

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.792 of 2010

Shiv Sagar Rai, Son of Chandar Rai, resident of village Saidabad, Police Station- Raghapur, District – Vaishali. Appellant/s

Versus

The State Of Bihar Respondent/s

Appearance :

For the Appellant/s : Mr. P.C.Yadav, Advocate

For the Respondent/s : Mr. Ajay Mishra, A.P.P.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 26-05-2026 Perused the Letter No. 739 dated 12.05.2026 of the Superintendent of Police, Vaishali along with the Report dated 28.04.2026 of the S.H.O, Raghapur Police Station, Vaishali, wherein it is indicated that during enquiry it came to light that the sole appellant, namely, Shiv Sagar Rai, 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 2010, 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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