

Arising Out of PS. Case No.-104 Year-2016 Thana- DIGHALBANK District- Kishanganj

... .. **Appellant**

The State of Bihar

... .. Respondent

For the Appellant/s : Mr.Raj Kumar, Advocate
For the Respondent/s : Mr.Abhay Kumar, APP

3. It would be appropriate to reproduce Section 376 of the Cr.P.C. for better understanding of the fact and legal proposition, which reads as under:-



“376. No appeal in petty cases. Notwithstanding anything contained in section 374, there shall be no appeal by a convicted person in any of the following cases, namely:-

(a) where a High Court passes only a sentence of imprisonment for a term not exceeding six months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;

(b) where a Court of Session or a Metropolitan Magistrate passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine;

(c) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or

(d) where, in a case tried summarily, a Magistrate empowered to act under section 260 passes only a sentence of fine not exceeding two hundred rupees: Provided that an appeal may be brought against any such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground-

(i) that the person convicted is ordered to furnish security to keep the peace; or

(ii) that a direction for imprisonment in default of payment of fine is included in the sentence; or

(iii) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case.”

4. As the present appeal where appellant, on conviction, only sentenced with a fine of Rs. 200/- by Special Court of Excise, District - Kishanganj, which is barred under Section 376(b) of the Cr.P.C., as above, appears not maintainable and, accordingly, the same is hereby dismissed.

(Chandra Shekhar Jha, J.)

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