

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2499 of 2024

Arising Out of PS. Case No.-185 Year-2021 Thana- PHULPARAS District- Madhubani

Ramesh Kumar @ Ramesh Sah @ Ramesh Kumar Sahu S/O Ram Narayan Sah @ Ram Narayan Sahu @ Ram Narayan Sahoo R/O Village Bahuraba, P.S. Phulparas, Distt-Madhubani.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Uttam Sahu, Advocate

For the Respondent/s : Mrs. Abha Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 29-08-2024 1. Heard learned counsel appearing on behalf of the parties.

2. It is submitted by Id. counsel for the petitioner that inadvertently, this appeal was filed before Id. Single Judge of this Court, as through same impugned judgment one of the co-accused namely, Dewan Yadav @ Deban Yadav convicted for the offence under Section 302 of the IPC and ordered to undergo sentence for rigorous imprisonment for life and as such appeal of this appellant is also the subject of Division Bench of this Court, as per set precedent and Patna High Court Rules.



3. In aforesaid context, it would be apposite to reproduce relevant part of Cr. APP (SJ). No. 4152 of 2018 dated 06.11.2018, where the similar issue was dealt in details. For better understanding same is being reproduced herein below:

" In this regard, one may refer to Chapter XII of the Rules of the High Court at Patna wherein the procedure in criminal cases has been incorporated. Rule 35 in Chapter XII provides that criminal appeals other than Jail appeals shall be presented in open Court. Rule 36 provides that Jail appeals may be received by post. It further provides that in the case of such appeals after the Trial Assistant has reported it whether it is within time and admissible, the Registrar shall submit it with a copy of judgment or order appealed against to a Bench for orders. Proviso to Rule 36 provides that an appeal in which substantive sentence up to and inclusive of ten years has been passed shall be laid before a Single Judge for admission. All other appeals in which sentence is more than 10 years has to be laid before a Division Bench for admission.

In the present case, as one of the accused has been sentenced to life imprisonment, in the opinion of this Court, an appeal would lie before the Division Bench. It is immaterial that other accused persons have been awarded less than 10 years punishment. It is the maximum sentence awarded by the trial court after completion of the trial, which would be



material for consideration as to whether the appeal would lie before the Single Judge or the Division Bench.”

4. Accordingly, in view of aforesaid, this appeal which has been filed before Single judge is not maintainable.

5. The appellant would be at liberty to take necessary steps to convert present appeal, as an appeal before “Division Bench” of this Court preferably within four weeks.

6. The present appeal shall be treated disposed of as not maintainable, upon aforesaid conversion, without any further reference to this Bench.

(Chandra Shekhar Jha, J)

veena/-

U		T	
---	--	---	--

