

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3526 of 2024

Arising Out of PS. Case No.-150 Year-2019 Thana- TARIYANI CHOWK District- Sheohar

1. Jamindar Paswan S/o- Late Kaldhari Paswan Village- Kopgadh PS- Tariyani Dist- Sheohar
2. Surendra Paswan son of Jamindar Paswan Village- Kopgadh PS- Tariyani Dist- Sheohar

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Hans Lal Kumar, Advocate

For the Respondent/s : Mr.Syed Ashfaque Ahmad, Addl.PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 26-10-2024 Heard learned counsel appearing on behalf of the parties.

2. Although, the matter has been placed under the heading "For Orders (On Office Notes)" as to convert this appeal in Criminal Appeal (DB) against the judgment of conviction and sentence of life imprisonment of co-accused.

3. It is submitted by learned counsel for the appellant that inadvertently, this appeal has been filed before learned Single Judge of this Court, whereas it should be filed before the Hon'ble Division Bench of this Court as per set precedent and Patna High Court Rules.

4. In aforesaid context, it would be apposite to reproduce relevant part of order dated 06.11.2018 passed in Cr.



APP (SJ). No. 4152 of 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."

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

6. 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.

7. 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)

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