

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.281 of 2017

Arising Out of PS.Case No. -62 Year- 2007 Thana -PAHARPUR District-
EASTCHAMPARAN(MOTIHARI)

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Jagat Tiwary, son of Late Komal Tiwary, resident of village – Khajuria,
P.S. – Malahi, District – East Champaran (Motihari)

.... Appellant/s

Versus

1. The State of Bihar
2. Sri Niwas Pandey S/o Bhagya Narayan Pandey
3. Bhagya Narayan Pandey son of Late Suryadeo Pandey
Both are resident of village Pandey Tola, P.S. Malahi, District East
Champaran (Motihari)

..... Accused / Respondent 2nd set

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar Tiwary

For the Respondent/s : Mrs. Shashi Bala Verma

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

6 11-07-2017

I.A. No. 1344 of 2017

Heard Sri Dhananjay Kumar Tiwary, learned counsel
for the appellant and Smt. Shashi Bala Verma , learned Additional
Public Prosecutor on interlocutory application i.e. I.A. No. 1344
of 2017 , which has been filed under Section 378(3) of the Code of
Criminal Procedure , 1973 with a prayer to grant leave to appeal
against the judgment of conviction dated 25th October, 2016
passed in Sessions Trial No. 06 of 2008. The Appeal has been
preferred by the victim for enhancement of sentence. The Appeal
has been filed under Section 372 of the Code of Criminal



Procedure, 1973. The following reliefs have been sought for in the Appeal:-

“It is therefore prayed that your Lordships be pleased to admit the Appeal, call for the Records of Sessions Trial Case No. 06 /08 arising out of (Paharpur) Malahi P.S. Case No. 62 /07 from the court of Sri Raj Kishore Roy, Addl. Sessions Judge XI, East Champaran, Motihari, issue notice to respondent asking them as to why appeal be not allowed and after hearing both the parties, judgment / order of conviction and sentence dated 25.10.2016 and 28-10-16 may be modified to the extent of enhancement of the sentence against the respondent 2nd set for 10 years to life imprisonment.”

On examination of the provisions contained under Section 372 of the Code of Criminal Procedure, 1973, it is evident that no Appeal can be filed for enhancement of sentence. In absence of any statutory provision for filing Appeal for enhancement of sentence, there is no reason to entertain the petition for grant of leave. Accordingly, the leave petition i.e. I.A. No. 1344 of 2017 is dismissed. Simultaneously, the Appeal too stands dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

Praful/-

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