

(2011) 08 PAT CK 0179**Patna High Court****Case No:** Criminal Revision No. 286 of 2002

Rajendra Pathak

APPELLANT

Vs

The State of Bihar, Bharat Rai @
Bharat Singh, Krishnadeo Rai @
Krishna Deo Singh and Pramod
Rai @ Pramod Singh

RESPONDENT

Date of Decision: Aug. 30, 2011**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 34, 436

Hon'ble Judges: Amaresh Kumar Lal, J**Bench:** Single Bench**Final Decision:** Dismissed**Judgement**

Amaresh Kumar Lal, J.

The complainant-informant Petitioner has preferred this revision application against the judgment dated 6th February 2002 passed by learned Additional Court I, FTC, Begusarai in Sessions Trial No. 190 of 1990 by which the accused opposite party Nos. 2 to 4 have been acquitted for the offence punishable u/s 436/34 I.P.C.

2. The prosecution case, in brief, is that on 26.4.1989 in the night the complainant Rajendra Pathak was sleeping in his line hotel. He woke up to urinate at about 1 a.m. in the night and heard whispering sound of some person. He asked Bishundeo Pathak and Suraj Sah to look in the back side whereafter he heard the crying of Bishundeo Pathak. Thereafter, he saw accused Kishundeo Singh igniting the matches and lighting fire to the heap of Khar of the informant. The complainant and two others started raising alarm on which the accused persons threw the Khar on his hotel. The hotel was burnt to ashes, which was seen by the witnesses. As a result of which, the complainant sustained a loss of Rs. 20,000/-.

3. The complaint was filed on 29.4.1989 which was sent to the Police Station. After investigation, charge-sheet was submitted against the accused. Cognizance was taken and the case was committed to the Court of sessions. After trial, the accused opposite party Nos. 2 to 4 have been acquitted by the impugned judgment.

4. The main contention of learned Counsel for the Petitioner is that there is sufficient material on record to convict the accused but the accused-opposite party Nos. 2 to 4 have been acquitted by the learned trial court.

5. Learned Counsel for opposite party Nos. 2 to 4 has submitted that altogether five witnesses have been examined in support of the prosecution case. Out of them P.W. 4, Bishundeo Pathak who is said to have seen the occurrence, has turned hostile and P.W. 5, Md. Jamal is a formal witness who has proved the signature of Rambalak Mahton, Officer-in-Charge of Barauni P.S. on the formal FIR (Ext. 4).

6. He has further submitted that admittedly there is enmity and litigation between the informant (P.W.3) and the accused persons. The learned trial court has considered the evidence adduced on behalf of the prosecution minutely. There is no adverse finding.

7. After hearing learned Counsel for both the parties and on perusal of the material on record, it appears that the contention of the learned Counsel for accused opposite party Nos. 2 to 4 is correct. Learned trial Court has considered the evidence adduced on behalf of the prosecution and has found that the evidence of the prosecution is not fit to be relied upon. There is no adverse finding.

8. Considering the facts and circumstances, I find that there is no illegality or impropriety in the impugned judgment. This revision application has got no merit and is, accordingly, dismissed.