

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.147 of 2015

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1. Hari Shankar Mishra, Son of Late Prajapati Mishra, Resident of Village-
Bartiya, P.S. - Barhiy, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Tinku Kumar Pandey, Son of Raj Kumar Pandey, Resident of Naya
Bazzar Dalpati, P.S. & District- Lakhisarai.
3. Raj Kumar Pandey, Son of Late Raho Pandey, Resident of village- Naya
Bazzar Dalpati, Kabaiya, Ps & District- Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund
Mr. Purnendu Keshav

For the Respondent/s : Mr. R. B. Roy 'Raman'(App)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 16-03-2017 Heard learned Counsel for the petitioner and

learned Additional Public Prosecutor representing the

State.

The present criminal revision application, filed
by the informant against the judgment and order, dated
13.01.2015, passed, by learned Additional Sessions Judge
II, Lakhisarai, in Sessions Case No. 214 of 2013, whereby
he has recorded acquittal of Opposite Party Nos. 2 and 3,
is not maintainable, in view of the fact that the petitioner
has remedy of appeal under proviso to Section 372 of the
Code of Criminal Procedure, 1973.



Since the petitioner has remedy of appeal, this application cannot be maintained in view of provision under Section 401 (4) of the Code of Criminal Procedure, 1973, which reads thus:

"401 (4).- Where under this Code, an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed."

This application is accordingly dismissed.

It goes without saying that the petitioner shall have the liberty of preferring appeal against the impugned judgment and order.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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