

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (DB) No.462 of 2018

Arising Out of PS.Case No. -83 Year- 2007 Thana -BARSOI District- KATIHAR

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1. Md. Jamshed @ Musa, son of Late Safiruddin, Resident of Village- Bighore, P.S.- Barsoi (Kachna O.P.), District- Katihar.

.... Appellant/s

Versus

1. The State of Bihar.
2. Jinnah, son of Late Abdul Latif,
3. Kasim, son of Late Abdul Latif,
4. Budhu, son of Late Latif
5. Beltu, son of Late Md. Rehan All are the resident of Village- Aagpara, P.S.- Abadpur, District- Katihar.
6. Tej Bahadur Singh, son of Late Kamta Prasad.
7. Suraj Singh, son of Late Radha Mohan Singh,
8. Gautam Mahto, son of Late Hari Mahto,
9. Abbad, son of Late Md. Mokimuddin, All are the resident of Village- Kachna, P.S.- Barsoi, District- Katihar.
10. Md. Jasbur, son of Late Md. Sirajuddin,
11. Rashid, son of Late Md. Khalil
12. Manjar, son of Late Md. Khalil
13. Hakim, son of Late Mojiruddin
14. Chikua, son of Late Md. Petua, All are the resident of Village- Nazrebari, P.S.- Barsoi, District- Katihar.
15. Mansoor, son of Late Md. Musa,
16. Hussain, son of Late Md. Hanif,
17. Jalil Ansari, son of Late Md. Musa,
18. Raju, son of Late Mahboob Ansari,
19. Dhaneshwar Mahto, son of Late Gudar Mahto, All are the resident of Village- Bighour, P.S.- Barsoi, District- Katihar.
20. Sarful Hoda, son of Late Tamijuddin, Resident of Village- Bengi Tola, P.S.- Barsoi, District- Katihar.
21. Master, son of Late Peshkar Ali, Resident of Village- Khidarbari, P.S.- Barsoi, District- Katihar.



22. Sahabuddin, son of Late Tema Hazi,
 23. Dhapua, son of Late Md. Habib, Both are the resident of Village-
 Dogachh, P.S.- Barsoi, District- Katihar.
 24. Md. Jalil, son of Late Md. Umer Ali,
 25. Majharul Alam @ Majnu, son of Late Mofijuddin,
 26. Sakir, son of Late Amalat Sarkar,
 27. Hamid, son of Late Basiruddin,
 28. Khokha, son of Late Rehman,
 29. Ainul, son of Late Bhola Baksh,
 30. Samda Hazi, son of Late Basiruddin,
 31. Motiur Rehman, son of Late Rehman,
 32. Ayub, son of Late Rehman,
 33. Md. Nasir, son of Late Samda Hazi,
 34. Sohrab Ali, son of Late Salam,
 35. Afaque Ansari, son of Late Saieed Ansari, All are the resident of
 Village- Jokalbari, P.S.- Barsoi, District- Katihar.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Vikramdeo Singh

Mr. Md. Musowir

For the State : Mr. Abhimanyu Sharma

For respondent nos.2 to 35 Mr. Bimal Kumar

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
 SRIVASTAVA**

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

5 31-10-2018 Heard learned counsel for the appellant as well as learned Addl. Public Prosecutor for the State and also heard learned counsel for respondent nos.2 to 35.



I.A. no. 1506/2018 has been filed on behalf of the appellant under section 378(3) of the Cr.P.C praying therein to permit the appellant to file this appeal.

Section 378 of the Cr.P.C prescribes that the State Government is competent to file appeal before the High Court against the judgment of acquittal and section 372 of the Cr.P.C says that no appeal shall lie from any judgment or order of a criminal court except as provided by this Code or by any other law for the time being in force. However, proviso to section 372 of the Cr.P.C gives a right to victim to prefer appeal against the judgment of acquittal. The word “victim” has been defined in section 2(wa) and definition of the victim says that the victim means a person who has suffered any loss or injury caused by any reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir.

Appellant was the informant in Barsoi P.S. Case no. 83/2007 but according to the first information report itself neither he has suffered any loss nor sustained injury in the alleged occurrence. Furthermore, FIR reflects that the appellant is not legal heir of the deceased and, therefore, in our view, appellant has no right to prefer the appeal against the judgment



of acquittal.

However, in course of hearing, learned counsel for the appellant seeks permission to withdraw this appeal with liberty to file revision against the judgment of acquittal.

In view of the aforesaid submissions, this appeal stands dismissed as withdrawn with liberty to file revision against the judgment of acquittal in accordance with law.

In the aforesaid manner, this criminal appeal and I.A. no. 1506/2018 stand disposed of.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

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