

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (SJ) No.707 of 2016**

Arising Out of PS. Case No.-397 Year-1986 Thana- PHULWARI District- Patna

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1. Ramashis Singh S/o Late Sarwanand Singh
  2. Rakesh Kumar S/o Ramashis Singh  
Both are resident of village - Bhatheri, P.S.- Maner,  
District Patna
  3. Ram Swarath Singh S/o Late Navrangi Singh
  4. Dinesh Singh S/o Ram Swarath Singh
  5. Prince Singh S/o Ram Swarath Singh  
All are resident of village - Koreyawan, P.S. Masaurhi,  
District - Patna
  6. Manoj @ Binay Singh
  7. Pardeshsi Singh  
Both are sons of Bijendra Singh, resident of village-  
Madarpur, P.S.-Punpun, District- Patna  
At present all are of village - Suitha, P.S. Phulwari,  
District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Uday Kumar Singh, Advocate  
For the Respondent/s : Mr. Bipin Kumar, APP

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

3      14-12-2018                      This appeal has been preferred by the appellants under Section 374(2) of the Code of Criminal Procedure against the judgment dated 30.06.2016 passed by the learned Additional District and Sessions Judge-IV, Patna in Session Trial No.789 of 1987 whereby the appellants have been convicted under Sections 323 and 379 of the Indian Penal Code and consequently released after admonition under Section 3 of the Probation of Offenders Act, 1958 (for short 'the Act').



It would be pertinent to note here that Section 376 of the Code of Criminal Procedure provides that there shall be no appeal by a convicted person where the Court of Session passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees or of both such imprisonment and fine.

In the instant case, though the Session Court has convicted the appellants, they have not been sentenced for imprisonment even for a day. They have been released after admonition in exercise of powers conferred under Section 3 of the Act.

Thus, the instant appeal under Section 374(2) of the Code of Criminal Procedure would not be maintainable. Accordingly, it is dismissed as not maintainable.

**(Ashwani Kumar Singh, J)**

Md. S/-

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