

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1087 of 2016

Arising Out of PS.Case No. -16 Year- 2016 Thana -GAYA HARIZAN District- -

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1. Chandan Singh @ Chandan Kumar Singh
2. Roushan Singh @ Raushan Kumar
Both sons of Kamlesh Singh resident of Village - Kharsot, Police Station - Bodh
Gaya, District - Gaya.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajiv Ranjan

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 20-12-2016

1. At the very outset, learned counsel for the appellants seeks permission to delete para 9 of the appeal as the same has inadvertently been typed.

2. Permission is accorded. Learned counsel for the appellants is permitted to delete para 9 of the appeal within course of the day.

3. Heard learned counsel for the appellants as well as learned Special Public Prosecutor for the State.

4. This criminal appeal has been preferred against the order dated 19.10.2016 passed by learned Special Judge, SC/ST, Gaya in SC/ST 16/2016.

5. The written report of the informant goes to show that occurrence took place due to dispute of irrigation of water from a well and it is alleged that appellant no.1 assaulted with the butt of the rifle causing injury to the informant as well as his son. So far as appellant no.2 is concerned, no specific allegation has



been levelled against him. Annexure 2 goes to show that after investigation, police submitted charge sheet under sections 341, 323, 504 and 506/34 of the Indian Penal Code as well as section 3 (i) (X) of the SC/ST (Prevention of Atrocities) Act. The impugned order reveals that cognizance has been taken for the aforesaid offences.

6. Submission on behalf of the appellants is that no case under SC/ST (Prevention of Atrocities) Act is made out because it is admitted case of the prosecution that the alleged occurrence took place on account of dispute of irrigation of water. He further submits that so far sections of Indian Penal Code are concerned, almost all sections are bailable in nature.

7. On the other hand, learned Special Public Prosecutor opposes the prayer on the ground mentioned by the court below in the impugned order dated 19.10.2016.

8. First information report goes to show that appellants not only assaulted but also abused the informant calling his caste name but written report does not disclose that caste name of the informant was taken by appellant no.1 in public view because the informant has, nowhere, mentioned in his written report that appellant no.1 uttered his caste name in presence of other persons and, therefore, application of SC/ST (Prevention of Atrocities) Act appears to be doubtful.

9. On the basis of the aforesaid discussions, this criminal appeal is allowed and the impugned order dated 19.10.2016 passed by learned Special Judge, SC/ST, Gaya in SC/ST 16/2016 is set aside.

10. Accordingly, it is ordered that in the event of arrest/ surrender within six weeks from the date of receipt of this order to the concerned court, let the appellants above named be released on bail on furnishing bail bonds of Rs



10,000/- each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST, Gaya in SC/ST 16/2016 subject to condition as laid down under section 438(2) of the Cr.P.C.

11. However, it is made clear that the observations/findings given in this judgment shall not cause any prejudice to the trial court in course of trial.

(Hemant Kumar Srivastava, J)

Shahid/-

AFR/NAFR	NAFR
CAV DATE	NA
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