

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1243 of 2018

Arising Out of PS.Case No. -282 Year- 2005 Thana -CIVIL LINE District- GAYA

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Ranjeet Lal Bhaiya @ Ranjit Kumar Baiya, S/o Kishan Lal Bhaiya,
Resident of Mohalla- Karsilli, P.S.- Civil Lines, Distt.- Gaya.

.... Appellant/s

Versus

1. The State of Bihar.
2. Vijay Lal Dhokri,
3. Bachhu Lal Dhokri.
4. Ram Lal Dhokri,
5. Ashok Lal Dhokri, All Son of Gopal Lal Dhokri.
6. Munnu Lal Dhokri, Son of Babu Lal Dhokri,
7. Babulal Dhokri, Son of Gopal Lal Dhokri All R/o Mohalla- Krishna
Dwarika, P.S.- Civil Lines, Distt.- Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mrigendra Pratap Singh, Adv.
For the Respondent/s : Mr. Zeyaul Hoda, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 18-06-2018 Heard learned counsel for the appellant as well as
learned Additional Public Prosecutor.

It has been submitted on behalf of learned counsel for
the appellant that there was case and counter case and in the
aforesaid background, the High Court had at an earlier occasion
vide Cr. Misc. No.43373/2007 (Annexure-1) directed that the trial
of counter case should be also conducted by the same court
irrespective of nature of the offence whereupon, trial commenced
before the ADJ, VIIIth, Gaya under Sessions Trial No.190/2015.

It has been submitted on behalf of learned counsel for



the appellant that learned lower court had misinterpreted the direction of the Hon'ble Court. By such direction, the nature of the offence had not changed. That means to say, the offences which was magisterial triable could not change its colour though, the trial was being conducted by the Sessions Court. That being so, the privilege of Section 232 of the Cr.P.C. was not at all applicable as, the same was available only with regard to exclusively sessions triable cases. So, exercise of such power by the learned lower court while acquitting the respondents under Section 232 of the Cr.P.C. in a case being magisterial triable happens to be illegal one. So, the point of consideration is whether in such facts and circumstances of the case the lower court was competent enough to exercise the power under Section 232 of the Cr.P.C. in a case being magisterial triable and in the aforesaid background, the memo of appeal be converted as a petition purported to be under Section 482 of the Cr.P.C. for proper adjudication.

The learned Additional Public Prosecutor had not opposed.

Let it be accordingly converted. Appellant/Petitioner as well as office to take proper steps accordingly.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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