

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.447 of 2015

Arising Out of PS.Case No. -141 Year- 2010 Thana -TARIYANI CHOWK District- SHEOHAR

- =====
1. Bhikhari Sah son of late Bilat Sah
 2. Asharfi Sah son of Late Sukan Sah
 3. Ramautar Sah son of late Raudi Sah

All are residents of village- Kushar, P.S.- Tariyani, District- Sheohar.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Sunil Kumar-III, Adv.

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 30-03-2018

Heard learned counsel for the appellants as well as learned Additional Public Prosecutor.

2. All the appellants have been found guilty for an offence punishable under Sections 323 IPC, 341 IPC, 504 of the IPC and independently sentenced for each Section to undergo S.I. for six months as well as to pay fine appertaining to Rs.300/- and in default thereof, to undergo S.I. for seven days additionally by the Second Assistant Sessions Judge, Sheohar relating to Sessions Trial No.151/2011 vide judgment of conviction and sentence dated 26.06.2015.

3. In terms of Section 374(2) of the Cr.P.C., instant appeal would not be maintainable before the High Court as sentence so inflicted by the learned lower court which happens to be court of



Assistant Sessions Judge to be less than seven years.

4. In the aforesaid background, learned counsel for the appellants seeks withdrawal of instant appeal with a privilege that in case, appeal is filed before the learned appellate court that is of Sessions Judge within fortnight, then in that circumstance, the aforesaid appeal would not be found eclipsed by the law of limitation.

5. Allowing such prayer, instant appeal is dismissed as withdrawn. However, it is made clear that in case appeal is not filed within the period of fortnight, then in that circumstances, question of limitation will come into play which, the appellant will have to explain in accordance with law.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	03.04.2018
Transmission Date	03.04.2018

