

**Bhulia Devi Vs. State of Bihar**

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**SooperKanoon Citation :** [sooperkanoon.com/121987](http://sooperkanoon.com/121987)

**Court :** Patna

**Decided On :** Aug-01-2001

**Judge :** S.N. Pathak, J.

**Appeal No. :** Criminal Revision No. 664 of 1999

**Appellant :** Bhulia Devi

**Respondent :** State of Bihar

**Prior history :** S.N. Pathak, J. 1. This revision is directed against the judgment passed by 1st Addl. Sessions Judge, Katihar, in Cr. Appeal No. 71/97 whereby the appellate Court confirmed the judgment of the trial Court passed by the Railway Magistrate, Katihar, in Case No. CII 13/91, TR No. 143/97. 2. The revisionist was convicted under Section 3(a) and 3(b) of the RP (UP) Act, 3. It was submitted that the prosecution of the petitioner was based on confessional statement of co-accused Jitu Chaudhary, a rick

**Judgement :**

**S.N. Pathak, J.**

1. This revision is directed against the judgment passed by 1st Addl. Sessions Judge, Katihar, in Cr. Appeal No. 71/97 whereby the appellate Court confirmed the judgment of the trial Court passed by the Railway Magistrate, Katihar, in Case No. CII 13/91, TR No. 143/97.

2. The revisionist was convicted under Section 3(a) and 3(b) of the RP (UP) Act,
3. It was submitted that the prosecution of the petitioner was based on confessional statement of co-accused Jitu Chaudhary, a rickshaw puller who was carrying 40 kgs of alleged Railway coal. There is no evidence against the petitioner for selling alleged coal to Jitu Chaudhary. So prosecution and the conviction of the petitioner were both bad in law.
4. On perusal of the judgment of the appellate Court and the same of the trial Court, it transpires that six witnesses have been examined and out of whom many of the witnesses are seizure list witnesses including personnel of RPF. One independent witness of the seizure list has been declared hostile and none of the witnesses said that in his presence revisionist was seen selling alleged coal to Jitu Chaudhary. All the witnesses rather had witnesses that the alleged coal was seized from the rickshaw puller namely, Jitu Chaudhary, and on the basis of the seizure a complaint was filed by one of the witnesses examined the trial Court. On the confessional statement of Jitu Chaudhary (Exhibit-5) revisionist was prosecuted and tried alongwith Jitu Chaudhary. The question is whether on the inculpatory and exculpatory statement of co-accused, anybody can be convicted. I am of the firm opinion that no reliance can be placed on the exculpatory statement of co-accused. Exculpatory statement of co-accused must be supported by corroborative or cogent evidence to base the conviction of another accused.
5. I find that the Courts below erred in convicting the petitioner.
6. In the result, the order of conviction cannot be sustained. It is, accordingly, set aside. Revisionist shall be discharged from the liability of her bail bond.