

IN THE HIGH COURT OF JUDICATURE AT PATNA
SLA No.41 of 2016

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1. Bisheshwar Manjhi Son of late Ram Kishun Manjhi Resident of Nehru Nagar, Ward No. 25, P.S. & District Gopalganj.

.... Appellant/s

Versus

1. The State of Bihar
2. Kalimullah Son of Mohammad Habib Resident of Nehru Nagar, Ward No. 25, P.S. & District Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dr. Chandra Shekhar Azad, Advocate

For the Respondent/s : Mr. Sri Sadanand Paswan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 05-12-2016 This leave to appeal under Section 378(4) of the Code of Criminal Procedure has been filed against the judgment and order dated 23.07.2016 passed by learned Additional Sessions Judge-1st, Gopalganj in Sessions Trial No. 242 of 2010 arising out of Complaint Case No. 1408 of 2008, whereby he has recorded acquittal of the opposite party No. 2 who was charged of the offence punishable under Sections 341, 323, 447 and 427 of the Indian Penal Code. While recording acquittal of the opposite party No. 2 of the Sections of the Indian Penal Code as noted above, the opposite party No. 2 has been held guilty of the offence punishable under Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. After having held



the opposite party No. 2 guilty of the offence punishable under Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the court below has granted opposite party No. 2, the benefit of the Probation of Offenders Act.

I do not find any perversity in the judgment and order to the extent, it records acquittal of the opposite party No. 2 of the offence punishable under Sections 341, 323, 447 and 427 of the Indian Penal Code. The appellant in the present application for leave certainly does not have any grievance against the conviction of the opposite party No. 2 of the offence punishable under Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. So far as it relates to award of sentence on conviction of opposite party No. 2 under provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the only apparent grievance is that the opposite party No. 2 ought not to have been given benefit of Section 3 of the Probation of Offenders Act.

On perusal of the judgment and order under challenge and considering the circumstance in which the opposite party No. 2 came to be implicated and other attenuating circumstances, I do not find any apparent illegality or perversity in



the impugned judgment and order warranting grant of leave to appeal against the said judgment.

I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Vats/-

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