

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3394 of 2018
In
SLA No.22 of 2018

Arising Out of PS. Case No.-129 Year-2004 Thana- Sabaur District- Bhagalpur

Deepak Yadav, son of Manik Yadav @ Manik Prasad Yadav, resident of village / Mohalla – Barari, P.S. - Sabour (Industrial), District – Bhagalpur.

... ... Appellant/s

Versus

1. The State Of Bihar
2. Subhash Singh, son of late Chand Badan Singh, resident of Resham Nagar, Bahadurpur, P.S. Industrial, Zero miles, District – Bhagalpur
3. Badri Prasad Yadav, son of late Sautari, resident of Rajendra Nagar Colony, P.S. - Industrial, Zero miles, District – Bhagalpur
4. Niwas Singh, son of late Chand Badan Singh, resident of Mahanth Nagar, Jyoti Bihar, P.S. - Industrial Zero miles, District – Bhagalpur.

... ... Respondent/s

Appearance :

For the Appellant/s : Mr. Swapnil Kumar Singh, Advocate
For the Respondent/s : Mr. Shyed Ashfaque Ahmad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

6 30-11-2018 Heard learned counsel for the appellant and learned counsel for the State.

This appeal under proviso to Section 372 of the Code of Criminal Procedure has been filed by the appellant against the judgment dated 28.02.2018 passed by the learned Additional Chief Judicial Magistrate-XI, Bhagalpur in G.R. No. 1527 of 2004 / Trial No. 966 of 2018 arising out of Sabour (Industrial) P.S. Case No. 129 of 2004 whereby the opposite party nos. 2 to 4 have been acquitted from the charges framed under Section 384/34 of the Indian Penal Code.



In my considered opinion, the appeal is thoroughly misconceived. A judgment of acquittal passed by the Court of Magistrate can only be assailed before the court of Sessions and not before this Court under proviso to Section 372 of the Code of Criminal Procedure. Hence, the instant appeal before this Court is not maintainable.

It is dismissed, accordingly.

However, the appellant, if so advised, may assail the impugned judgment before the court of competent jurisdiction in accordance with law.

(Ashwani Kumar Singh, J)

Md. S/-Sanjeev

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