

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5086 of 2023**

Arising Out of PS. Case No.-555 Year-2005 Thana- NALANDA COMPLAINT CASE
District- Nalanda

=====

Sangeeta Devi @ Sangita Kumari, D/O Ramdeo Prasad, W/O Dharmendra Kumar, Resident of Village- Madakchak, P.S.- Rahui, Dist. Nalanda.

... .. Appellant

Versus

1. The State of Bihar
2. Dharmendra Kumar Resident Of Vivek Vihar, Haridwar, Ps. Jwalapur, Dist. Haridwar (UTTARAKHAND).
3. Rajendra Prasad Resident Of Vivek Vihar, Haridwar, Ps. Jwalapur, Dist. Haridwar (uttarakhand).

... .. Respondent/s

=====

Appearance :

For the Appellant	:	Mr. Rajesh Mohan, Advocate
For the State	:	Mr. Anand Mohan Prasad Mehta, APP

=====

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

7 13-01-2026 The present Cr. Appeal has been preferred by the victim/Complainant, Sangeeta Devi @ Sangeeta Kumari against the judgment of acquittal dated 02.04.2019 passed by learned Additional Chief Judicial Magistrate-VI, Biharsharif in Complaint Case No. 555C of 2005 whereby the appellant has been acquitted of the charge framed under Section 498-A, 323, 379 read with Section 34 of the Indian Penal Code.

2. The present appeal has been directly filed in this Court against the judgment of acquittal passed by learned Additional Chief Judicial Magistrate-VI, Biharsharif.

3. In my considered view, the present Appeal is



misconceived in view of the proviso to Section 372

Cr.PC/Proviso to Section 413 B.N.S. which reads as follows:-

“No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Sanhita or by any other law for the time being in force: Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

4. It is crystal clear from the provisions that the victim has absolute right to file an appeal in the Court to which an Appeal ordinarily lies against the order of conviction of such court.

5. It goes without saying that the impugned judgment has been passed by learned Judicial Magistrate against whose order an Appeal ordinarily lies before Sessions court, but instead of filing Criminal Appeal before Sessions Court, the victim has preferred an Appeal before this court which is not maintainable. Reliance is placed on ***Smt. Suman Devi vs State of Bihar*** reported in ***2025 SCC Online Pat 1862***.

6. At this stage, learned counsel for the Appellant is seeking permission to withdraw the present appeal with liberty to file Criminal Appeal before learned Sessions Court.

7. Hence, the present Appeal is dismissed as not



withdrawn with liberty to file an Appeal before the competent Court within a period of one month and when the Appeal is filed within the stipulated time, learned court below will consider to condone the delay in filing the Criminal Appeal under Section 14 of the limitation Act.

(Jitendra Kumar, J)

S.Ali/-

U		T	
---	--	---	--

