due to fall on hard substance. Thus, out of 13 witnesses, six witnesses were declared hostile and other witnesses supported the prosecution case and it has come that there was property dispute between the parties.

28. The learned trial court, after considering all the evidences recorded that, it is an admitted case of the informant as well as the accused that there is civil dispute pending between them. However, the learned trial court was of the view that only on the basis that civil dispute is pending, no benefit can be given to the accused by holding that they have been falsely implicated in the case. The learned trial court found that the prosecution was very much able to substantiate its case that in the midnight, accused persons came with another three unknown persons and caused assault upon the informant and it rejected the argument that there is no independent witness on the ground that it is quite possible in the mid-night that when everybody was sleeping, there is no question of availability of independent witness. The learned trial court held that the prosecution has been able to prove its case against the accused that in furtherance of common intention they caused hurt to Ganesh Prasad by knife due to which he sustained bleeding injury and held the accused persons guilty for the offences punishable under Sections 323, 324/34 of Indian Penal Code.

29. So far as the sentence is concerned, the learned trial court refused to give the benefit of Probation of Offenders Act and Section 360 of Code of

Criminal Procedure considering the manner of offence and convicted and sentenced them as aforesaid.

30. Criminal Appeal No. 44 of 2012 was filed by Haridwar Prasad Bhagat and Ajay Kumar Bhagat and Cr. Appeal No. 45 of 2012 was filed by Bijay

Kumar Bhagat. Both criminal appeals were tagged and decided by the learned appellate court below vide impugned judgment dated 30.07.2013.

31. The learned lower appellate court also considered the entire evidences on record and recorded that there appears to be land dispute between the

parties several years prior to the alleged occurrence and it was a reason behind the said occurrence that in the fateful night, the convicts along with

three associates, went to the house of the informant and gave knife blow on the person of the informant who sustained injury in his hand. P.W.-5 to

P.W.-10 are said to be independent and natural witnesses of the occurrence who did not support the prosecution case, rather turned hostile. The

learned lower appellate court held that there is common tendency of outsiders not to get themselves involved in criminal cases and it was quite natural

that no independent witness had come to assist the prosecution. The learned lower appellate court was of the view that even with regard to interested

witnesses being close relatives, it is the duty of the court to separate the truth from falsehood and the evidence is required to be read as a whole and

once impression regarding truth of the occurrence is found, it is necessary for the court to scrutinize the evidence more particularly keeping in view

the deficiencies, drawbacks and infirmities pointed out in the evidence which is required to be evaluated as a whole. The learned lower appellate court

ultimately recorded in its finding at Para-22 of the appellate court judgment which reads as follows:

22. It is pertinent to mention here that after careful and caution scrutiny of the evidence on record, I find ring of truth in the evidence of P.W. 4 and

11 (informant), which stands materially corroborated by the medical evidence (P.W. 13) read with Ext.- 3, injury report of informant. Therefore, non-

examination of any other independent witnesses in the facts and circumstances of the case, cannot be viewed as a lacuna of the prosecution case. It

is true that there is some contradictions in the evidence of P.W. 1 and P.W. 11 but the said contradictions creeping in their evidence is a very trivial

nature not touching the core and spectrum of the prosecution case. Therefore, the evidence of informant read with P.W. 1 and 4 cannot be brushed

aside in this case on this score. It is true that information given about the occurrence to the P.S. for which an entry was made in station diary has not been produced in court. It is admitted by the I.O that person who have given information did not disclose his name, therefore, under the said

circumstances, it cannot be said that said telephonic information was given by the informant and it should be treated as F.I.R. Therefore, I find and

hold that the contention advanced by the learned counsel for the appellants has got no leg to stand and the case law referred to above is not applicable

in this case in the facts and circumstances of the case. I further find and hold that materials on record clearly established the guilt of the appellants.

The learned J.M has meticulously considered the evidence on record in proper perspective and has rightly come to the guilt of the appellants.

Therefore, I see no irregularity or any infirmity in the impugned judgment requiring an interference therein.

32. This Court finds that the learned courts below have considered the materials on record and have come to a concurrent finding of facts and found

the petitioners guilty of the alleged offences. Although, it has been argued by the learned counsel for the petitioners that there are certain

contradictions in the evidences of the prosecution witnesses, but no such material contradiction has been pointed out which may call for any

interference in revisional jurisdiction.

33. So far as contradiction between the evidence of P.W-1 and P.W-11 as pointed out by the learned counsel for the petitioner s is concerned the

same has no bearing because there is no relevance of the fact as to who made the provocative call for assault and whether any one of the accused

persons ever made such a call or not.

34. So far as the arguments regarding lack of motive is concerned, this Court finds that the present FIR was filed on 30.08.2005 and prior to the

present case, on 04.08.2005 another criminal case was filed by the informant-party against the convicts of the present case under Sections 467, 468,

472, 471, 419 and 420 of the Indian Penal Code. Admittedly on the date of occurrence of the present case, the case filed on 04.08.2005 by the

informant party was pending. Acquittal of the petitioners vide judgment dated 14.07.2017 in the case filed by the informant party on 04.08.2005 has no

bearing in the present case and the same merely reflects that the parties were in

litigating terms on the date of the occurrence of the present case. In such circumstances, when a criminal case was already filed by the informant party against the convicts of the present case, it cannot be said that there is no motive for the petitioners to assault the informant-party. Thus, the argument of the learned counsel for the petitioners that there is no motive in the present case as the Deputy Commissioner had decided one matter relating to land in favour of the petitioner, is devoid of any merits. The Deputy Commissioner decided the case vide order dated 19.11.2005 passed in M.R.P. Case No. 09 of 1998 and 10 of 1998, the certified copy of which was marked as Exhibit-B and certainly the decision was much after the institution of the FIR in the present case. Otherwise also, there is no scope for reappraisal of materials on record in revisional jurisdiction in absence of any perversity.

35. So far as the arguments regarding non-recovery of the weapons including knife, firearm, lathi and danda etc. are concerned, the same has no bearing in the case as the accused had run away from the place of occurrence.

36. So far as the arguments regarding non-exhibit of station diary entry and not exhibiting the blood-stained clothes are concerned, this Court is of the considered view that the aforesaid argument of the petitioners amounts of inviting this court for reappraisal of the evidences on record in revisional jurisdiction which is not permissible in law in absence of any perversity. Even if, the said argument is taken on its face value, the same is not material enough to render the concurrent findings of the learned court below perverse calling for any interference in revisional jurisdiction. The learned courts below have passed well-reasoned judgements considering every aspect and arguments of the petitioners and no such arguments have been advanced which may call for any reappraisal of evidence in revisional jurisdiction.

37. Learned counsel appearing on behalf of the petitioners has relied upon the judgment dated 02.03.2020 passed by the Hon'ble Supreme Court in the case of Parvat Singh and Other Vs. State of Madhya Pradesh in Criminal Appeal No.374 of 2020 to submit that in case of material contradictions/omission and improvements in the statement of witnesses recorded under Section 161 Cr.P.C, the accused are entitled to be given benefit of doubt. This Court finds that in the judgment passed by the Hon'ble Supreme Court, the conviction was based on the evidence of sole eye-

witness and the accused were convicted under Section 302 read with Section 149 of the Indian Penal Code. The Hon'ble Supreme Court was of the

view that the High Court while dismissing the appeal had not properly appreciated the fact that the evidences of the sole eye-witness was full of

material contradictions and improvements and that the sole eye-witness had for the first time in the court stated that the two accused caught hold the

victim and killed the deceased by axe injury over his neck and further there was no recovery of any torch from the place of incident.

The Hon'ble Supreme Court held that the evidence/deposition of the sole witness can be relied upon provided it is found to be trustworthy and reliable

and there are no material contradictions and/or omissions and/or improvements in the case of prosecution. Upon appreciating the evidence on record,

the Hon'ble Supreme Court found that the evidence of the sole witness, on which the conviction was based, was full of material contradictions,

omissions and improvements. The Hon'ble Supreme Court found that the sole eye witness of the said case never made statement under Section 161

that two accused caught hold of the deceased but stated that they told to run away as other persons had woken up. The Hon'ble Supreme Court also

found that the appellants before the High Court was not right in relying upon the statement under Section 161 wherein the appellants were said to be

holding lathis, although the informant had not stated anything before the court that the appellants were holding lathi. The Hon'ble Supreme Court found

that the evidence of the sole eye-witness was reliable only against one of the convicts and there was recovery of the arms also which was used for

commission of offence, but so far as others were concerned, they were found entitled to benefit of doubt. The Hon'ble Supreme Court also considered

that the circumstance that there was prior enmity of the sole eye-witness with the appellants before the Hon'ble Supreme Court.

This Court finds that the said judgement does not apply to the facts of the present case as the petitioner has not been able to point out any material

contradictions or material omissions in the evidences of the witnesses which have been carefully scrutinised by the learned courts below.

38. Considering the facts and circumstances of the case and the materials available on record, this Court is of the view that there is no scope to

interfere with the judgement of conviction of the three convicts in revisional jurisdiction. However, so far as the point of sentence is concerned, the

same requires consideration.

39. The learned lower appellate court dismissed the appeal and upheld the conviction, but there is no discussion made by the learned lower appellate court on the point of sentence.

40. This Court finds that it is the admitted case that there was land dispute between the parties and so far as the present petitioners are concerned, no criminal antecedent has been put on record. Further, Bijay Kumar Bhagat was 52 years of age on 31.08.2012 and Ajay Kumar Bhagat was 50 years

of age on that day i.e. date of conviction and accordingly, their present age is about 60 years and 58 years respectively.

41. This Court also finds that the incident is of the year 2005 and the petitioners have faced the rigorous of criminal case right from 2005. The

informant of the case who is the victim, has suffered simple injuries, although one injury is by a sharp cutting weapon on the right palm, but this injury

is also simple in nature.

42. This Court also finds that the petitioners had surrendered before the learned court below after the order of the appellate court on 10.09.2013 and

were enlarged on bail by this Court vide order dated 20.09.2013. From perusal of the lower court records, it appears that the petitioners had

surrendered before the learned court below on 14.09.2005. The petitioners remained in custody only for a period of two days during trial and 10 days

during pendency of instant criminal revision petitions.

43. Considering the aforesaid facts and circumstances of the case particularly the fact that more than 15 years have elapsed from the date of

occurrence, this Court is of the view that ends of justice would be served, if the sentences of the petitioners namely, Bijay Kumar Bhagat and Ajay

Kumar Bhagat are modified to some extent by imposing fine.

44. Accordingly, the sentence of the petitioners namely, Bijay Kumar Bhagat and Ajay Kumar Bhagat are hereby reduced to a period of three months

and to pay fine of Rs. 9,000/- each. The entire fine amount is directed to be remitted to the informant of the case upon due identification.

45. The aforesaid fine amounts are to be deposited before the learned trial court within a period of three months from the date of communication of a

copy of this order to the learned trial court failing which the petitioners would undergo the sentence imposed by the learned court below.

46. As submitted by the learned counsel appearing for the petitioners on 27.01.2021 during the course of arguments, this Court was informed that the convict namely, Haridwar Prasad Bhagat (Petitioner No.1 in Cr. Rev. No. 796 of 2013) has died during pendency of this criminal revision and the petitioners namely, Bijay Kumar Bhagat and Ajay Kumar Bhagat are the legal heirs and successors of Haridwar Prasad Bhagat.

47. Accordingly, the petitioners namely, Bijay Kumar Bhagat and Ajay Kumar Bhagat are also directed to deposit an amount of Rs. 1,000/- each against the fine of Rs. 2,000/- imposed by the learned trial court upon the convict namely, Haridwar Prasad Bhagat (since deceased) for the offence under Section 324/34 of Indian Penal Code within a period of three months from today.

48. Accordingly, with the aforesaid findings, modification in sentence of the petitioners and directions, both the criminal revision petitions are hereby disposed of.

49. Bail bonds furnished by the petitioners are hereby cancelled.

50. Interim order, if any, stands vacated.

51. Pending interlocutory application, if any, is disposed of as not pressed.

52. Let the lower court records be sent back immediately to the court concerned.

53. Let a copy of this order be communicated to the learned court below through 'e-mail/FAX'.