

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.107 of 2016

Arising Out of PS.Case No. -5 Year- 2008 Thana -ARWAL District- JEHANABAD

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Bharat Kumar S/o Sahab Dayal Singh, resident of Village - Bansi Bighan
Tolla, P.S. - Rampur Chauram, District - Arwal.

.... Appellant

Versus

1. The State of Bihar.
2. Lakshman Singh @ Anil Kumar, S/o Sheo Lagan Singh, Resident of
Village - Rampur Chauram, P.S. - Rampur Chauram, District - Arwal.

.... Respondents

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Appearance:

For the Appellant/s : Mr. Bijendra Kumar

For the Respondent/s : Mr. Sujeet Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Dated :- 17-03-2016

This appeal under the proviso of Section 372 of the Code of Criminal Procedure (for short “CrPC”) is directed against the judgment dated 19.01.2016 passed by learned Sessions Judge, Jehanabad in Criminal Appeal No. 17 of 2012, whereby and whereunder the judgment and order dated 27.03.2012 passed by the learned Judicial Magistrate 1st Class, Jehanabad in GR Case No. 400/2008 / Trial Case No. 358 of 2011 against the victim respondent No. 2 Lakshman Singh @ Anil Kumar, has been set aside.

At the outset, it has been pointed out by Mr. Sujeet Kumar Singh, learned A.P.P. that the appeal under the proviso of Section 372 of the CrPC is not maintainable in view

of the law laid down by the Division Bench of this Court in the case of **Jainath Prasad versus State of Bihar & Anr. [2015 (2) PLJR 798]**. He has contended that the Division Bench has held in the aforesaid judgment that the victim has no right to file an appeal against an order of acquittal passed by the trial Court and the only remedy available to the victim under such circumstance would be by way of revision under Sections 397 and 411 of the CrPC and such challenge would lie only within the parameters permissible under the revisional provisions.

Having gone through the judgment passed in the matter of **Jainath Prasad versus State of Bihar & Anr** (supra), learned counsel for the appellant concedes that in view of the Division Bench judgment of this court, the present appeal is not maintainable.

In that view of the matter, the instant appeal is dismissed as not maintainable. However, the appellant would be at liberty to challenge the impugned judgment by filing an appropriate revision application before this Court.

(Ashwani Kumar Singh, J.)

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