

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.811 of 2016

Arising Out of PS. Case No.-105 Year-2012 Thana- BODHGAYA District- Gaya

Deomanti Devi @ Deowanti Devi, daughter of Karu Paswan, wife of Binod Paswan, resident of village Bongia, P.S. - Mohanpur, District – Gaya, Presently residing at village – Dirawan, P.S. - Choravati, Dist. - Gaya.

... .. Petitioner

Versus

1. The State of Bihar
2. Binod Paswan, son of Vasudev Paswan, resident of village – Bongia, P.S. - Mohanpur, Dist. - Gaya.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Anil Kumar
For the Respondent/s : Mr.Sri Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 03-02-2020 This Revision Application has been preferred against the judgment and order dated 29.06.2016 passed by the VIth Additional Sessions Judge, Gaya in Session Trial No. 78/16/142/13 (S.J.) arising out of Bodh Gaya P.S. Case No. 105/2012 by which opposite party no. 2 namely Binod Paswan has been acquitted from the charge under Sections 302, 307, 309 of the I.P.C.

Learned counsel for the opposite party no. 2 has at the outset raised an objection to the maintainability of the



Revision Application and in this connection attention of this court has been drawn towards sub-section (4) of Section 401 of the Cr.P.C. which reads as under:

"401(4). Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed."

Learned counsel submits that if at all the petitioner being the informant of the case or claiming himself a victim desires to prefer an appeal, he may invoke the relevant provision of sub-section 372 proviso read with Section 378 Cr.P.C. where a victim has a substantive and independent right to appeal against acquittal but in view of the judgment of the Hon'ble Supreme Court in the case of **Roopendra Singh Vs. State of Tripura** reported in **(2017) 13 SCC 612**, he will be require to obtain leave of the High Court before filing of the appeal.

In the aforesaid view of the matter, learned counsel for the petitioner seeks permission to withdraw this Revision Application with liberty to seek his remedy of appeal in accordance with law.



Since presently there is no application of petitioner seeking leave of the Court to convert this application in an appeal, liberty is granted to the petitioner to seek his remedy in appeal by filing an appropriate petition together with an application seeking leave of the High Court.

This Application stands disposed off.

(Rajeev Ranjan Prasad, J)

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