

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.273 of 2019

Arising Out of PS. Case No.-98 Year-2004 Thana- DUMRAO District- Buxar

SANJU DEVI @ SANJU KUMARI Daughter of Late Ram Pravesh Ray
Resident of Village - Ekbari, P.S.-Sahar in the district of Bhojpur (Ara),
present Resident of Hata of Hari Ji, Ward No. 10, P.S. -Dumraon, District -
Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bimlesh Pandey, Son of Narayan Pandey Resident of Village - Shivpur, P.S.
- Sahpur, District - Bhojpur (Ara).
3. Bhagwan Ray, Son of Hira Ray Resident of Village - Sonpa (Jalilpur), P.S. -
Rajpur, District - Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar
For the Respondent/s : Mr. Madhura Nand Jha

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 15-12-2023 Heard the learned counsel for the parties.

2. The petitioner is the victim-cum-informant in
respect of Dumraon P. S. Case No. 98 of 2004,
corresponding to Sessions Trial No. 177 of 2005. On the
basis of an F.I.R., a case under Section 376(1)/34 of the
Indian Penal Code was registered against Opposite Parties.
On conclusion of trial, the Opposite Parties were found
guilty for committing offence under Section 376(1)/34 of
the Indian Penal Code. They were convicted and sentenced
to undergo simple imprisonment for two years and also to



pay fine of Rs. 25,000/- and in default of payment, simple imprisonment for two months each.

3. The petitioner has preferred the instant revision against the quantum of sentence.

4. It is submitted by the learned Advocate for the petitioner that considering the nature and gravity of offence, the accused persons ought to be punished with rigorous imprisonment at least for the minimum period that has been prescribed under Section 376(1) of the IPC.

5. Proviso to Section 372 of the Code of Criminal Procedure, which is inserted by way of Cr.P.C. Amendment Act, 5 of 2009, w.e.f. 31st of December, 2009, provides a right to the victim to prefer an appeal against the order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation and such appeal shall lie to the Court to which an appeal ordinary lies against the order of conviction of such Court.

6. Taking aid of the above provision, right course of action on the part of the petitioner was to file an appeal before the Court of Appellate Court.

7. The learned Advocate for the petitioner has



filed a copy of the order dated 3rd of December, 2018, passed by a Co-ordinate Bench of this Court in Cr. Appeal (SJ) No. 63 of 2018, stating, *inter alia*, that the Hon'ble Judge granted leave to withdraw the appeal in order to file revision against the impugned judgement. Therefore, with the leave of a Co-ordinate Bench, the instant appeal has been filed.

8. In my humble view, when the victim has been granted liberty to file an appeal against conviction of lesser offence, he / she can also file an appeal against lesser sentence in respect of convicting the accused under graver offences.

9. For the reasons stated above, I do not find any merit in the instant revision.

10. Practically, this Court has no jurisdiction to give relief to the petitioner. Therefore, the instant revision is dismissed, giving liberty to the petitioner to file an appropriate appeal before the competent Court.

(Bibek Chaudhuri, J)

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