

IN THE HIGH COURT OF JHARKHAND AT RANCHI**Cr. Revision No. 38 of 2010**

1. Prafulla Mahto

2. Bansidhar Mahto

3. Pahlani Mahto

4. Rajen Mahto

5. Janardan Mahato @ Hipi Mahto

..... Petitioners

Versus

The State of Jharkhand

..... Opposite Party

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners : Mr. Sanjay Kumar, Advocate

For the State : Mr. P.D. Agarwal, Spl. PP

05/ 28.02.2023

Heard learned counsel for the parties.

2. From perusal of service report, it appears that the petitioner No.1- Prafulla Mahto has died; as such this case is dismissed as abated against the petitioner No.1.

3. The instant revision application is directed against the judgment dated 01.12.2009, passed by learned Additional Sessions Judge, FTC No.2, Bokaro, whereby the Cr. Appeal No. 78 of 2009, preferred by the petitioners has been dismissed and the judgment of conviction and order of sentence dated 13.07.2009 in C.P. Case No. 451 of 2006, corresponding to T.r. No. 1207 of 2009 passed by the learned Judicial Magistrate 1st Class, Bokaro, whereby the petitioners were convicted and were sentenced to undergo rigorous imprisonment for six months under Section 354 of the Indian Penal Code and RI for two months under Section 509 of the IPC, and the sentences were ordered to run concurrently has been affirmed.

4. Learned counsel for the petitioners submits that this case is of the year 2006 and he confines his argument on the question of sentence as the petitioners remained in custody for about 25 days. He further submits that now the petitioners are middle aged persons and during entire period of bail, they never misused the privilege of bail. He further submits that there is no criminal antecedent of the petitioners, as such the sentence may be modified for the period already undergone.

5. Learned counsel for the State supported the judgment and submits that there is no error in the findings given by the Courts below; as such, the conviction cannot be set aside. However, he fairly admits that as per the record there is no criminal antecedent of the petitioners.

6. Having heard the learned counsel for the parties and after going through the impugned judgments including the lower courts records and keeping in mind the limited submissions of the learned counsel for the parties and also the scope of revisional jurisdiction, I am not inclined to interfere with the finding of the courts below and as such the judgment of conviction passed by the learned trial court and upheld by the learned appellate court is, hereby sustained.

7. So far as sentence is concerned, it is apparent from record that the incident is of the year 2006 and 17 years have elapsed and the petitioners must have suffered the rigors of litigation for all these years. Further, petitioners are now middle aged persons and they also remained in custody for about 25 days out of total sentence of 6 months and during entire period of bail they never misused the privilege of bail.

8. In a situation of this nature, I am of the opinion that no fruitful purpose would be served by sending the petitioners back to prison and interest of justice would be sufficed by modifying the sentence in lieu of fine.

9. Thus, the sentence passed by the trial court and upheld by the appellate court is hereby modified to the extent that the surviving petitioners are sentenced to undergo for the period already undergone subject to payment of fine of Rs.2,000/- each. The amount shall be deposited before the Secretary, D.L.S.A, Bokaro within four months from today, failing which the surviving petitioners will serve rest of the sentence as ordered by the learned court below.

10. With the aforesaid observation, direction and modification in sentence only, the instant criminal revision application stands disposed of.

11. The petitioners shall be discharged from the liability of their bail bonds, subject to fulfillment of aforesaid conditions.

12. Let the copy of this order be communicated to the court below, Secretary, D.L.S.A., Bokaro and to the surviving petitioners through officer-in-charge of concerned police station.

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

(Deepak Roshan, J.)