

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.215 of 2017

Arising Out of PS.Case No. -145 Year- 2016 Thana -JAGDIHSPUR District- BHOJPUR

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Suman Raj @ Suman Kumar Raj, son of Sri Baij Nath Singh, resident of
Mahadeo Mohalla, Ward No.1, Jagdishpur, Police Station Jagdishpur, in the
district of Bhojpur Appellant/s

Versus

The State of Bihar Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhu Narayan Sharma, Advocate

For the Respondent/s : Mr. Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

5 02-05-2017 Heard learned counsel for the appellant as well as
learned Special P.P.

On account of vulgar message having been transmitted at the end of the appellant to the daughter of the informant, a member of Scheduled Caste by different SIM numbers so indicated, the informant protested. Subsequently thereof, the appellant stole away his mobile which he returned back after great persuasion but SIM No. 8507318822 was retained by him. Again, appellant indulged in similar activities whereupon on 20.6.2016, the informant had gone to his place whereupon, the appellant abused by calling his caste name and further threatened that in case of any sort of activity taken at his hand, will cost dear to his life.

Learned counsel for the appellant has submitted that instant appeal under the garb of Section 438 of the Code of Criminal Procedure is maintainable in the background of the fact that Scheduled Caste/ Scheduled Tribe (POA) Act is not at all



applicable in the facts and circumstances of the case. To substantiate such plea, it has been submitted that informant belongs to Paswan community. He has also submitted that the victim, Puja Kumari herself did not come forward to launch a case and instead thereof, her father came. Apart from this, it has also been submitted that appellant never sent vulgar messages and so, registration of the instant case happens to be bad.

Learned Special P.P. opposed the prayer and submitted that from the narration of written report itself, applicability of Scheduled Caste/Scheduled Tribe (POA) Act is duly exposed.

After enforcement of new amended Act since 26th January 2016, Section 3(w)(ii) attracts the allegation within its ambit whereupon, there would be application of Scheduled Caste/Scheduled Tribe (POA) Act. Consequent thereupon, Section 18 of the Act will come into play blurring the fate of the instant appeal which has been filed under the banner of Section 438 Cr.P.C. Consequent thereupon, the same is dismissed.

(Aditya Kumar Trivedi, J)

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