

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.77 of 2021

Arising Out of PS. Case No.-157 Year-2013 Thana- BIHIA District- Bhojpur

Ravindra Kumar S/o Chatur Ram R/o village- Samardah, P.S.- Bihiya, Distt.-
Bhojpur

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Manoj Kumar, Advocate

For the Respondent : Mr. Satya Narayan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

2 03-08-2021 Mr. Manoj Kumar, learned counsel for the appellant seeks leave to withdraw the present memo of appeal. He submitted that another appeal in the same subject matter has already been filed before Single Judge after filing of the present appeal. He contended that in view of the sentence awarded by the trial court, the appeal would be maintainable before Single Judge and not before Division Bench.

On query as to why another appeal was filed challenging the same judgment of the trial court during the pendency of the appeal before this Court, he tendered unqualified apology. He tried to justify his action by saying that since the appeal was not being listed before the Bench and the appellant is in custody, he filed the subsequent memo of appeal



during the pendency of the present appeal. He submitted that due to his inadvertence the appeal, though not maintainable before Division Bench, was filed as Division Bench appeal. He submitted that he would not commit such mistake in future. We do not approve such conduct on the part of the counsel appearing for the appellant. We are also of the view that such practice on the part of a counsel would amount to professional misconduct.

If an appeal maintainable before Single Judge is filed inadvertently before Division Bench, the same should be withdrawn and with leave of the Court another appeal may be filed before Single Judge in the same subject matter but during the pendency of an appeal, another appeal against the same impugned judgment cannot be filed.

In any view of the matter, since Mr. Manoj Kumar, counsel for the appellant has tendered unqualified apology, the Court would not like to proceed further in the matter.

The appeal is dismissed as withdrawn.

(Ashwani Kumar Singh, J)

(Arvind Srivastava, J)

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