

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.311 of 2016**

Arising Out of PS.Case No. -125 Year- 1994 Thana -NAUBATPUR District- PATNA

1. Dilip Kumar, Son of Ram Ishwar Prasad Resident of Village- Dariyapur, P.S. Naubatpur, District- Patna.

2. Anil Dutt Son of Ram Ishwar Prasad Resident of Village- Dariyapur, P.S. Naubatpur, District- Patna.

.... .... Appellants

Versus

The State of Bihar

.... .... Respondent

**Appearance :**

For the Appellant/s : Md. Fahimuddin, Advocate

For the Respondent/s : Mr. S.A. Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 13-05-2016**

By way of the present application preferred under Section 374(2) of the Code of Criminal Procedure, the appellants have challenged the judgment of conviction dated 29.02.2016 passed by the learned District & Sessions Judge-7<sup>th</sup>, Danapur by which the appellants have been held guilty under Section 323 of the Indian Penal Code and have released after due admonition as provided under Section 3 of the Probation of Offenders Act.

In the opinion of this Court, in view of the specific provision as prescribed under Section 376 of the Code of Criminal

Procedure, an application under Section 374 (2) of the Code of Criminal Procedure would not be maintainable against a judgment of conviction wherein no sentence of imprisonment has been passed.

Accordingly, the appeal, being devoid of any merit, is dismissed.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

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| AFR/NAFR          |            |
| CAV DATE          |            |
| Uploading Date    | 17.05.2016 |
| Transmission Date | 17.05.2016 |