

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.583 of 2015

Arising Out of PS.Case No. -20 Year- 1993 Thana -PARIHAR District- SITAMARHI

Md. Jubair @ Mohammad Jubair, S/o Jalil, R/o Village - Anduali, P.S.- Parihar,
District - Sitamarhi

.... Appellant

Versus

1. The State of Bihar
2. Md. Alauddin, S/o Mohammad Muslim
3. Md. Sobrati, S/o Mohammad Shakur
4. Md. Zalim, S/o Mohammad Nashib,

From 2 to 4 all respondents of Village - Andauli, P.S.- Parihar, District - Sitamarhi

.... Respondents

Appearance :

For the Appellant/s : Mr. Shiw Kumar Prabhakar, Advocate

For the Respondent/s : Mr. S.A. Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-09-2015

The present appeal under the proviso to Section 372 of the Code of Criminal Procedure (For short “Cr. P.C.”) has been preferred by the appellant against the judgment dated 12th May, 2015 passed by the learned 1st Additional Sessions Judge, Sitamarhi in Cr. Appeal No. 14/07/08/07 whereby while maintaining the conviction of respondents no. 2 to 4 under Sections 341, 323 and 324/34 of the Indian Penal Code awarded by the trial court, the

sentences have been modified.

2. The respondents no. 2 to 4 were convicted by the jurisdictional Magistrate under Sections 341, 323 and 341/34 of the Indian Penal Code and sentenced to undergo simple imprisonment for one month under Section 341, simple imprisonment for one year under Section 323 and rigorous imprisonment for three years under Section 324 of the Indian Penal Code. However, while upholding the conviction of respondents no. 2 to 4, the appellate court modified the sentences by awarding a fine of Rs. 100, 500 and 5000 for the offences under Sections 341, 323, 324/34 of the Indian Penal Code.

3. In my view, the instant appeal under the proviso to Section 372 Cr. P.C. is thoroughly misconceived.

4. The proviso to Section 372 Cr. P.C. reads as under:-

“Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

5. As noted above, in the present case, the appellate

court has neither acquitted the accused nor convicted them for a lesser offence nor imposed an inadequate compensation. The appellate court has simply modified the sentences awarded to the accused persons under Sections 341, 323 and 324/34 of the Indian Penal Code. The proviso to Section 372 Cr. P.C. does not confer the victim a right to prefer an appeal against appellate order whereby sentences are modified.

6. Accordingly, the appeal is dismissed as not maintainable.

(Ashwani Kumar Singh, J.)

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