

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1852 of 2026

Arising Out of PS. Case No.-287 Year-2022 Thana- DAUDPUR District- Saran

Ashok Kumar Singh, Son of Late Punyadav Singh, Resident of village-
Kharrahiya, P.S.- Daudpur, Distt.- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Anuj Kumar Singh Son of Ajay Singh, Resident of village and Po-
Kharrahiya, P.S.- Daudpur, Dist- Saran
3. Yashwant Singh @ Misir @ Saniraj Singh son of Satendra Narayan Singh,
Resident of village and P.O.- Kharrahiya, P.S.- Daudpur, Distt.- Saran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amarendar Kumar, Advocate Mr. Srikant Pandey, Advocate
For the State	:	Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

5 18-08-2026 The present appeal has been preferred by the informant against the order dated 26.03.2026 passed by learned Ist Additional Sessions Judge, Saran at Chapra in Children Court Case No. 05 of 2023, whereby learned Children Court has sentenced both the convict to imprisonment for three and half years for the offence punishable under Section 302 of the Indian Penal Code and the period already undergone by the convicts will be set off against the quantum of sentence. There is also direction of the learned Children Court for yearly review of the progress of the convict juveniles by the Probation Officer or Children Protection Officer or DCPU or Social Worker in Form-



13 and to report their progress and report is also required to be forwarded to the Children Court. It has been also directed that after completion of 21 years, the juveniles are directed to be sent to Chapra Jail and Superintendent of Chapra Jail is directed to produce the juveniles before the Children Court periodically, at least every three months for the purpose of assessing their progress and the facilities provided by the institution for implementation of the individual care plan.

2. The Informant/appellant is aggrieved by the quantum of sentence submitting that in view of conviction of the convicts/juveniles, the quantum of sentence is quite inadequate and hence, he is seeking enhancement of the same.

3. However, the office has raised objection regarding maintainability of the criminal appeal referring to Criminal Appeal (SJ) No. 1724 of 2025 dated 21.01.2026.

4. I heard learned counsel for the appellant and learned APP for the State on maintainability of the present appeal.

5. Learned counsel for the Appellant submits that objection of the office regarding maintainability of the present appeal is misconceived. He further submits that under Section 101(5) of the J.J. Act, a person aggrieved by any order of the



Children Court may file an appeal before the High Court.

6. However, learned APP for the State submits that the present appeal is not maintainable. The Appellant should have filed criminal revision under Section 102 of the J.J. Act, 2015, because Section 101(5) of the J.J. Act provides for appeal against an order of the Children Court, but such filing of appeal is required to be in accordance with the procedure as specified in the Cr.PC/B.N.S.S.

7. He further submits that the J.J. Act does not provide procedure of appeal or revision. Hence, by virtue of Section 103 of the J.J. Act, the procedure as laid down in the Code of Criminal Procedure and the B.N.S.S. become applicable in case of any appeal under the J.J. Act to the extent that there is no express provision under the J.J. Act to the contrary.

8. He further submits that in view of the Section 377 Cr. P.C, only State can file appeal for enhancement of quantum of sentence. The Informant/Victim has no right to file such appeal seeking enhancement of sentence because as per the proviso to Section 372 of the Cr.PC, the Victim/Informant has limited grounds to file criminal appeal and this proviso to Section 372 Cr.PC does not provide inadequacy of sentence for filing criminal appeal by the victim/informant.



9. As such, the Appellant herein can file only criminal revision before this Court under Section 102 of the J.J. Act, as per the procedure provided in the Cr.PC/ B.N.S.S. in the light of Section 103 of the J.J. Act.

10. I considered the submissions advanced by both the parties and perused the material on record.

11. I find that Sections 101 and 102 of the J.J. Act provide for criminal appeal and criminal revision respectively. As per Section 103(2) of the J.J. Act, the procedure in the hearing of appeal or revision, proceeding is to be followed as far as practicable in accordance with the provisions of the Code of Criminal Procedure, except to the extent otherwise expressly provided under the J.J. Act.

12. I again find that even sub-section 5 of Section 101 provides for appeal against an order of the Children Court before the High Court in accordance with the procedure as specified in the Code of Criminal Procedure/B.N.S.S.

13. Hence, there is no dispute that the procedure as provided in the Cr.PC in regard to appeal is required to be followed while filing appeal under the J.J. Act, subject to the specific procedure, otherwise, provided in the J.J. Act,

14. I further find that as per Section 377 Cr.PC, appeal



against inadequacy of sentence can be filed only by the State and the victim/informant has no right to file such appeal. Proviso to Section 372 Cr.PC provides for right of the victim/informant to file appeal only under the following three situations:

- (i) if the accused has been acquitted, or
- (ii) the accused has been convicted for a lesser offence, or
- (iii) inadequate compensation has been imposed upon the convict.

15. Here, it would be profitable to refer to **Parvinder Kansal Vs. State (NCT of Delhi), (2020) 19 SCC 496**, wherein **Hon'ble Supreme Court** has clearly held as follows:-

“8.A reading of the proviso makes it clear that so far as victim's right of appeal is concerned, same is restricted to three eventualities, namely, acquittal of the accused; conviction of the accused for lesser offence; or for imposing inadequate compensation. While the victim is given opportunity to prefer appeal in the event of imposing inadequate compensation, but at the same time there is no provision for appeal by the victim for questioning the order of sentence as inadequate, whereas Section 377 CrPC gives the power to the State Government to prefer appeal for enhancement of sentence. While it is open for the State Government to prefer appeal for inadequate sentence under Section 377 CrPC but similarly no appeal can be maintained by victim under Section 372 CrPC on the ground of inadequate sentence. It is fairly well-settled that the remedy of appeal is creature of the statute. Unless same is provided either under Code of Criminal Procedure or by any other law for the time being in force no appeal, seeking enhancement of sentence at the instance of the victim, is maintainable.....”

16. Relying upon **Parvinder Kansal Case (Supra)**, the Delhi High Court in **Muskan v. State (NCT of Delhi), 2026**



SCC OnLine Del 1896 has also held as follows:

“ 44. A plain reading of the aforesaid provision makes it evident that the statutory right conferred upon a victim is limited in scope and is circumscribed to three specific contingencies, namely : (i) acquittal of the accused (ii) conviction for a lesser offence, and (iii) imposition of inadequate compensation.

45. Significantly, the provision does not contemplate or provide for a right of appeal by the victim on the ground of inadequacy of sentence.

46. The scheme of CrPC makes a clear distinction in this regard. While the proviso to Section 372 confers a limited right upon the victim, the power to seek enhancement of sentence is specifically provided under Section 377 CrPC, which can be invoked only by the State.

47. The statutory provisions are therefore, clear and unambiguous, that the right to seek enhancement of sentence is not vested in the victim, but exclusively in the State”

17. Accordingly, the present petition is dismissed as not maintainable, giving liberty to the appellant to file criminal revision within two months and office is directed to return the certified copy of the impugned order after filing a copy of the same by the appellant.

(Jitendra Kumar, J.)

ravishankar/-

U		T	
AFR			

