

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3879 of 2018

Arising Out of PS. Case No.-27 Year-2005 Thana- KHAIRA District- Jamui

Siya Sharan Singh son of late Mohan Singh Resdident of Village-Purna
Khaira P.S. Khaira, Distt.-Jamui

... .. Appellant

Versus

1. The State of Bihar
2. Siyaran Manjhi son of Ramsahay Mandjhi Resdident of Village-Khaira, P.S.
Khaira, Distt.-Jamui
3. Dayanand Singh Son of Nagina Singh Resdident of Village-Purna Khaira P.S.
Khaira, Distt.-Jamui
4. Pradip Paswan, son of Mishri Paswan
5. Ranjan Manjhi, son of Patia Manjhi
6. Andhara Manjhi Son of Budhu Manjhi
7. Sakindra Paswan son of Mishari Paswan
8. Respondents No.4 to 7 are Resident of Village Khaira P.S. Khaira Distt.-
Jamui

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Mishra
For the Respondent/s : Mr. Smt. Abha Singh

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 07-12-2018

This appeal under proviso to Section 372 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the appellant for setting aside the judgment dated 30.07.2018 passed by the learned Additional Chief Judicial Magistrate-1, Jamui in G.R. No. 234 of 2005, arising out of Khaira P. S. Case No. 27 of



2005 whereby respondent nos. 2 to 7 have been acquitted from the charges under Section 379 read with Section 34 of the Indian Penal Code.

2. By way of (Amendment) Act, 2008 (5 of 2009) with effect from 31.12.2009, Section 372 of the Cr.P.C. relating to appeals from judgment or order of a criminal court has been amended. By the said amendment, proviso to Section 372 of the Cr.P.C. has been inserted, which confers the victim a right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation. Said proviso further provides that such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such court.

3. In the present case, the impugned judgement of acquittal has been passed by a court of Magistrate and, in case of conviction by a court of Magistrate, an appeal would ordinarily lie before the court of session and not before this Court, in case of acquittal also the appeal would lie before the court of session.

4. In that view of the matter, the present appeal filed against the judgement of acquittal by the appellant is not maintainable before this Court. Accordingly, it is dismissed as not maintainable.



5. However, if so advised, the appellant would be at liberty to prefer an appeal against the impugned judgement before the appropriate court.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
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