

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79568 of 2019

In
CRIMINAL APPEAL (SJ) No.2707 of 2018

Arising Out of PS. Case No.-67 Year-2006 Thana- ARA MUFFSIL District- Bhojpur

Bhuneshwar Prasad Son of Kishun Chand Prasad Resident of Village-Mahuli,
P.S.-Ara Muffasil, District-Bhojpur.

... .. Petitioner

Versus

1. The State Of Bihar
2. Sarbanand Prasad Son of Rupchand Prasad Resident of Village-Mahuli, P.S.-
Ara Muffasil, District-Bhojpur.
3. Rajeshwar Prasad Son of Rupchand Prasad Resident of Village-Mahuli, P.S.-
Ara Muffasil, District-Bhojpur.
4. Shivdayal Prasad Son of Rupchand Prasad Resident of Village-Mahuli, P.S.-
Ara Muffasil, District-Bhojpur.
5. Kameshwar Prasad Son of Rupchand Prasad Resident of Village-Mahuli,
P.S.-Ara Muffasil, District-Bhojpur.
6. Santosh Prasad Son of Rajeshwar Prasad Resident of Village-Mahuli, P.S.-
Ara Muffasil, District-Bhojpur.
7. Mithu Prasad Son of Rajeshwar Prasad Resident of Village-Mahuli, P.S.-Ara
Muffasil, District-Bhojpur.

... .. Opposite Parties

Appearance :

For the Petitioner : Mr.Surendra Kishore Thakur, Adv.

For the Opposite Parties : Mr.Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 22-01-2020 This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for restoration of Criminal Appeal (S.J) No. 2707 of 2018 to its original file, which was dismissed for want of prosecution on 30.10.2018.

It is submitted by the learned counsel for the



petitioner that on 30.10.2018 when the case was called out, learned counsel for the petitioner could not appear as the advocate clerk had failed to mark the cause list. It is further stated that on 30.10.2018 the case was listed under the heading “For Orders on Office Notes” as the stamp reporter had pointed out certain defects including the appeal being barred by law of limitation. It is contended that there is neither any deliberate nor intentional laches on the part of the appellant of Criminal Appeal (S.J) No. 2707 of 2018. However, from the record, it would transpire that the appeal was preferred under the proviso to Section 372 of the Code of Criminal Procedure challenging the judgment dated 16.03.2018 passed by the Fast Track Court-I, Bhojpur at Ara in Sessions Trial No. 496 of 2007 arising out of Mufassil P.S. Case No. 657 of 2006, whereby the accused persons were acquitted of the charges under Sections 341 read with 34, 325 read with 34, 323 read with 34 and 307 read with 34 of the Indian Penal Code and one of the accused was convicted only under Section 323 of the Indian Penal Code and was released after admonition in exercise of powers under Section 3 of the Probation of Offenders Act.

The said appeal was filed on 24.07.2018. On 27.07.2018, the learned Joint Registrar (Judicial) granted four



weeks final time to the appellant to remove the defects pointed out by the stamp reporter. However, the defects were not removed. Thereafter, the case was listed before this Bench for orders on 10.09.2018. On that date, as prayed for on behalf of the appellant, ten days time was granted to remove the defects, as pointed out by the registry, but despite lapse of seven weeks, the appellant had not removed the defects. In the aforesaid background, on 30.10.2018 when the appeal was taken up, the counsel for the appellant was not present and, thus, the same was dismissed for want of prosecution.

Regard being had to the manner in which the appellant has conducted the appeal before this court against judgment of acquittal, I am not inclined to allow the instant application for restoration of appeal. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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