

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.234 of 2002

=====

Nayemuddin @ Munna @ Nowa @ Md. Nayemuddin son of Md. Suleman, R/O
Village-Dighali P.S.Paharkatta, Distt-Kishanganj.

.... Appellant/s

Versus

State of Bihar

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sarangdhar Jha, Adv.

For the Respondent/s : Mr. Sujit Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 13-01-2015

Heard learned counsel for the appellant as well as
learned APP for the State.

Learned counsel for the appellant confined his argument
with regard to sentence only. In order to substantiate his plea, learned
counsel for the appellants submitted that though there happens to be
single identification by way of evidence of PW-2, the informant and a
sketchy source of identification by voice through PW-3, Sahibul
Haque and further, having remained under custody for more than six
years without having criminal antecedents as well as even after release
on bail, prosecution had not disclosed subsequent involvement of the
appellant, at least, deserves modification in a way sentence already
undergone, more particularly, in the background of occurrence being
of the year 1995. It has also been submitted that from the evidence of

PW-2, the informant, it is apparent that he lost the property worth of Rs.40,000/- which the appellant, in terms of Section 357 Cr.P.C. intends to compensate.

Learned APP submitted that such kind of offer could be accepted by way of repentance.

Considering the rival submission as well as appreciating overall situation prevailing on the record, while maintaining the conviction recorded by the learned trial court, substantial sentence is modified as imprisonment already undergone with an enhancement of fine from Rs. 5000/- to Rs. 40,000/- which the appellant will deposit within three months and till then, the bail granted by this Court is extended in terms of Section 437(A) of the Cr.P.C. In case of default, the appellant will have to undergo RI for two weeks.

If the fine is deposited, then in that event, the learned trial court will pay Rs. 30,000/- to Ibrahim after noticing him.

With the aforesaid modification in sentence, the instant appeal is dismissed.

(Aditya Kumar Trivedi, J)

Patna High Court
January 13th 2015.
Perwez/AFR

U		T	
---	--	---	--