

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.162 of 2019

Arising Out of PS. Case No.-103 Year-2011 Thana- BIHARSHARIF District- Nalanda

Birendra Kumar

... .. Appellant/s

Versus

The State of Bihar AND ANR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Biresh Kumar Sinha, Adv.
For the State	:	Mr. Abhimanyu Sharma, APP
For the Respondent No. 1	:	Mr. Ajay Kumar Thakur, Adv
		Md. Imtiyaz Ahmed, Adv.
		Mr. Shashank Shekher, Adv.

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

5 24-06-2019 Heard learned counsel appearing for the appellant, learned counsel appearing for respondent no. 2 as well as learned Addition Public Prosecutor for the State on the point of admission as well as I.A. No. 01 of 2019 which has been filed under section 378(3) of Cr.P.C for grant of leave to file and pursue this criminal appeal.

The appellant happens to be informant of Bihar P. S. Case No. 103 of 2011 in which respondent no. 2 was made accused and subsequently, put on trial in Session Trial no.634 of 2011 for the offences punishable under sections 302, 328/34 of



the Indian Penal Code. However, after fulfilled trial the learned F.T.C-I, Nalanda acquitted the appellant of the charges framed against him passing impugned judgment of acquittal dated 07.12.2018.

The appellant being aggrieved by the impugned judgment has preferred this criminal appeal but we are of the view that the appellant has no locus standi to file and pursue this criminal appeal.

The proviso of section 372 of the Cr.P.C gives right to the victim to prefer the appeal against judgment of acquittal . The definition of victim has been given in Section 2w(a) of the Cr.P.C which says that “*victim means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “ victim” includes his or her guardian or legal heir.*”

Admittedly, the appellant is neither guardian nor legal heir of the deceased and, therefore, it is obvious that the appellant does not come under the definition of victim and he has no right to prefer appeal against the impugned judgment of acquittal.

Moreover, appellant has, nowhere, averred in I. A. No. 01 of 2019 that being guardian of deceased he has preferred



the instant criminal appeal therefore, in the aforesaid
circumstance, we are of the view, that the appellant has no locus
standi to prefer this criminal appeal and the instant criminal
appeal stands dismissed being not maintainable.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

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