

Shesmuni Singh Vs State Of Bihar

Court: Patna High Court

Date of Decision: May 4, 2023

Acts Referred: Indian Penal Code, 1860 " Section 34, 307, 323, 324, 325, 452
Code Of Criminal Procedure, 1973 " Section 372, 401(4), 401(5)

Hon'ble Judges: Dr. Anshuman, J

Bench: Single Bench

Advocate: Anant Kumar Pandey, Md. Ashlam Ansari

Final Decision: Disposed Of

Judgement

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The present criminal revision application has been filed against the order dated 10.08.2016 passed by the learned Additional District Judge-IVth,

Bhojpur at Ara in Sessions Trial No. 99 of 2001 arising out of Udwanthnagar P.S. Case No. 153 of 1999 in which charge has been framed under

Sections 452, 323, 325/ 34 and also under Section 307 of the I.P.C. read with Section 324 of the I.P.C.

Counsel for the petitioner submits that the Trial Court has passed order on 10.08.2016. The petitioner is informant/ victim in the said case.

Counsel for the State submits that the petitioner's case is based on Section 401(5) of the Cr.P.C., then conjugal reading of Section 401(4) of the

Cr.P.C. and the proviso of Section 372 of the Cr.P.C. empowers the informant being a victim to prefer an appeal against convicting to the accused for

a lesser offence and it is also directed that such appeal shall lie to the Court to which an appeal ordinarily lie against the order of conviction of the

Court.

Upon specific query from the counsel for the petitioner that whether the order/ judgment impugned has been challenged anywhere, then he submits

that the accused of the said Sessions Trial have challenged appeal before this Court which is still pending.

In this view of the matter, this Court is not inclined to entertain in the present case, therefore, this criminal revision application is hereby dismissed but

liberty is hereby granted that informant/ victim (petitioner) may avail remedy under proviso of Section 372 of the Cr.P.C. because it is categorically

mentioned by the law maker in the said Section that victim shall have right to prefer appeal against any order passed by the Court convicting for a

lesser offence and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

Here in the present case, the appeal lies against the order of conviction of such Court before this Hon'ble Court in criminal appeal by the

convicted persons.

As such, the criminal appeal by the informant/ victim shall also lie before this Court under proviso of Section 372 of the Cr.P.C.

In this view of the matter, the present criminal revision application stands disposed off.