

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1256 of 2007

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Dilip Mallah, son of Shyam babu Mallah, resident of mohalla- Nadraganj
Mallahtoli, P.S.- Civil lines, District- Gaya

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant	:	Mr. Shivendra Prasad, Advocate
For the Respondent	:	Smt. Shashi Bala Verma, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 26-05-2026 Perused the report dated 14.05.2026 of the Senior Superintendent of Police, Gaya along with the report dated 13.05.2026 of the Police Inspector-cum-S.H.O., Civil Lines Police Station, Gaya, which indicate that the sole appellant Dilip Mallah is dead and the death certificate of the appellant is annexed with the said report.

2. In view of the said reports 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 v. 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 v. 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 2007, 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 record be sent back to the



concerned court immediately, if not required in any other case.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

shailendra/-

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