

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.494 of 2021

Arising Out of PS. Case No.-56 Year-2008 Thana- BIHPUR District- Bhagalpur

MAHENDRA PRASAD YADAV, Son of Kritee Prasad Yadav Resident of
Village- Narayanpur, P.S.- Bihpur (Bhawanipur), District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sant Lalf Mandal, Son of Late Makko Mandal Resident of Village- Shahpur,
P.S.- Bihpur (Bhawanipur), District- Bhagalpur.
3. Sanjay Mandal, Son of Sant Lal Mandal Resident of Village- Shahpur, P.S.-
Bihpur (Bhawanipur), District- Bhagalpur.
4. Pradip Mandal, Son of Late Deo Narain Mandal Resident of Village-
Shahpur, P.S.- Bihpur (Bhawanipur), District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Amrendra Kumar, Advocate
For the State	:	Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 27-06-2025 The present petition has been preferred against the judgment of acquittal dated 17.09.2020 passed by learned A.D.J. IV, Naugachiya in criminal appeal No. 46 of 2014, whereby learned Appellate Court below has acquitted the convicts/appellants, who are opposite party nos. 2 to 4 herein. The said criminal appeal was filed by the appellants against the judgment of conviction and order of sentence, passed by learned Sub Divisional Judicial Magistrate, Naugachia, Bhagalpur, in G.R. Case No. 202 of 2008, T.R. No. 499 of 2014, whereby Opposite Party Nos. 2 to 4 were convicted and rest



three accused were acquitted.

2. Hence, being aggrieved by the impugned/order passed by learned Appellate Court below, the petitioner has preferred the present Criminal Revision petition because the petitioner was informant and victim of the case.

3. But, in view of Proviso to Section 372 Cr.PC, the informant/victim has absolute right to file an appeal and as per Section 401 Cr.PC., when Criminal Appeal lies, no criminal revision is maintainable. Accordingly, the present criminal revision petition is mis-conceived. The petitioner should have filed Criminal Appeal against the impugned judgment of acquittal passed by learned Appellate Court below. Here, one may refer to the case of **Suman Devi Vs. State of Bihar and Anr.** as reported in **2025 (2) PLJR 723/AIROnline 2025 PAT 224 / MANU/BH/0406/2025/2025 SCC OnLine Pat 1862** passed by this Court.

4. However, this Court has also right to convert this petition into Criminal Appeal and treat it accordingly. However, at this stage, learned counsel for the petitioner informs that the petitioner has died and the legal heirs of the petitioner are to be substituted. Under such facts and circumstances, it would better to give liberty to the petitioner to file fresh Criminal



Appeal, rather than to convert the present petition into Criminal Appeal.

5. Accordingly, the present petition is dismissed as non-maintainable with liberty to the petitioner to file Criminal Appeal afresh.

6. The time consumed in prosecuting the present petition under wrong jurisdiction would be considered under Section 14 of the Limitation Act while hearing the Criminal Appeal, if filed by the petitioner.

(Jitendra Kumar, J)

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