

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.19 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- KHAGARIA

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Ram Raksha Singh son of late Babulal Singh Resident of village Tetarabad
Chanpura P.S. & District Khagaria.

.... Appellant

Versus

1. The State of Bihar.
2. Kaleshwar Yadav son of late Gokul Yadav
3. Rama Devi wife of Kaleshwar Yadav
4. Dewan Yadav son of Kaleshwar Yadav
5. Jai Jai Ram Yadav son of Kaleshwar Yadav
6. Nandu Yadav son of Kaleshwar Yadav
7. Babi Devi wife of Dewan Yadav
8. Bidya Devi wife of Jai Jai Ram Yadav
9. Amerika Devi wife of Nandu Yadav

Respondents no. 2 to 9 residents of village Tetara Badchandpura, P.S. and
District Khagaria.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Rajendra Singh, Advocate
For the Respondent/s : Mr. S. A. Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-05-2016

The defects pointed out by the Registry are ignored.

2. By way of the present application, inadvertently
preferred under Section 374(4) in place of Section 378(4) of the
Code of Criminal Procedure (for short “CrPC”), the petitioner seeks
leave to file appeal against the judgment and order dated

29.03.2016 passed by the learned 1st Additional Sessions Judge, Khagaria in Cr. Appeal No. 64 of 2014 by which, he has set aside the judgment of conviction and order of sentence dated 19th July, 2014 passed by the learned Judicial Magistrate, 1st Class, Khagaria in Complaint Case No. 582-C of 2009/ Tr. No. 273 of 2014.

3. In the opinion of this Court, the present appeal seeking leave to file appeal against an appellate order whereby the opposite parties no 2 to 9 have been acquitted is thoroughly misconceived. The application under Section 378(4) of the CrPC is not maintainable against an appellate order passed by a criminal court.

4. Accordingly, the application is dismissed with liberty to the appellant to seek any other remedy, as may be available in law.

(Ashwani Kumar Singh, J.)

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