

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.650 of 2015

Arising Out of PS. Case No.-206 Year-1995 Thana- JAGDIHSPUR District- Bhojpur

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Nathuni Mishra,, son of Late Vasudev Mishra,, resident of village Dalipur
Case Jagdishpur, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Postal Inspector, Piro Sub Division District Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mithilesh Kumar Rai
		Mr. Lakshman Lal Pandey
		Ms. Vandana Kishor
For the Respondent/s	:	Mr. JITENDRA KUMAR RAI 1 (APP)
For Respondent no. 2	:	Mr. Anjani Kumar Sharan, ASG

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 20-07-2017 Heard learned Counsel for the petitioner, learned

Additional Solicitor General appearing on behalf of respondent

no. 2 and learned Additional Public Prosecutor representing the

State of Bihar.

The petitioner is aggrieved by judgment and order, dated 23.06.2015, passed by learned Additional Sessions Judge V, Bhojpur (Ara), in Criminal Appeal No. 41 of 2014, whereby an appeal preferred by respondent no. 2 against the judgment and order, dated 31.10.2013, passed in G. R. No. 2245 of 1995 (Trial No. 5044 of 2012), arising out of Jagdishpur Police Station Case No. 206 of 1995, has been allowed and the judgment of acquittal recorded by the learned Trial Court has



been reversed and the matter has been remanded to the learned Trial Court for passing the judgment afresh after hearing the parties.

The short point, which has been taken on behalf of the petitioner to assail the impugned judgment and order, is that the Postal Inspector, Piro Sub-Division, could not have preferred appeal under Section 378 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code'). It has further been submitted that the Appellate Court completely failed to apply law of limitation.

I am convinced with the submissions advanced on behalf of the petitioner that the Postal Inspector, Piro Sub-Division, could not have maintained the appeal against the judgment and order of the learned Trial Court, recording acquittal of the petitioner.

Section 378 (1) of the Code authorizes the District Magistrate or the State Government to present appeal before the Court of Sessions/High Court, from an order of acquittal passed by the Magistrate/Court of Sessions.

Learned Counsel appearing on behalf of respondent no. 2 has drawn my attention to Section 372 of the Code, to submit that under the proviso, a victim could have filed an appeal against the judgment of acquittal and there is no question of lack



of maintainability of the appeal preferred by the Postal Inspector, Piro Sub-Division, Bhojpur.

The trial had commenced on the basis of a police case, registered on the basis of the information given by the Postal Inspector, Piro Sub-Division, Bhojpur. Merely because the Postal Inspector happened to be the informant, he cannot be described as the victim, within the meaning of Section 2 (wa) of the Code. A '*victim*', within the meaning of sub-section (wa) of Section 2 of the Code is a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged. The respondent no. 2, i.e. the Postal Inspector, Piro Sub-Division, Bhojpur, cannot be said to be a person who suffered any loss or injury.

On this short ground, the impugned judgment and order deserves interference.

Accordingly, the impugned judgment and order, dated 23.06.2015, passed in Criminal Appeal No. 41 of 2014 is set aside.

This application is allowed.

anand/-

(**Chakradhari Sharan Singh, J**)

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