

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.758 of 2017

Arising Out of PS. Case No.-321 Year-2001 Thana- BHABHUA District- Kaimur (Bhabua)

Kamla Pati Singh, Son of Late Jagarnath Singh, Resident of Village- Kori,
P.O.- Khaira, P.S.- Bhabua, District- Kaimur, Bhabua.

... .. Appellant

Versus

1. The State of Bihar
2. Ramesh Singh, Son of Late Fulchund Singh, Resident of Varuna, P.S.
Bhabua, District- Bhabua at Kaimur.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Dilip Kumar Sinha, Addl PP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

11 19-06-2024 The matter has been placed under heading ‘For Office Notes’ with a note that step for fresh service of notice on private Respondent No. 2 with his correct present address has not been taken as yet as per computer status.

2. Mr. Abhishek Kumar, learned counsel for the appellant submits that he has instruction not to proceed against Respondent No. 2. Respondent no. 3 has already died.

3. Having said so, learned counsel submits that the appellant has filed one interlocutory application being I.A. No. 3 of 2023 in which he is seeking a direction to the District Legal Services Authority, Bhabhua, Kaimur to award a compensation in terms of Section 357A of the Code of Criminal Procedure, 1973.



4. In course of argument, however, learned counsel for the appellant submits that the interlocutory application has been filed on behalf of the wife of the deceased but on perusal of the interlocutory application, it appears that it has been filed on behalf of the appellant. The affidavit is not duly filled up and the blank spaces have been left in paragraph '2' of the affidavit without giving the paragraph numbers.

5. Initially, this appeal was preferred under Section 372 of the Code of Criminal Procedure for setting aside the judgment of conviction dated 04.02.2017 and the order of sentence dated 13.02.2017 passed by learned Additional Sessions Judge-IV, Kaimur at Bhabhua in Sessions Trial No. 174 of 2002 arising out of Bhabhua P.S. Case No. 321 of 2001 dated 03.11.2001 wherein the Respondent No. 2 has been given benefit of doubt and has been acquitted from the charges under Sections 302, 120B, 34 of the Indian Penal Code as also under Section 27 of the Arms Act. The appellant was further aggrieved by the lesser punishment imposed upon Respondent No. 3. Respondent No. 3 is no more and it is recorded in the order dated 13.04.2023 that Respondent No. 3 has died during the pendency of this appeal and accordingly this appeal abates as against Respondent No. 3.

6. At this stage, since the learned counsel for the appellant has instruction not to press the appeal against



Respondent No. 2, in the opinion of this Court, this appeal cannot proceed as it is.

7. The Interlocutory Application No. 3 of 2023 seems to have been filed for seeking a direction to the District Legal Services Authority, Bhabhua to award compensation but in course of argument, learned counsel for the appellant has informed this Court that an application for compensation was preferred before the said authority which has already been rejected. A writ application preferred against the order of the District Legal Services Authority by the wife of the deceased has been withdrawn with liberty to avail appropriate remedy before appropriate forum.

8. In the given circumstance, this Court is of the considered opinion that I.A. No. 3 of 2023, as framed, is not only defective but is also not entertainable in the present appeal.

9. As a result, this appeal is to be treated as not pressed. The appeal as well as Interlocutory Application No. 3 of 2023 are dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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