

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.779 of 2019

Arising Out of PS. Case No.-451 Year-2007 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Abhishek Prasad @ Abhishek Kumar, Son Of Late Jhakkad Sah, Resident Of
Village - Malkauli, P.S.- Bagaha, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bhola Sah, Son of Late Chhathu Sah, Resident of Village - Naraipur, P.S.-
Bagaha, District - West Champaran (Accused/Appellant in the Courts
Below).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suresh Prasad Sharma, Advocate
For the State	:	Mr. Brajendra Nath Pandey, APP
For the O.P. No. 2	:	Mr. Prithvi Nath Mishra, Advocates

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

21 08-07-2025 The present Criminal Revision petition has been preferred by the petitioner against the impugned judgment and order dated 30.04.2019, passed by learned Additional Sessions Judge-Ist, Bagaha, West Champaran in Cr. Appeal No. 17C of 2016, whereby learned Appellate Court below has set aside the judgment of conviction and order of sentence dated 19.08.2016, whereby learned Trial Court of S.D.J.M., Bagaha, West Champaran has found the O.P. No. 2/Bhola Sah guilty of offence punishable under Section 138 of Negotiable Instrument Act, whereas co-accused, Shivshankar Sah, was acquitted.

2. Against the judgment of conviction and order of



sentence, passed by learned Trial Court against O.P. No. 2/Bhola Sah, Bhola Sah preferred the said Cr. Appeal bearing No. 17C of 2016 and the same has been allowed by learned Appellate Court below acquitting him of all the charge. Hence, the present petition has been preferred by the complainant/victim, who is the petitioner herein.

3. I find that the present Criminal Revision is not maintainable in view of **Suman Devi Vs. State of Bihar and Anr.**, as decided by this Court and as reported in **2025 SCC OnLine Pat 1862/ MANU/BH/0406/2025/AIROnline 225 PAT 224.**

4. In **Suman Devi case** (supra), this Court has exhaustively dealt with the issue regarding right of victim to file Appeal under Proviso to Section 372(2) Cr.PC and held that in view of Proviso to Section 372(2) Cr.PC, the victim has always remedy to file Criminal Appeal against the judgment of acquittal of the accused and in view of such availability of the remedy to the victim, Criminal Revision is hit by Section 401(4) Cr.PC. However, it has been held that the Court has liberty to convert the present Criminal Revision petition into Criminal Appeal and treat the same accordingly and decide it on merit.

5. As such, the present Criminal Revision petition is



liable to be dismissed on account of maintainability.

6. However, in view of the legal Provisions, this Court has right to direct conversion of the present Criminal Revision Petition into Criminal Appeal.

7. Accordingly, the present Criminal Revision petition is converted into Criminal Appeal. Office is directed to do necessary correction in the present Criminal Revision petition and list the Appeal before appropriate Bench after obtaining necessary permission of Hon'ble the Acting Chief Justice.

(Jitendra Kumar, J.)

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