

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.35 of 2016

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1. Sushila Devi wife of Late Bhagwan Singh Resident of Mohalla- Rajpura,
Kewlatal, P.S.- Fatuha, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. Manoj Kumar Singh son of Ram Prasad Singh Resident of Village-
Sariyapur Naya Tola, P.S.- Fatuha, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jitendra Narain Sinha, Adv.

For the Respondent/s : Mr. Shyed Ashfaque Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 24-08-2016 By way of filing the present application under

Section 378(4) of the Code of Criminal Procedure, the petitioner

has sought for leave to appeal against the judgment dated

21.07.2015 passed by the learned 2nd Additional District &

Sessions Judge, Patna City in Sessions Trial No. 309 of 2000

(Reg. No. 491 of 2015/ T.R. No.120 of 2014) whereby the

respondent no.2 has been acquitted of the charges under Section

302/34 of the Indian Penal Code and Section 27 of the Arms Act.

It is submitted by the learned counsel for the

petitioner that the aforesaid Sessions Trial arose out of Fatuha

P.S.Case No. 260 of 1998.

In my view, the application is thoroughly

misconceived. Section 378(4) of the Code of Criminal Procedure

would be applicable in case an order of acquittal is passed in a case instituted upon a complaint and not in a case when the order of acquittal is passed in a police case on the basis of report submitted under Section 173(2) of the Code of Criminal Procedure.

In that view of the matter, the instant application in its present form is not maintainable. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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