

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL REVISION No.1351 of 2018**

Arising Out of PS. Case No.-10 Year-2014 Thana- PUPRI District- Sitamarhi

Sushil Kumar Choudhary, S/o Late Kishori Choudhary, Resident of Rajbagh,  
Ward No.9, P.S.- Pupri, District- Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Ms. Shama Sinha  
For the Respondent/s : Mr. Sunil Kumar Pandey  
Mr. Ajay Kumar Jha

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI  
ORAL JUDGMENT**

**Date : 11-01-2024**

Heard the learned counsel for the parties.

2. The question involved in the instant Criminal Revision is not uncommon and the same came up for consideration before the Hon'ble Supreme Court and different High Courts on number of occasions.

3. The issue involved in the instant revision is as to whether an order of acquittal on the basis of benefit of doubt casts stigma on the accused or not and secondly when prosecution failed to prove the charge against the accused persons as well as involvement of the accused persons in the alleged



offence, they should be only acquitted or “Honourably Acquitted” by the Trial Court.

4. It is the case of the petitioner that acquittal on the basis of benefit of doubt casts stigma on their reputation and the said phrase should be declared to be expunged from the impugned order.

5. Before dealing with the instant issue, let me state in brief the case of the prosecution as brought before the Police Authority by the *de facto* complainant. The *de facto* complainant is one Shashi Karan stated in the written complaint, on the basis of which F.I.R. was drawn by the *de facto* complainant, that his mother-in-law was cremated in the land of his Sadahu (husband of wife’s sister), Kailash Prasad Verma at village Jhahihat on 20<sup>th</sup> of January, 2014. On that date, at about 05.00 p.m., when the informant along with his Sadahu arrived at the place for taking *Asthi Kalash* of their mother-in-law, the accused Sushil Chaudhari along with his associates wrongfully restrained them and assaulted the informant by Lathi on his hand. The accused persons also tried to commit



his murder by strangulation. They also took away a sum of Rs. 3,000/- from his pocket.

6. On the basis of the said report, Pupri P. S. Case No. 10 of 2014 was registered under Sections 341, 323, 324, 307, 379, 504, 506/34 of the Indian Penal Code. Police took up the case for investigation and submitted charge-sheet against the accused persons under Sections 341, 322, 307, 504, 506/34 of the Indian Penal Code. The accused persons appeared before the Trial Court to face trial. Charge was framed. During trial, the prosecution examined as many as nine (09) witnesses. None of the witnesses made any allegation against the accused, Sushil Chaudhari or others, corroborating the F.I.R. story. The informant was examined as P.W. 5. He even did not corroborate the F.I.R. story. On the other hand, his specific evidence is that Sushil Chaudhari or other accused persons were involved in assaulting him on 20<sup>th</sup> of January, 2014. He knows Sushil Chaudhari and others as they are respectable gentlemen of the locality. Under such factual circumstances and



evidence on record, the Trial Court acquitted the accused persons on benefit of doubt.

7. It is submitted by the learned Advocate for the petitioner, referring to a decision of the High Court of Chhattisgarh, Bilaspur in Writ Petition (Cr.) No. 429 of 2018 that when the allegation against the accused persons is not supported by the witnesses on behalf of prosecution and the witnesses narrated absolutely some other incident, question of acquittal of benefit of doubt does not arise at all.

8. I have perused the unreported order of the High Court of Chhattisgarh, Bilaspur in Writ Petition (Cr.) No. 429 of 2018. It is rightly stated in the said unreported decision that the Cr.P.C. uses the term “acquittal” in Sections 227, 235, 248, 255 and 330 of the Code of Criminal Procedure. Again the word “discharge” is used under Sections 227, 239 and 245 of the Cr.P.C. Neither the term “Honourable Acquittal” nor the term “Benefit of Doubt” was used in the Code of Criminal Procedure.



9. Lord Williams J, for the first time in Rober Stuart Wauchope Vs. Emperor, reported in (1934) 61 ILR Cal. 168, used the expression “Honourably Acquitted”. It is laid down :-

“The expression “Honourably Acquitted” is one which is unknown to the courts of justice. Apparently, it is a form of order used in courts martial and other extra judicial tribunals. We said in our judgement that we accepted the explanation given by the appellant believed it to be true and considered that it ought to have been accepted by the Government authorities and by the Magistrate. Further, we decided that the appellant had not misappropriated the monies referred to in the charge. It is thus clear that the effect of our judgement was that the appellant was acquitted as fully and completely as it was possible for him to be acquitted. Presumably, this is equivalent to what Government authorities term “Honourably Acquitted.”

10. Subsequently, the said phrase “Honourably Acquitted” has been used in various judgements by the Hon'ble Supreme Court. Such as:-



*(i) State of Assam Vs. Raghava Rajgopalachari, reported in 1972 SLR 44.*

*(ii) R. P. Kapur Vs. Union of India, reported in AIR 1964 SC 787*

*(iii) Management of Reserve Bank of India Vs. Bhopal Singh Panchal, reported in (1994) 1 SCC 541*

*(iv) Deputy Inspector General of Police Vs. S. Samuthiram, reported in (2013) 1 SCC 598*

*(v) Commissioner of Police, New Delhi Vs. Mehar Singh, reported in (2013) 7 SCC 685.*

11. It is necessary to point out here that facts of all the reported decisions are either cases involving Prevention of Corruption Act or misappropriation of money, eve teasing etc. Theft of money, misappropriation, charge of corruption, of course cast stigma on the character and reputation of an accused. Therefore, it was held that if prosecution fails to prove the charge against the accused, he should be merely acquitted.

12. The question of giving benefit of doubt by the Trial Court arises when from the evidence on record, it appears that two views – one in support of



the prosecution and other in support of the defence are found, the Court should accept the view that is in favour of the accused. In such case, the accused is entitled to get the benefit of doubt when he is acquitted. But when there is absolutely no evidence against the accused persons, they will be simply acquitted. The question of exercising discretionary power of granting the benefit of doubt does not arise when the evidence on record is absolutely silent in respect of the role of the accused persons.

13. Coming to the instant case, it is found from the evidence of the investigation itself that the accused persons are respectable gentlemen of the locality. Therefore, if they are acquitted on benefit of doubt, it may sound that some evidence was led against the accused persons and the Trial Court disbelieved those evidences. On the contrary, in the instant case, there is absolutely no evidence against the accused persons.



14. In view of such circumstances, the words “benefit of doubt” be treated to be expunged from the judgement of the Trial Court.

15. The instant revision is accordingly allowed.

**(Bibek Chaudhuri, J)**

skm/-

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