

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.153 of 2011**

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Ajay Kumar Sharma S/O Late Awadh Mahto Resident Of Village- Katahara
Maner, P.S- Maner, District- Patna. Appellant/s

Versus

The State Of Bihar Respondent/s

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Appearance :

For the Appellant/s : Mr. Sachchidanand Choudhary, Advocate

For the Respondent/s : Mr. Sujit Kumar Singh, A.P.P.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 26-05-2026 Perused the Letter dated 14.05.2026 of the Police

Sub-Inspector, Maner Police Station, Patna, wherein it is

indicated that during enquiry it came to light that the sole

appellant, namely, Ajay Kumar Sharma, is dead.

2. In view of the said letter as also Section 394 of the

Code of Criminal Procedure, 1973, which corresponds to

Section 435 of the Bharatiya Nagarik Suraksha Sanhita, 2023,

since no near relative has filed any application for leave to

continue the appeal and having regard to the settled position of

law as enunciated by the Hon'ble Division Bench of the High

Court of Judicature at Allahabad in *Santosh Kumar Baranwal*
-Vrs.- State of UP, reported in 2010 SCC OnLine All 974,

wherein it has been categorically held that upon conviction

under Section 302 of the Indian Penal Code, 1860, the

imposition of fine is discretionary in nature and does not partake



the character of a mandatory requirement, and the legal position affirmed by the Hon'ble Division Bench of the High Court of Judicature at Bombay in *Gopala Balu Kamble -Vrs.- State of Maharashtra, reported in 2011 SCC OnLine Bom 1290* being in consonance therewith, and whereas the appellant has since expired during the pendency of the present appeal and the conviction sought to be assailed pertains to the year 2011, and the State does not intend to pursue the recovery of the fine amount as imposed by the learned Trial Court, this Court , upon due consideration of the aforesaid facts, circumstances and settled legal position, hereby sets aside the order of imposition of fine passed by the learned Trial Court, and since the appeal insofar as it pertains to the sentence of imprisonment stands abated consequent upon the demise of the appellant, the present appeal is disposed of as having abated in its entirety.

3. Let the trial court records be sent back to the concerned court immediately, if not required in any other cases.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

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