

Court No. - 9

Case :- CRIMINAL APPEAL U/S 372 CR.P.C. No. - 45 of 2023

Appellant :- Sumit Kumar Awasthi

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another

Counsel for Appellant :- Ravi Dwivedi, Ambrish Kumar Dwivedi

Counsel for Respondent :- G.A.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Umesh Chandra Sharma, J.

This is an appeal instituted under Section 372 Cr.P.C. where charge was framed against respondent no.2 (accused) for offences under Sections 498, 304-B IPC read with 3/4 D.P.Act. The conviction and sentence for the aforesaid offences as imposed upon the respondent no.2 (accused) is 7 years rigorous imprisonment with a stipulation of fine. The informant has come up in the present appeal under Section 372 Cr.P.C praying for enhancement of the sentence.

The prayer made in the appeal is also not happily worded.

We have gone through the relevant provision of 372 Cr.P.C. It is clear that the appeal under Section 372 Cr.P.C is maintainable only in a situation where an offender is punished for a lesser offence. Such is not the case at hand.

After arguing at some length, learned counsel for the appellant prays that he may be permitted to withdraw this appeal so that he may avail the remedy of revision provided under Section 397 read with Section 401 Cr.P.C.

The appeal is accordingly dismissed as withdrawn with the liberty as prayed.

Certified copy of the judgement may be returned to learned counsel for the appellant after retaining a photocopy thereof on record.

Order Date :- 11.5.2023

Shahnaz