

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.952 of 2019

Arising Out of PS. Case No.-210 Year-2013 Thana- AMARPUR District- Banka

Deepak Malakar, Son Of Ram Malakar, Resident Of Village - Badshaganj,
P.S.- Amarpur, Dist.- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nawadi Devi, W/o Sudhir Malakar, Resident of Village - Badshagsanj, P.S.- Amarpur, Dist.- Banka.
3. Sudhir Malakar, Son of Late Jagannath Malakar, Resident of Village - Badshagsanj, P.S.- Amarpur, Dist.- Banka.
4. Nandkishor Malakar, Son of Sudhir Malakar, Resident of Village - Badshagsanj, P.S.- Amarpur, Dist.- Banka.
5. Sharwan Malakar, Son of Nawal Malakar, Resident of Village - Badshagsanj, P.S.- Amarpur, Dist.- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None
Amicus Curiae	:	Mr. Raj Kumar, Advocate
For the State	:	Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

14 17-06-2025 Nobody is present on behalf of the petitioner. Hence,

Mr. Raj Kumar, Advocate, who is present in the Court, was

requested to assist this Court as an Amicus Curiae on behalf of

the petitioner and he has graciously agreed to do it.

2. The case is at the stage of admission.

3. Heard on the point of admission.

4. The present revision petition has been preferred

against the judgment and order of sentence dated 27.04.2019,

passed by learned Additional Sessions Judge-III, Banka in S.T.



No. 468 of 2014, whereby the private opposite parties were acquitted of the charge under Sections 307, 504 and 326 read with Section 34 of the Indian Penal Code and convicted only under Section 341, 323 and 324 of the Indian Penal Code and were given benefit of Probation of Offenders Act.

5. The petitioner, being informant and victim, is aggrieved by the judgment of acquittal as well as inadequacy of sentence imposed against the private opposite parties.

6. This Court in **Suman Devi Vs. State of Bihar & Anr.** as reported in **2025 SCC Online Pat 1862/MANU/BH/0406/2025/AIR Online 2025 PAT 224** has elaborately discussed the remedy available to the victim in case of acquittal and as per this judgment, this Court has held that the victim/petitioner has remedy to file Criminal Appeal to this Court under the Proviso to Section 372 Cr.PC without any leave or special leave. It has been further held that in view of Section 401(4) Cr.PC, Criminal Revision is not maintainable, because when remedy of Criminal Appeal is available, Criminal Revision is barred under Section 401(4) Cr.PC. However, under Section 401 Cr.PC, this Court can convert the Criminal Revision into Criminal Appeal and treat the same accordingly and decide it on merit.



7. Accordingly, the present Criminal Revision petition is converted into Criminal Appeal.

8. Office is directed to do necessary correction in the Revision Petition as per law and list the Criminal Appeal before the appropriate Bench with permission of Hon'ble the Chief Justice.

9. Assistance provided by learned Amicus Curiae, Mr. Raj Kumar, is highly appreciated. Hence, Secretary, Patna High Court, Legal Services Committee is directed to pay honorarium of Rs. 5,000/- to Sri. Raj Kumar, learned Amicus Curiae.

10. Supply a copy of this order to the learned Amicus Curiae.

(Jitendra Kumar, J)

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