

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3366 of 2018

Arising Out of PS.Case No. -57 Year- 2016 Thana -DIGHALBANK District- KISANGANJ

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Md. Ilyas @ Md. Ilyas S/o Md. Khalil, resident of village-- Karwar Toli,
Mohamari, P.S.- Dighal Bank, District- Kishanganj.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Tiwary, Advocate

For the Respondent/s : Mr. Binod Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

4 05-11-2018 This appeal under Section 374(2) of the Code of Criminal Procedure has been filed by the appellant challenging the judgment of conviction and order of sentence dated 11.07.2018 passed in Session Trial No.262 of 2016 by the learned Assistant Sessions Judge-1, Kishanganj whereby he has been convicted for the charge under Section 489C of the Indian Penal Code and sentenced to undergo rigorous imprisonment for five years and to pay a fine of rupees ten thousand and in case of failure to pay the fine, to undergo additional simple imprisonment for two months.

The registry has pointed out defect regarding maintainability of the appeal before this Court.

Learned counsel appearing for the appellant submitted that due to inadvertence, this appeal was filed before



this Court under Section 374(2) of the Code of Criminal Procedure. He contended that in view of the statutory provision prescribed under clause (3)(a) of Section 374, in case of a trial held by an Assistant Sessions Judge in which sentence of imprisonment upto seven years has been passed, an appeal would lie before the Court of Session.

In view of the defect as pointed out by the registry and the submission made by the learned counsel for the appellant, the appeal is dismissed as not maintainable. However, the appellant would be at liberty to assail the impugned judgment before the territorial Court of Session in accordance with law.

(Ashwani Kumar Singh, J)

Md.S./-

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