

(2025) 07 PAT CK 1314
In the Patna High Court
Case No : Criminal Revision No.734 Of 2022

Md Eslam @ Eslam Duniya @ Islam Dhuniya

APPELLANT

Vs

State Of Bihar and Ors

RESPONDENT

Date of Decision : 28-07-2025

Acts Referred:

Indian Penal Code, 1860 — Section 34, 380, 448, 504
Code of Criminal Procedure, 1973 — Section 397, 401, 401(3)

Citation : (2025) 07 PAT CK 1314

Hon'ble Judges : Jitendra Kumar, J

Bench : Single Bench

Advocate : Pradhan Murli Manohar Prasad, Abhash, Raju Kumar, Upendra Kumar

Final Decision : Dismissed

Judgement

Jitendra Kumar, J

1. The present Criminal Revision petition has been preferred by the petitioner / complainant against the impugned judgment of acquittal dated 07.07.2022, passed by learned Additional District and Sessions Judge-I, Kaimur at Bhabhua in Criminal Appeal No. 50 of 2019, whereby learned Appellate Court below has upheld the judgment of acquittal dated 27.06.2019, passed by learned A.C.J.M-III, Kaimur at Bhabhua in Complaint Case No. 1129 of 2012, whereby learned A.C.J.M. had acquitted the accused persons who are Opposite Party Nos. 2 to 9 herein.

2. The present criminal proceeding was initiated by criminal complaint filed by Md. Eslam @ Eslam Duniya against Opposite Parties Nos.2 to 9 making allegation of the offence punishable Sections 504, 448 and 380 read with Section 34 of the Indian Penal Code, allegedly committed on 16.09.2012.

3. During trial, altogether following six prosecution witnesses were examined :
(i) P.W. 1- Sayara Bibi (Khatoon), (ii) P.W.2- Sarun Bibi, (iii) P.W.3- Habiban Bibi, (iv) P.W.4-Salma Bibi, (v) P.W.5- Md. Islam @ Islam Dhuniya and (vi) P.W.6-

Sakur Shekh. However, no documentary evidence was adduced on behalf of the prosecution.

4. No witness was examined in defence by the accused persons/ O.P. Nos. 2 to 9 herein.

5. After trial, all the accused persons/O.P. Nos. 2 to 9 herein were acquitted of all the charges under Section 504, 448 and 380 read with Section 34 of the Indian Penal Code. Being aggrieved by the judgment of acquittal passed by learned Trial Court, the petitioner herein/complainant preferred Criminal Appeal No. 50 of 2019 in the Court of Sessions and the appeal was disposed of by learned Additional District and Sessions Judge, Kaimur at Bhabhua by the impugned judgment dated 07.07.2022, whereby learned Appellate Court below dismissed the appeal, upholding the judgment of acquittal, passed by learned Trial Court, and hence, the present revision petition has been preferred by the petitioner/complainant against the judgment of acquittal, passed by learned Appellate Court below as well as learned Trial Court.

6. I heard learned counsel for the petitioner and learned APP for the State at the stage of Admission.

7. Learned counsel for the petitioner submits that the impugned judgment passed by learned Appellate Court below as well as learned Trial Court are not sustainable in the eye of law on account of improper appreciation of evidence. Both the Courts below have erroneously acquitted the O.P. Nos. 2 to 9, whereas there was sufficient material on record to convict them.

8. However, learned APP for the State defends the impugned judgment of acquittal, submitting that the judgments of learned Appellate Court below as well as learned Trial Court are well reasoned and based on proper appreciation of evidence, and hence, there is no scope to interfere in the impugned judgment, passed by learned Appellate Court below as well as learned Trial Court.

9. He further submits that in revisional jurisdiction, this Court cannot re-appreciate the evidence, nor can it convert the finding of acquittal into one of conviction. As per the evidence on record, the view taken by learned Appellate Court below and learned Trial Court is based on proper appreciation of evidence. Hence, the present petition is liable to be dismissed in limine at the stage of Admission itself.

10. I perused the materials on record and the judgments passed by learned Appellate Court below as well as learned Trial Court.

11. 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.

12. However, the exercise of revisional jurisdiction by the High Court is discretionary in nature to be applied judiciously in the interest of justice.

13. 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.

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

15. Here, 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

16. Moreover, in revisional jurisdiction, the High Court is also prohibited by express provision in Section 401 (3) Cr.PC to convert the finding of acquittal into one of conviction.

However, if it is found by the High Court that finding of acquittal is recorded on account of misreading of evidence or non-consideration of evidence or perverse appreciation of evidence, the High Court can direct re-trial by pointing out such situations and thereafter, the Trial Court is obliged to re-appreciate the evidence in light of the observation of the Revisional Court and take an independent view uninfluenced by any of the observations of the Revisional Court on the merit of the case.

17. Now, coming to the case on hand, I find that both learned Trial Court and learned Appellate Court below have discussed all the prosecution witnesses threadbare and appreciation of their evidence is well reasoned. I find no perversity in the appreciation of evidence, nor is the judgment based on any inadmissible evidence, nor any prosecution evidence has been excluded which was otherwise admissible. Hence, there is no ground to interfere in the impugned judgments by this Court under the revisional jurisdiction.

18. Hence, the present revision petition is liable to be dismissed in limine.

19. Accordingly, the present petition is dismissed in limine.