

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.847 of 2019

Arising Out of PS. Case No.-149 Year-2008 Thana- CIVIL LINE District- Gaya

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Shailesh Kumar Son of Sri Jagdish Singh @ Kishun Singh Resident of Mohalla - Nai Godam, Maharani Road, House of Awadhesh Singh, P.S.- Kotwali, District - Gaya.

... .. Petitioner

Versus

1. The State Of Bihar
2. Pratap Narayan Mishra Son of Vishnu Datt Mishra Resident of Mohalla - Dakhin Darwaja Sisauriya Chaura, P.S.- Civil Lines, District - Gaya.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Ajay Kumar Sinha, Advocate
For the State	:	Mr. Pawan Kumar Chaurasia, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

7 16-01-2025 The present Criminal Revision Petition has been preferred by the Petitioner against the impugned judgment dated 15.11.2017 passed by learned Judicial Magistrate First Class, Gaya in G.R. Case No. 1595 of 2008 corresponding T.R. No. 2069 of 2017 whereby the Opposite Party No.2 has been acquitted of the charge under Section 406, 420 and 504 of the Indian Penal Code and Section 138 of the N.I Act.

2. Hence, the Petitioner being a victim of the alleged offence has remedy to file Criminal Appeal before learned Sessions Court against the impugned judgment. However, instead of filing Criminal Appeal before appropriate Court, he has preferred the present Criminal Revision Petition, but this



Criminal Revision Petition in view of Section 401 (4), is not maintainable because as per sub-Section 4 of Section 401 Cr.PC, it is provided where an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

3. At this stage, learned counsel for the Petitioner is seeking permission to withdraw the present petition with liberty to file criminal appeal before the appropriate Court.

4. Accordingly, the present petition is dismissed as withdrawn with liberty to the petitioner as sought for.

5. While considering the application of the Petitioner for condonation of delay, learned Sessions Court may take into consideration Section 14 of the Limitation Act.

6. LCR be sent to the court below forthwith.

(Jitendra Kumar, J.)

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