

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.668 of 2018

Arising Out of PS.Case No. -443 Year- 2013 Thana -BARACHATTI District- GAYA

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Sangita Devi

.... Appellant/s

Versus

State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar

For the Respondent/s : Mr. A.K.Sinha

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA

ORAL ORDER

(Per: **HONOURABLE MR. JUSTICE HEMANT KUMAR**
SRIVASTAVA)

10 16-08-2018

This Criminal Appeal has been placed for admission along with leave petition bearing I.A.No. 1653 of 2018 but at the very outset, learned Additional Public Prosecutor raises objection submitting that this appeal is not maintainable as section 372 of Cr.P.C does not permit the informant to file appeal for enhancement of sentence.

The appellant was informant of Barachatti (Mohanpur) P.S.Case No. 443 of 2013 and she initially filed Criminal Revision No. 538 of 2017 for enhancement of sentence order passed by 9th Additional Session Judge, Gaya in session trail no. 168 of 2016 but the office raised several defects including the defect of maintainability of Criminal Revision against the



impugned sentence order. However, a Single Bench of this Court passed peremptory order on 07.08.2017 for removal of the defect as pointed out by the stamp reporter. In pursuant to the aforesaid peremptory order, the appellant converted the aforesaid Criminal Revision No.538 of 2017 into Criminal Appeal (SJ) No. 2621 of 2017 and, accordingly, the aforesaid Criminal Appeal (SJ) No. 2621 of 2017 was placed before the Single Bench of this Court and on 30.11.2017 when the aforesaid Criminal Appeal was placed before the Court, it was pointed out that the convict Raj Karan Prasad@ Raj Karan Mahto has also filed Criminal Appeal (SJ) No. 731 of 2017 challenging the impugned judgment of conviction and sentence order and, accordingly, learned Single Judge directed the office to list Criminal Appeal (SJ) No. 731 of 2017 with Criminal Appeal (SJ) No. 2621 of 2017. Again both the above stated appeals were placed before the learned Single Judge. However, learned Single Judge noticed that section 364A of the Indian Penal Code prescribed sentence with death 'or' imprisonment for life and shall also for fine and, therefore, the learned Single Judge directed the office to place the matter before the Division Bench in terms of Patna High Court Rules and, thereafter, the appellant converted Criminal Appeal (SJ) No. 2621 of 2017 into Criminal Appeal (DB) 668 of 2018 and the matter has



been placed before us for admission.

However, in view of section 372 of the Cr.P.C, the informant of a case has no locus standi to file Criminal Appeal for enhancement of sentence order and, therefore, the informant may make prayer for enhancement of sentence passed in session trial no. 168 of 2016 by invoking revisional jurisdiction and, therefore, in our view, the present appellant had rightly filed revision against the sentence order.

In view of the aforesaid discussions, we have no option except to direct the appellant to convert this Criminal Appeal into Criminal Revision within three weeks and after necessary correction, the Criminal Revision be listed along with Criminal Appeal (SJ) No. 731 of 2018 before the appropriate Bench.

(Hemant Kumar Srivastava, J)

N.K/-

(Rajendra Kumar Mishra, J)

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