

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No.687 of 2014

1. Tariqul Islam
2. Mansur Alam
3. Md. Amirul Islam Petitioner(s)

Versus

The State of Jharkhand Opposite Party(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Ranjan Kr. Singh, Advocate
For the State : Mr. Rakesh Kr. Sinha, APP

09/Dated: 17/10/2019

The instant application is directed against the judgment dated 05.05.2014, passed by the learned Additional Sessions Judge-II, Sahibganj, in Cr. Appeal No.108/2013, whereby the appeal preferred by the petitioners has been dismissed and the judgment of conviction and order of sentence dated 03.10.2013, passed by the Railway Judicial Magistrate 1st Class, Sahibganj in Barharwa (Rail) P.S. Case No.17/2010, corresponding to Rail G.R. No. 25/2010, (T.R. No.163/13), whereby the petitioners were convicted under Sections 341, 323, 325 and 379 of the Indian Penal Code and were sentenced to undergo SI for one month and six months respectively for offences punishable under Sections 341/323 of the Indian Penal Code and further RI for a term of two years with a fine of Rs.1,000/- and R.I for a term of one year respectively for offences punishable under Sections 325/379 of the Indian Penal Code and in default to pay the fine, further SI for two months, and the sentences were directed to run concurrently, has been affirmed.

At the outset learned counsel for the petitioners submits that the learned trial court did not consider the prayer of the petitioners that since it was the first offence of the petitioners so they should be given the privilege of Probation of Offenders Act. He further submits that neither the trial court nor the appellate court has given any finding with respect to not giving the benefit of Probation of Offenders

Act because there is nothing on record to suggest that the petitioners were having any criminal antecedent. The learned counsel for the petitioners further submits that if the petitioners will be sent to prison then the entire family of the petitioners will be ruined and the provision of Probation of Offenders Act has been enshrined for the very object that the first offender should be given benefit of the same.

Per contra, learned APP submits that there is a concurrent finding of the courts below with respect to allegation against the petitioners though there were land dispute between the parties, but the same can not give a right to take the law in hand.

Having heard the learned counsels for the parties and after going through the impugned orders including the LCR, I am not inclined to interfere with the judgment of conviction passed by the learned trial court and upheld by the learned appellate court.

Now coming to the specific argument of the learned counsel for the petitioners that benefit of Section 4 of Probation of Offenders Act should have been given to the petitioners, it appears from the record that the petitioners are not habitual offenders and there is no criminal antecedent whatsoever, except the present one.

Having regards to the circumstances of this case and the age and character of the offenders and the nature of offences which does not reflect any cruelty on the part of petitioners, I am of the considered opinion that sending the petitioners back to the prison will not serve any fruitful purpose rather the entire family of the petitioners will be ruined, as such it is expedient in the interest of justice that the petitioners should be released on probation.

As a result, the petitioners are directed to be released under Section 4 of the Probation of Offenders Act. The petitioners shall file two sureties to the tune of

Rs. 10,000/- each coupled with personal bond to the effect that they shall not commit any offence and shall be of good behavior and shall maintain peace during the period of two years. If there is breach of any conditions, they will subject themselves to undergo sentence as directed by the learned trial court. The bond aforesaid be filed by the petitioners within two months from the date of this judgment.

However, the petitioner is directed to pay a fine of Rs. 5,000/- jointly, which shall be paid in the account of President, Jharkhand High Court Advocates' Association, Ranchi. The petitioners are directed to pay the aforesaid fine of Rs. 5,000/- within a period of two months from today.

It is made clear that if the aforesaid amount is not paid within the stipulated period, the petitioners shall serve S.I of three months each.

With the aforesaid observations and directions, the instant revision application is disposed of.

The petitioners are discharged from the liability of their bail bonds.

Let the lower court record be sent to the court concerned forthwith.

(Deepak Roshan, J.)

Pramanik/