

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.2484 of 2018

Arising Out of PS.Case No. -220 Year- 2013 Thana -ALOULI District- KHAGARIA

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Kundan Ram, S/o Late Sukhdeo Ram (decease), resident of village- Dih Sanjhauti, P.S.- Alauli, Dist- Khagaria.

.... Appellant/s

Versus

1. Jay Jay Ram Yadav, S/o Devan Yadav, Sakin- Larhi, P.S.- Alauli, P.O.- Goriyami, Dist.- Khagaria.
2. Kishore Chandra Yadav, S/o Late Admi Yadav, village+P.O.- Sohma, P.S.- Vithan, Dist- Samastipur.
3. Sandip Kumar Yadav, S/o Ram Daresh Yadav, vilalge- Pokhra, P.O.- Bahadurpur, P.S.- Alauli, Dist- Khagaria.
4. Lalo Yadav, S/o Triveni Yadav, village- Gaurachak, P.O.- Budhaura, P.S.- Alauli, Dist- Khagaria.
5. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Lakshmi Kant Tiwary, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 09-10-2018 Heard learned counsel for the appellant and learned counsel for the State.

In view of certain defects, as pointed out by the registry, this appeal has been listed under the heading “For Order (On Office Notes)”.

The appeal has been filed under proviso to Section 372 of the Indian Penal Code, 1973 challenging the judgment dated 27.03.2018 passed by the Fast Track Court No.1, Khagaria in Sessions Case No.94 of 2014/Trial No.355/17/2018 arising out of G.R. Case No.2079 of 2013 whereby the respondents no.1 to 4 were charged for the offences punishable under Section 302 read with 34 of the Indian Penal Code and Section 27 of the Arms Act



have been acquitted of the charges.

By way of an interlocutory application vide I.A. No.2389 of 2018, a prayer has been made for grant of leave to appeal against the aforestated judgment of acquittal dated 27.03.2018.

The offence punishable under Section 302 of the Indian Penal Code prescribes punishment with death or imprisonment for life. In case of punishment in a case under Section 302 of the Indian Penal Code, an appeal would lie before the Division Bench. Similarly, in case of acquittal, an appeal under the proviso to Section 372 of the Code of Criminal Procedure would lie before the Division Bench.

The instant appeal filed as a Single Judge appeal is not maintainable in its present form.

Accordingly, it is disposed of as not maintainable with liberty to the appellant that, if so advised, he may file another appeal before this Court challenging the impugned judgment of acquittal in accordance with law.

I.A. No.2389 of 2018 also stands disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

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