

**CRIMINAL REVISION No.426 OF 2002**

Against the judgment dated 18th March, 2002 passed by Sri Shio Murat Ram, 5<sup>th</sup> Additional Sessions Judge, Samastipur in Criminal Appeal No. 164 of 1998 affirming the judgment dated 28.11.1998 passed by the Judicial Magistrate, Ist Class, Dalsingsarai in C.R. 351 of 1987 (T.r. 43 of 1998).

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1. BHUVNESHWAR SAH
2. SHIVAN SAH
3. MAHENDRA SAH

..... PETITIONERS

Versus

1. STATE OF BIHAR
2. SHIVJEE MAHATO

..... OPPOSITE PARTIES

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For the Petitioners :- None

For the State :- Mr. G.P. Jaiswal, Sr. Advocate, (APP)

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**P R E S E N T**

**THE HON'BLE MR. JUSTICE SHYAM KISHORE SHARMA**

**S.K. Sharma, J.**

No body appears on behalf of the petitioners. Learned counsel for the State is present who has assisted the court.

From perusal of the record, it appears that a petition has been filed on behalf of the accused persons as well as by the complainant in which prayer has been made that the court should acquit the accused persons from the charges because the matter has been compromised and now the complainant has no grievance against the petitioners.

A complaint petition was filed under sections 452, 147, 323 and 427 of the Indian Penal Code and the petitioners were sentenced to undergo imprisonment for a period of one year, six months, six months, one month and a fine of Rs. 500/- each respectively. The dispute relating to an occurrence of 14.10.1987. The complainant was constructing his house over the land bearing khesra No. 626 and Khata No. 237 for which Basgit Parcha has been granted to him in Case No. 127/175-76. In the

meantime, the accused persons came and committed assault and the complaint was filed.

The court considered the evidences and after noticing the evidences, found the accused persons guilty and they were convicted. The appellate court also affirmed the finding of the court below. Though the complainant and petitioners have filed a petition before the court of 5<sup>th</sup> Additional Sessions Judge, to this effect that they have compromised the case but the accused persons were not acquitted.

Learned counsel for the State submits that in view of the compromise petition, good relationship has been prevailed between them so, there is no need for keeping the petitioners as guilty or convict the accused.

It appears from the evidences on the record that section 452 of the IPC is not made out as the dispute does not relate to house tress- pass. Other sections are compoundable and the petition for compromise is on the record. The principle of law is that the party should live peacefully if the complainant wants that the accused should be acquitted. There is no difficulty in accepting the compromise petition. In the result, the judgment and orders of the courts below are set aside and this revision application is allowed. The petitioners are discharged from the liabilities of their bail bonds.

**(Shyam Kishore Sharma, J.)**

Patna High Court, Patna  
Dated 23<sup>rd</sup> May, 2008  
N.A.F.R./avin.