

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.135 of 2022

Arising Out of PS. Case No.-300 Year-1997 Thana- KHAJANCHI HAT District- Purnia

Kaku Sood @ Kukku Sood @ Cuckoo Sood @ Coocko Sood, son of late Badri Nath Sood, Resident of Village - Bhatta Bazar, Rajni Chowk, P.S.- K. Hat, Distt.- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Santosh Kumar Singh, Son of Dr. Raghubar Prasad Singh, Resident of Village - Ward No.13, P.S.- Banmankhi, Distt.- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Singh, Advocate Mr. Rajiv Kumar Singh, Advocate.
For the State	:	Mr. Chandra Sen Prasad Singh, APP
For the O.P. No. 2	:	Mr. Bijendra Kumar Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 24-03-2025

The present Cr. Revision petition has been filed against the impugned judgment dated 13.12.2021 passed by learned Additional Sessions Judge-V, Purnea, in Cr. Revision No. 473 of 2013, CIS No. 647 of 2013 whereby learned Additional Sessions Judge has set aside the judgment dated 31.7.2013 passed by learned Judicial Magistrate, 1st Class,



Purnea, Shri Ajay Kumar, in G.R. Case No. 1477 of 1997 arising out of K. Hat P.S. Case No. 300 of 1997 whereby the petitioner was acquitted.

2. The factual background of this case is that on the complaint of Santosh Kumar Singh under Section 156(3) Cr.PC before learned Chief Judicial Magistrate, Purnea, F.I.R. was directed to be lodged against the petitioner and consequently, K. Hat P.S. Case No. 300 of 1997 was registered against the petitioner for the offences punishable under Sections 420, 406 and 409 of the Indian Penal Code.

3. During course of trial, charges were framed under Section 420 and 406 of the Indian Penal Code. However, learned Trial Court finally acquitted the petitioner herein/accused. Subsequently, being aggrieved by the judgment of learned Trial Court, the informant, Santosh Kumar Singh, preferred Criminal Revision bearing No. 473 of 2013 in the Court of Sessions, Purnea, and the same was transferred to the Additional Sessions Judge-V, Purnea, for disposal. The said Revision Petition was finally disposed of by learned Additional Sessions Judge-V, by the final order dated 13.12.2021 remanding the matter to learned Trial Court to pass fresh judgment.



4. I heard learned counsel for the Petitioner, learned APP for the State and learned counsel for the Opposite Party No.2.

5. Learned counsel for the petitioner submits that the impugned judgment passed by learned Additional Sessions Judge-V, is not sustainable because the Criminal Revision filed before learned Sessions Court itself was not maintainable at all, because learned Trial Court had acquitted the accused vide judgment dated 31.07.2013 and against such judgment, the informant/victim was required to file appeal as per Proviso to Section 372 Cr.PC. In view of Section 401(4) Cr.PC which provides that if an appeal lies against the judgment, no revision can be entertained by the revisional court. But that revision petition was entertained and finally decided.

6. He further submits that though in the final order dated 13.12.2021, learned Revisional Court has observed that the Criminal Revision is treated as appeal, but prior to the final judgment/ order, no such conversion was made by any specific order by learned Court below. Such treatment of Criminal Revision as Criminal Appeal in the final judgment is not sustainable in the eye of law, because prior to final judgment, the Court is required to convert Revisional Proceeding in



Criminal Appeal, as per Section 401(5) Cr.PC and thereafter, the Court is required to follow the procedure of Criminal Appeal. Moreover, this final order has been passed by the Court of Additional Sessions Judge, which was required to give liberty to the petitioner to take steps to convert it into Criminal Appeal and only after registration of the Revision as Criminal Appeal and admission thereof by learned Sessions Judge, Additional Sessions Judge could have heard the Criminal Appeal.

7. As such, learned Additional Sessions Judge who passed the impugned order has committed gross illegality. Hence, the whole Revisional Proceeding before the Court below was not maintainable and the impugned order is also not sustainable.

8. At this stage, learned counsel for the Opposite Party No.2 is seeking liberty to file Criminal Appeal before learned Sessions Court, afresh.

9. Learned counsel for the Petitioner has also no objection.

10. Accordingly, the present Revision petition is allowed, setting aside the impugned judgment/order dated 13.12.2021 passed by learned Additional Sessions Judge-V, Purnea, in Cr. Revision No. 473 of 2013, CIS No. 647 of 2013,



giving liberty to the Opposite Party No.2/Informant to file fresh Criminal Appeal before the learned Sessions Court, subject to the Limitation Act. Learned Court below is also required to take into consideration Section 14 of the Limitation Act while dealing with the issue of limitation.

(Jitendra Kumar, J.)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.03.2025
Transmission Date	24.03.2025

