

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.416 of 2019

In
CRIMINAL APPEAL (SJ) No.4750 of 2018

Arising Out of PS. Case No.-116 Year-2013 Thana- TIKAPATTI District- Purnia

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Kailash Yadav Son of Late Ram yadav Resident of Village - Mehadi, P.S.-
Tikapatti, Dist.- Purnea.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Skinder Mandal Son of Satya Narayan Mandal Resident of Village - Mehdi,
P.S.- Tikapatti, Distt.- Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Vikram Singh
For the Respondent/s : Mr.Abhay Kumar

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)

Date : 01-05-2019

Heard learned counsel for the appellant as well as learned

Additional Public Prosecutor for the State on I.A. No. 1 of 2019

as well as on the point of Admission.

I.A. No. 1 of 2019 has been filed under Section 5 of the
Limitation Act for condonation of delay of 62 days on the
ground that after pronouncement of impugned judgment the
appellant due to wrong advice relating to period of limitation
approached this Court in the last week of October, 2018 and
after that he was asked to collect some relevant papers so that



appeal against the impugned judgment could be filed. However, after collecting the relevant documents, the appellant approached his learned counsel and got filed this appeal.

The present appeal has been filed against the impugned judgment of conviction and sentence order dated 16.07.2018 and 19.07.2018 respectively passed in Sessions Trial No. 180 of 2016 by the learned Sessions Judge, Purnea by which and where under he convicted the respondent no. 2 for the offences punishable under Sections 307 of the Indian Penal Code and 27 of the Arms Act and accordingly, sentenced him to undergo rigorous imprisonment for 10 years and fine of Rs. 5,000/- under Section 307 of the Indian Penal Code and further to undergo rigorous imprisonment for three years and fine of Rs. 5000/- under Section 27(i) of the Arms Act. Furthermore, the learned Trial Court held that in case of default of payment of fine, the respondent no. 2 shall undergo additional six months simple imprisonment. However, learned Trial Court ordered that both the above stated sentences shall run concurrently.

The grievance of the appellant is that the learned Trial Court failed to make provision of compensation to be paid to the appellant. He submitted that the appellant incurred more than Rs. 2 lacs in his treatment but the learned lower Court failed to



take note of this fact. He submitted that there is specific provision under Section 357 of the Code of Criminal Procedure for awarding compensation and the learned Trial Court ignored the aforesaid provision. But we are not at all convinced with the aforesaid submission. No doubt, there is provision under Section 357 of the Cr.P.C., for compensation to victim but Section 357 of the Cr.P.C., is not a mandatory provision and aforesaid Section 357 of the Cr.P.C., gives discretion to Court to make provision of compensation in appropriate cases. However, in our view, the compensation cannot be claimed under Section 357 of the Cr.P.C., as a matter of right and therefore, we do not find any ground to interfere into the findings of the learned Trial Court. Moreover, this appeal has been preferred after delay of 62 days and no sufficient reason for the aforesaid delay has been given. Therefore, this appeal stands dismissed being time barred.

(Hemant Kumar Srivastava, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	AFR
CAV DATE	-----
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