

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.271 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. Rana Vijay Pandey @ Ran Vijay Pandey, Son of Bhagya Narayan
Pandey, 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 : Sri Ajay Mishra

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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. 1343 of 2017

Heard Sri Dhananjay Kumar Tiwary, learned counsel
for the appellant and Sri Ajay Mishra, learned Additional Public
Prosecutor on interlocutory application i.e. I.A. No. 1343 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. 356 of 2009 . 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. 356 /09 arising out of Paharpur (Malahi) P.S. Case No. 62 of 2007 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 25-10-16 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. 1343 of 2017 is dismissed. Simultaneously, the Appeal too stands dismissed.

(Rakesh Kumar, J)

(Mohit Kumar Shah, J)

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