

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.404 of 2017**

Arising Out of PS.Case No. -218 Year- 2014 Thana -BUXAR COMPLAINT CASE District-  
BUXAR

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Manoj Kumar Ram, son of Bijali Ram, Residence of Village- Rupa Pokhar, P.S.-  
Rajpur, District- Buxar.

.... .... Appellant

Versus

1. The State of Bihar.

2. Lalsa Devi, wife of Manoj Kumar Ram, daughter of Bishun Ram, Residence of  
Village- Sarenza, P.S.- Rajpur, District- Buxar.

.... .... Respondents

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**Appearance :**

For the Appellant/s : Mr. Surendra Kumar Singh, Advocate

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

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

ORAL JUDGMENT

**Date: 17-09-2018**

This appeal under Section 449(ii) of the Code of Criminal Procedure has been filed by the appellant against the order dated 02.08.2016 passed by the learned Session Judge, Buxar.

2. From perusal of the order impugned dated 02.08.2016, I find that the same was not passed by the court below in a proceeding under Section 446 of the Code of Criminal Procedure rather the same was passed on a petition filed by the appellant under Section 438 of the Code of Criminal Procedure.



Since section 449(ii) of the Code of Criminal Procedure provides for an appeal before this Court against an order made by the court of session in a proceeding under Section 446 of the Code of Criminal Procedure, the instant appeal in its present form is not maintainable.

3. Accordingly, it is dismissed as not maintainable.

**(Ashwani Kumar Singh, J.)**

Sanjeet/SkSuman

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| AFR/NAFR          | NAFR       |
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