

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (SJ) No.3064 of 2018**

Arising Out of PS.Case No. -1129 Year- 1999 Thana -COMPLAINT CASE District- BANKA

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Md. Firoj Alam, son of Late Md. Isuf Alam, resident of village- Jagatpur (Ithari), Police Station- Fullidumar, District- Banka.

.... .... Appellant/s

Versus

1. The State of Bihar.
2. Boudhi Yadav, S/o Late Chamaklal Yadav,
3. Dilip @ Bhutka Yadav, S/o Late Boudhi Yadav,
4. Wakil Yadav, S/o of Chamaklal Yadav,
5. Jaso @ Umesh Yadav, S/o Late Sugdeo Yadav,
6. Prabhash Yadav, S/o Late Gulab Yadav,
7. Prakash Yadav, S/o Late Gulab Yadav,
8. Mannu Yadav, S/o of Late Ramli Yadav,
9. Pappu Yadav, S/o of Wakil Yadav,
10. Punit Yadav, S/o of Wakil Yadav,
11. Chigga @ Anil Yadav, S/o of Late Boudhi Yadav,
12. Pawan Yadav, S/o of Wakil Yadav,

All resident of village- Jagatpur (Ithari), P.S.- Fullidukmar, District- Banka.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ajay Mukherjee, Advocate  
For the Respondent/s : Mrs. Abha Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL ORDER**

4      05-11-2018                      The appellant is complainant of Complaint Case No.1129 of 1999 in which after holding trial, the learned Chief Judicial Magistrate, Banka convicted respondent nos.2 to 12 for the charges under Sections 147 and 347 of the Indian Penal Code. Being aggrieved, the respondent nos.2 to 12 filed an appeal in the Court of District and Sessions Judge, Banka vide Cr.Appeal No. 20 of 2016. After hearing the parties, the appellate court vide impugned order dated 07.03.2018 acquitted all the convicted



accused (respondent nos.2 to 12) from the charges under which they were found guilty by the Court of Chief Judicial Magistrate, Banka and discharged them from the liabilities of their bail bond.

Being aggrieved by the aforestated order of acquittal, the appellant (complainant) filed the instant appeal under the proviso to Section 372 of the Code of Criminal Procedure. After filing the appeal, when registry raised objection regarding maintainability of the appeal, even without leave of the Court, Mr. Ajay Mukherjee, learned counsel for the appellant converted the memo of appeal into memo of revision by altering the provision of law and making corrections at several places.

Learned counsel for the appellant submitted that the objection raised by registry may be ignored and this memo of appeal may be treated as memo of revision.

Considering the manner in which memo of appeal was suo motu converted into memo of revision, I am not inclined to allow the prayer of the appellant.

An appeal against an appellate order would certainly not be maintainable. If the appellant was aggrieved against the appellate order, he would have challenged the same by way of filing a criminal revision before this Court.

In that view of the matter, this appeal is dismissed



with liberty to the appellant to file an appropriate application  
challenging the impugned judgment before this Court.

**(Ashwani Kumar Singh, J)**

Md.S./-

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