

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1048 of 2016

Arising Out of PS.Case No. -8 Year- 2016 Thana -PAUTHU District- AURANGABAD

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Ibrar Miyan Son of Hasamu Miyan, resident of Village- Banahi, Police Station-
Pauthu, District- Aurangabad.

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant : Mr. Kamendra Pd. Singh, Adv.

Mr. Shailesh Kumar, Adv.

For the Respondent: Mr. Yogendra Kumar Singh, Special P.P.

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

ORAL JUDGMENT

Date: 16-12-2016

1. Heard learned counsel for the appellant, learned
counsel for the informant as well as learned Special Public Prosecutor
for the State.

2. This criminal appeal filed under Section 14(A) of
S.C./S.T. (Prevention of Atrocities) Amendment Act is preferred
against the impugned order dated 06.04.2016 passed by learned
Sessions Judge, Aurangabad in B.P. No. 284 of 2016 by which and
whereunder he refused to grant the privilege of bail to the appellant,
who was made accused in Pauthu P.S. Case No. 08 of 2016 registered
for the offences punishable under Section 307 and other allied



sections of the Indian Penal Code, Sections 3 (1) (x), 3(1)(xi), 3(2)(v) of S.C./S.T. (Prevention of Atrocities) Act and Section 27 of the arms Act.

3. The prosecution case in brief is that the appellant is said to have opened fire on the informant but informant escaped unhurt and the firing of the appellant hit on the shoulder of one Radha Kumari. The appellant and other accused also assaulted the informant and others and humiliated them by calling their caste name.

4. Learned counsel appearing for the appellant submits that neither the injured, Radha Kumari nor her family members came forward to say that firing of the appellant hit the Radha Kumari and except the informant as well as his other family members, none of the prosecution witness stated about the firing said to be made by the appellant.

5. On the other hand, learned counsel appearing for the informant, vehemently, opposed the prayer submitting that there is specific allegation of firing against the appellant who has been made accused for causing offences of Indian Penal Code, S.C./S.T. (Prevention of Atrocities) Act as well as Arms Act and, therefore, there is no ground to interfere into the impugned order.

6. Having heard the contentions of both the parties, I have gone through the record along with the case diary. I find that



investigating officer submitted charge sheet against the appellant without recording the statement of injured, Radha Kumari and kept investigation pending in respect of other accused. The case diary also goes to show that occurrence took place on 14.02.2016 but even after expiry of three months, the concerned investigating officer did not get time to record the statement of injured, Radha Kumari. The aforesaid circumstance goes to show that the investigating officer was not discharging his official duty properly.

7. Moreover, considering the allegation levelled against the appellant as well as nature of injury sustained by the injured, Radha Kumari and also taking note of this fact that appellant and his supporters humiliated the informant and other persons of Scheduled Castes community, I am of the opinion that this criminal appeal does not have any merit and accordingly, this criminal appeal stands dismissed and the impugned order dated 06.04.2016 passed by learned Sessions Judge, Aurangabad in B.P. No. 284 of 2016 is, hereby, confirmed.

8. However, learned trial court is directed to expedite the trial of the petitioner and try to conclude the same as early as possible, preferably within four months from the date of receipt/production of copy of this order.

9. Let copy of this order be sent to Superintendent of



Police, Aurangabad so that he could see and watch the conduct of the concerned investigating officer and could take appropriate step against him in accordance with law.

(Hemant Kumar Srivastava, J)

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