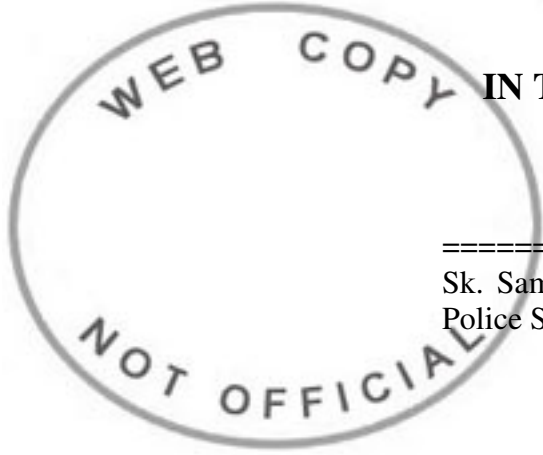




IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.597 of 2016

Arising Out of PS.Case No. -83 Year- 1994 Thana -PALANWA District-
EASTCHAMPARAN(MOTIHARI)

=====

Sk. Samiullah Son of Late Sk. Md. Yunus resident of village- Siswanya,
Police Station- Palanwa, District- East Champaran

.... Appellant

Versus

1. The State of Bihar
2. Nesar Ahmad
3. Iftekhar Ahmad @ Bechu Both Sons of Sk. Abdul Khalique
4. Abdul Wahab Son of Md. Khalique
5. Abdul Samad @ Munna Son of Late Sharif
6. Jamil Akhtar Son of Late Jan Mohammad
7. Fariyad Alam Son of Jalim
8. Imam Hasan Sah Son of Late Maimullah
9. Abdul Salam Son of Late Sharif All resident of village- Siswanya,
Police Station- Palanwa, District- East Champaran

.... Respondents

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Appearance :

For the Appellant : Mr. N.A. Shamsi, Advocate.
For the Respondents : Mr. Khurshid Alam, Advocate
Mr. Arjun Prasad No.1, Advocate.
For the State : Mr. S.C. Mishra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

4 09-11-2016

In terms of judgment of the Apex Court in the case of

‘Satya Pal Singh Vs. State of M.P. & Ors.’ reported in 2015 (4)

PLJR 468 (SC), special leave to appeal against acquittal has been

sought by filing I.A. No. 2073 of 2016 by the appellant.

The appellant has filed this appeal against the judgment of acquittal passed by the learned Additional Sessions Judge-XI, East Champaran at Motihari dated 29.03.2016 in Sessions Case No. 30 of 1997 arising out of Palanwa P.S. Case No. 83 of 1994, G.R. No. 312 of 1994.

Having perused the judgment, we are not satisfied that it is a fit case in which leave be granted, inasmuch as, leave application itself is incompetent in terms of section 372 read with section 378 of the code of Criminal Procedure. In the judgment aforesaid, firstly it has to be only a victim who can file an appeal against the acquittal. The term 'victim' has been defined in section 2 (wa) by amendment of the Court in the year 2009, reads as follows:-

“(wa) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir.”

The present appellant is neither an injured person nor the guardian or legal heir of the deceased. He is one of the witnesses in the prosecution.

That being the situation, right to file an appeal being only statutory right, there is no option but to refuse grant leave to

appeal. The leave to appeal is refused. Accordingly, the appeal stands dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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