
(2019) 07 JH CK 0274

In the Jharkhand High Court

Case No : Criminal Revision No. 930 Of 2008

Pramod Mandal And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 24-07-2019

Acts Referred:

Probation Of Offenders Act, 1958 — Section 4
Indian Penal Code, 1860 — Section 34, 379, 427, 447, 452

Citation : (2019) 07 JH CK 0274

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : D.K. Dubey, S.K. Barnwal

Final Decision : Dismissed

Judgement

1. Heard Mr. D. K. Dubey, counsel appearing on behalf of the petitioners.
2. Heard Mr. S. K. Barnwal, counsel appearing on behalf of Opposite Party.
3. Counsel for the petitioner submits that this revision application is directed against the judgment dated 07.08.2008 passed in Cr. Appeal No. 28 of 2008 by the learned Sessions Judge, Sahibganj, whereby the learned Sessions Judge has been pleased to confirm the judgment of conviction and order of sentence dated 15.07.2008 passed in G. R. No. 333 of 2003/T.R. No. 139 of 2008 by the learned Judicial Magistrate, 1st Class, Sahibganj.

4. The order of conviction reads as follows: -

"In view of the aforesaid facts, I find that prosecution failed to prove charge against the accused persons U/Ss 452/34 I.P.C and he fail to prove charge U/S 379 of the I.P.C against all accused persons except the accused Shivji Mandal. Further I find that prosecution has been able to prove charges against all the accused persons U.Ss 447/34 and 427/34 I.P.C and he has been able to prove charge U/S 379 I.P.C against the accused Shivji Mandal. Hence, all the accused

persons are held guilty for committing the offences U/Ss 447/34 and 427/34 I.P.C and accused Shivji Mandal is held guilty for offence U/S 379/34 I.P.C. Accordingly they are convicted and the bail bond of the accused persons are hereby cancelled and they are taken into custody."

5. The order of sentence is as follows: -

"After going through the materials available on the record, it transpires that no any prove regarding previous guilt of the accused person is available on the record. It transpires that the accused persons have been held guilty in this case and the nature of the offences are not more serious. I am of the view that the accused persons may be released under the provisions of Probation of Offenders Act. Hence the accused persons are hereby directed to be released under the provision of Section 4 of the Probation of Offenders Act as they are directed to furnish the probation bond of 5000/=Rs. With two surities of the like amount each with a condition to maintain peace and good behaviour for the period of two years. They will appear before the court whenever required."

6. Counsel for the petitioner submits that the impugned judgments by which the punishment has been imposed against the petitioners, are not sustainable in the eyes of law and they have not been passed in accordance with law. The counsel while advancing his argument has referred to the evidences of the prosecution witness to submit that on conjoint reading of the evidences of the prosecution witness, as has been recorded in the impugned judgments, the impugned judgments are not sustainable in the eyes of law. He further submits that there has been considerable delay in filing the FIR which also requires consideration.

7. Counsel appearing on behalf of Opposite Party, on the other hand, submits that there is no illegality or perversity in the impugned judgments and the least possible punishment has been given to the petitioners in the instant case and the punishment has only been given for furnishing the bail bond under Section 4 of the Probation of Offenders Act of Rs. 5,000/- with two sureties of the like amount.

8. After hearing the counsel for the parties and after considering the impugned judgments, this Court finds that merely because there is some delay in filing of the FIR, the same is not fatal to the case and it is settled proposition of law that there is no scope for re-appreciation of evidence by the revisional court in absence of any illegality or perversity. This Court finds that no ground for interference has been made out by the petitioners.

9. Considering the aforesaid aspects of the matter, the instant revision petition is hereby dismissed.