
(2011) 09 PAT CK 0111

In the Patna High Court

Case No : Criminal Revision No. 534 of 2002

Smt. Monaka Devi Mishra and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-09-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 465

Citation : (2012) 3 PLJR 753

Hon'ble Judges : Amaresh Kumar Lal, J

Bench : Single Bench

Advocate : Suraj Narain Pd. Sinha, Satya Nand Shukla, for the Appellant; Indu Bala Pandey for the State and Mr. Abhishekh Kumar for O.P. No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Amaresh Kumar Lal

1. Learned counsel for the petitioners seeks permission to delete the names of petitioner No. 3, Most. Sundari Kunwar who died in the year 2008 and petitioner no. 4, Smt. Girja Devi, wife of Vyas Mishra (petitioner no. 7), who died on 25.8.2004. The prayer is allowed.

2. It is further submitted that the petitioner no. 7, Vyas Mishra has already served out the sentence, as such, his prayer has become infructuous.

3. The accused-petitioners have preferred this revision application against the judgment and order dated 29.4.2002 passed by the learned 3rd Additional Sessions Judge, Siwan in Cr. Appeal No. 43 of 1996 by which the judgment and order dated 10th May, 1996 passed by the learned Judicial Magistrate, 1st Class, Siwan in C. Case No. 173 of 1993, Trial No. 253 of 1996 has been confirmed and the appeal has been dismissed.

4. The prosecution case, in brief, is that Anant Mishra, the father of the

complainant executed two sale deeds in the year 1992 in favour of other accused-petitioners (Exts.-6 and 6/1). Anant Mishra had only two daughters and no male issue. The co-accused-petitioners had tried to grab the property of the accused Anant Mishra and for that they got a deed of gift executed by accused-petitioner Anant Mishra on 2.2.1988, but when Anant Mishra came to know about the same he filed Title Suit No. 280 of 1988 for cancellation of the said deed of gift against other accused-petitioners of this case. During pendency of the aforesaid title suit, Anant Mishra executed a deed of gift in favour of complainant-opposite party no. 2 on 29.8.1988 with respect to his property. Later on, a compromise petition was filed in Title Suit No. 280 of 1988 in which the petitioners of this case have admitted the fact that the suit land belongs to the complainant-opposite party no. 2. When the accused petitioners have no concern with the same and on the basis of compromise petition, Title Suit No. 280 of 1988 was decreed. Thus, the complainant became the owner of the suit land on the basis of said decree passed in the said title suit and was in possession of the land. In the year 1992 when the complainant-Opposite Party No. 2 has gone to Deoria, the accused-petitioner Anant Mishra in connivance with other accused-petitioners executed two sale deeds on 14.12.1992 with regard to the property which was gifted to the complainant on 29.8.1988. After getting this knowledge of two sale deeds the complainant opposite party no. 2 filed complaint case.

5. After trial, the accused-petitioners have been held guilty under Sections 465 and 120B IPC and they were sentenced to rigorous imprisonment for six months each under both the sections and both the sentences to run concurrently. Thereafter, the petitioners filed Cr. Appeal No. 43 of 1996 which has been dismissed vide order dated 29.4.2002 confirming the judgment of conviction and sentence dated 10.5.1996 passed by the learned Magistrate.

6. Learned counsel for the petitioners submits that litigation between both the parties has been compromised and now they have no grievance against each other. The petitioners have been suffering from mental agony from 1993. They have also remained in custody for some time.

7. Learned counsel for the State could not controvert the contention of the petitioners.

8. After hearing learned counsel for the petitioners and learned counsel for the State, it appears that the contention of learned counsel for the petitioners is correct. The occurrence has taken place in the year 1993. The petitioners have been suffering from mental agony for more than 17 years. They have also remained in custody for some time. There has been an amicable settlement between both the parties. There is also no material on record to show that the accused-petitioners have any criminal antecedent except Vyas Mishra (petitioner no. 7) who has already served out the sentence.

9. Considering the facts and circumstances stated above, in my opinion, it is a fit case in which the sentence should be modified. Accordingly, the sentence of the

petitioners is reduced to the period already undergone in custody. With the aforesaid modification in the sentence, this revision application is dismissed.