

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.521 of 2014

Arising Out of PS.Case No. -328 Year- 2009 Thana -SIMRI BAKHTIARPUR District- SAHARSA

1. Santosh Kumar Rajak S/o Satya Narayan Rajak, resident of village- Tulsiyahi,
P.S.- Bhaktyarpur, District- Saharsa

.... Appellant/s

Versus

1. The State of Bihar
2. Sajjan Sah, S/o Yasodhar Sah, resident of village- Bhatouni, Tola Bhagwanpur,
P.S.- Bkhtiyarpur, District- Saharsa
3. Upendra Sah S/o Late Dhaneshwar Sah, resident of village- Tariyama, Tola
Bhagwanpur, P.S.- Bkhtiyarpur, District- Saharsa

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Dr. Shashi Shekhar Kishore, Advocate
For the State : Mr. S.A.Ahmad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-01-2015

The present appeal under section 372 of the Code of Criminal Procedure has been filed against the judgment and order dated 26th March, 2012 passed by the learned Judicial Magistrate, 1st Class, Saharsa in Trial No.1042 of 2012, G.R. No.2120 of 2009 arising out of Bhaktiyarpur (Saharsa) P.S.Case No.328 of 2009 whereby and whereunder the respondent nos.2 and 3 have been acquitted of the charges punishable under sections 341, 323, 386, 387, 379 and 120B of the Indian Penal Code.

The appellant is informant of the case. The trial of the case was conducted by a Magistrate. By the Code of Criminal Procedure

(Amendment) Act, 2008 a proviso has been added to section 372 of the Code of Criminal Procedure by which the victim has been given a right to prefer an appeal against any order passed by the Court acquitting the accused or victim for a lesser offence or imposing inadequate compensation. It has also been prescribed that such an appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court. In case of conviction recorded by a Magistrate, the appeal lies before the Sessions Court and not before the High Court. Hence, in case of acquittal an appeal would lie before the Sessions Judge and not before this Court.

In that view of the matter, the present appeal filed by the appellant is misconceived in law. Accordingly, the appeal is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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