

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.2535 of 2018

Arising Out of PS.Case No. -59 Year- 2012 Thana -BAIKUNTHPUR District- GOPALGANJ

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Satyendra Kumar

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Naresh Prasad, Advocate

For the State : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH

ORAL ORDER

4 09-10-2018

This appeal under the proviso to Section 372 of the Code of Criminal Procedure has been filed by the appellant against the judgment and order dated 17.05.2018 passed by the learned 2nd Additional Sessions Judge, Gopalganj in Session Trial No.43 of 2013 whereby the respondents no.2 to 4 have been acquitted of the charge under Section 307 of the Indian Penal Code and convicted under Sections 341, 504 and 323 of the Indian Penal Code.

By way of an interlocutory application, vide I.A. No.2194 of 2018, filed under Section 378(3) of the Code of Criminal Procedure, the appellant has sought leave to appeal against the aforestated judgment dated 17.05.2018.

Since certain defects have been pointed out by the



registry, the case has been listed under the heading “For Order (On Office Notes)”. On perusal of the judgment, I find that respondents no.2 to 4 were charged under Sections 341, 504 and 323 of the Indian Penal Code. After holding the trial, the trial court acquitted them of the charge under Section 307 of the Indian Penal Code. However, it convicted the accused respondents under Sections 341, 504 and 323 of the Indian Penal Code and, thereafter, extending them the benefit of Section 3 of the Probation of Offenders Act, 1958.

The appeal has been filed by the appellant against acquittal of the accused respondents of the charge under Section 307 of the Indian Penal Code. Section 307 of the Indian Penal Code prescribes punishment which may extend to life imprisonment. Hence, in case of maximum punishment awarded by the trial court, the appeal would lie before the Division Bench and not before the Single Judge. Similarly, in case of acquittal of the charge under Section 307 of the Indian Penal Code also an appeal would lie before the Division Bench and not before the Single Judge.

In that view of the matter, I am of the considered opinion that this appeal is not maintainable in its present form.

Accordingly, the appeal and the interlocutory



application are disposed of with liberty to the appellant to file another appeal in accordance with law.

(Ashwani Kumar Singh, J)

Md.S./-

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