

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.312 of 2016

Arising Out of PS.Case No. -53 Year- 2013 Thana -LALGANJ District- VAISHALI(HAJIPUR)

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Braj Kishore Mishra			Appellant/s
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Versus

State of Bihar & Anr			Respondent/s
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Appearance :

For the Appellant/s : Mr. Anuj Kumar, Advocate

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 22-06-2016 The stamp reporter has pointed out several defects in the present memo of appeal. By order dated 16.5.2016 this Court had granted time till 20th May, 2016 to the appellant to remove the defects, as pointed out by the Registry.

2. The Registry has reported that the appeal is still defective, as the defects pointed out by the Registry have not yet been removed.

3. The appellant has preferred the present appeal for enhancement of sentence awarded on 29th March, 2016 by the learned Additional Sessions Judge-IV, Vaishali, Hajipur in Sessions Trial No.452 of 2013 by which the learned Sessions Judge has convicted the accused under Section 304B/149 and Section 201/149 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for ten years and two years respectively.

4. The present appeal has been filed by the informant under Section 374 read with Section 386(c) of the Code of Criminal Procedure (for short 'CrPC) for enhancement of sentence. In the opinion of this Court, the appeal in its present form is not maintainable. Section 374 of the CrPC gives right to the convict to prefer an appeal against the judgment of conviction whereas Section 386(c) of the CrPC gives jurisdiction to the court to enhance sentence in case of an appeal under Section 377 or Section 378 of the CrPC. Section 377 of the CrPC is the provision which provides for appeal by the State Government against the sentence awarded to a convict on the trial held by the court against the sentence on the ground of its inadequacy whereas Section 378 of the CrPC is the provision which authorizes for filing appeal by the District Magistrate or the State Government in case of acquittal of a convict.

5. In view of the discussions made hereinabove, the instant appeal under Section 374 read with Section 386(c) of the CrPC preferred by the informant for enhancement of sentence is not maintainable. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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