

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3547 of 2018

Arising Out of PS. Case No.-130 Year-2012 Thana- Babubarhi District- Madhubani

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Illiya, S/o Md. Makbool, residence of village- Barail (Khoriya Tola), P.S.-
Babu Barhi , District- Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : None

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

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 26-11-2018 Despite repeated calls, no one appears for the

appellant.

This appeal under Sections 374(2) and 389(1) of
the Code of Criminal Procedure, 1973 has been filed by the
appellant challenging the judgment dated 08.08.2018 passed by
the Presiding Officer, Fast Track Court, Madhubani in Sessions
Trial No. 235 of 2013/13 of 2018 whereby the appellant has
been convicted under Section 324 of the Indian Penal Code and
has been released on his entering into a bond to maintain good
conduct for two years with two sureties of Rs. 5,000/- each and
to appear and receive sentence when called upon, in case, he
fails to maintain good conduct.

Apparently, after being held guilty, the appellant has
been given benefit of Section 4 of the Probation of Offenders



Act.

Under such circumstance, in my considered opinion, an appeal under Sections 374(2) and 389(1) of the Code of Criminal Procedure, 1973 would not be maintainable.

If the appellant is aggrieved by the impugned judgment of the court below, an appeal under Section 11(2) of the Probation of Offenders Act, 1958 would be maintainable before this Court.

In that view of the matter, the appeal is dismissed with liberty to the appellant to challenge the impugned judgment by way of filing another appeal in accordance with law before this Court.

(Ashwani Kumar Singh, J)

Md. S/- Sanjeev

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