

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1949 of 2018

Arising Out of PS.Case No. -67 Year- 2011 Thana -AMARPUR District- BANKA

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Md. Iftexhar @ Md. Iftakar @ Md. Ustur @ Ustur S/o Sk. Moinuddin @
Md. Moin, R/o Vill.- Douna, P.S.- Amarpur, District- Banka.

.... Appellant/s

Versus

1. The State of Bihar.
2. Bibi Bechni, W/o Md. Farid,
3. Bibi Rifat W/o Md. Koushar,
4. Md. Farid S/o Md. Salim,
5. Md. Nurul S/o Md. Muslim,
6. Bibi Fekni W/o Md. Koushar,
7. Md. Koushar S/o Md. Salim, All are R/o Vill.- Douna, P.S.- Amarpur,
District- Banka.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Jha, Advocate.
For the Respondent/s : Mr. Sujit Kumar Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

7 26-10-2018 The appellant is the informant of Amarpur P.S. Case No. 67 of 2011 in which respondents no. 2 to 7 were made accused. After investigation, the police submitted charge-sheet against them where after the case was committed to the court of Session for trial. In Sessions Trial No. 205 of 2012, the court below framed charges under Sections 307/34, 323/34, 341/34 and 504/34 of the Indian Penal Code against them. On completion of trial, the trial court acquitted them of the charge under Section 307/34 of the Indian Penal Code. However, they were convicted under Sections 323, 341 & 504 of the Indian Penal Code. After



recording the judgment of conviction, the trial court extending the benefits of Section 4 of the Probation of Offenders Act, 1958 released them on their executing bond of Rs. 5,000/- by which they undertook to maintain peace and be of good behaviour in the locality for a period of one year.

Learned counsel for the appellant submitted that the appellant is aggrieved by the benefits extended to the respondents by the trial court under Section 4 of the Probation of Offenders Act, 1958.

In my considered opinion, this appeal, which has been filed under Section 372 of the Code of Criminal Procedure (for short 'Cr.P.C'), is totally misconceived. Section 372 of the Cr.P.C provides that no appeal shall lie from any judgment or order of a Criminal Court except as provided for by the Cr.P.C or by any other law for the time being in force. The proviso to Section 372 of the Cr.P.C confers a right upon the victim to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation. As the appellant is not aggrieved by the acquittal of the convicts under Section 307 read with 34 of the Indian Penal Code and the grievance of the appellant is only limited to the extent whereby the convicts have been extended the benefits of



Section 4 of the Probation of Offenders Act, the instant appeal filed under Section 372 of the Cr.P.C is not maintainable, as an appeal under such circumstance, would be maintainable only under Section 11 of the Probation of Offenders Act.

Accordingly, the appeal is dismissed as not maintainable.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

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