

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.382 of 2016

Arising Out of PS.Case No. -69 Year- 2003 Thana -JHAJHA District- JAMUI

Nuneshwar Ravi Das son of Masudan Das, resident of village- Nawakadih, P.S.-
Jhajha, District- Jamui.

.... Appellant

Versus

The State of Bihar

.... Respondent

Appearance :

For the Appellant/s : Mr. Ram Sumiran Rai, Advocate

For the Respondent/s : Mr. Z. Hoda, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 28-07-2016

Though the present appeal under Section 374(2) of the Code of Criminal Procedure (for short 'CrPC') has been filed against the judgment and order dated 21.03.2016 passed in Sessions Trial No. 95 of 2005/ 398 of 2015, arising out of Jhajha P. S. Case No. 69 of 2003, whereby while convicting the appellant under Sections 324 and 149 of the Indian Penal Code, the trial court has granted him the benefit of Section 4 of the Probation of Offenders Act, 1958 (for short the 'Act').

2. It is submitted by the learned counsel for the appellant that vide order dated 21.03.2016, instead of sentencing him at once to any punishment directed for the release of the appellant on his entering into a bond with two sureties to appear and receive sentence when called upon during the period of two years and in the meantime, to keep peace and be of good behaviour.

The trial court has sentenced him to pay Rs.1000/- to the informant of the case as fine. It is submitted that the impugned judgment of conviction and order is bad in law and, hence, the same may be set aside.

3. I have heard learned counsel for the appellant and perused the record.

4. In my opinion, the instant appeal is thoroughly misconceived as neither any sentence of imprisonment for any term nor fine has been passed against the appellant. In the present case, admittedly, the appellant has been given the benefit of Section 4 of the Act and has been directed to pay Rs.1000/- to the informant as compensation under Section 5 of the Act. The compensation awarded under Section 5 of the Act is different from sentence of fine.

5. In view of the statutory bar created under Section 376 of the CrPC, the present appeal under Section 374 of the CrPC is not maintainable in law.

6. In that view of the matter, the appeal is dismissed.

(Ashwani Kumar Singh, J.)

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