

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.725 of 2016

Arising Out of PS.Case No. -155 Year- 2012 Thana -DAUDNAGAR District- AURANGABAD

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Kuldip Yadav Son of Late Dhanu Yadav, Resident of Bhakharua More,
Patna Road, Ward No. 6, Daudnagar, P.S. Daudnagar, District-
Aurangabad.

.... Appellant

Versus

1. The State of Bihar
2. Avinash Singh @ Pankaj Son of Indradeo Yadav, Resident of Village-
Birai, P.S. Daudnagar, District- Aurangabad.
3. Indradeo Yadav Son of Shiv Pujan Yadav, Resident of Village- Birai,
P.S. Daudnagar, District- Aurangabad.

.... Respondents

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Appearance :

For the Appellant : Mr. Purushotam Sharma, Advocate
For the Respondents : Mr. S.N. Prasad, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD
SINGH**

and

**HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

2 10-11-2016 The present appeal is filed by the father of the

deceased. Respondent no.2 has been convicted by the Court under
sections 304 (B) and 201 of the I.P.C and has been sentenced to
undergo seven years rigorous imprisonment. Respondent no.3 has
been acquitted.

Sofar respondent no.3 is concerned, except P.W. 3
who has been declared hostile by the prosecution itself no other
witnesses connect him with the crime. In our view, the court
having examined all the witnesses in detail has rightly exercised
its discretion in the judgment in the matter of acquittal of

respondent no.3. Sofar respondent no.2 is concerned, he has been convicted for the offence under section 304 (B) of the I.P.C and sentenced him to seven years rigorous imprisonment.

In our view, the appeal is not maintainable, inasmuch as, under section 372 proviso of the Cr. P.C. the victim can prefer an appeal against the acquittal or conviction for lesser offence or inadequate compensation.

In the present case, the accused had been charged under section 304 (B) of the I.P.C. and has been convicted as such. Thus, it is neither a case of acquittal in the case of conviction of lesser offence nor inadequacy of compensation. The appeal in respect to respondent no.2 is itself not maintainable.

It is accordingly dismissed.

(Navaniti Prasad Singh, J)

Abhay/-

(Jitendra Mohan Sharma, J)

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