

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.2025 of 2017

Arising Out of PS.Case No. -8 Year- 2013 Thana -SC ST District- VAISHALI(HAJIPUR)

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1. Dinesh Kumar Sah @ Dinesh Sah Son of Amrit Sah, Resident of Village-
Ajampur, P.S.- Desari, District- Vaishali.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukesh Kumar

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 13-09-2017 This appeal is directed against order dated 6.4.2017

passed by the learned Special Judge, (SC/ST Act) Vaishali at
Hajipur dismissing the petition of the appellant under Section 228
of Cr.P.C. finding the materials on record and a prima facie case
made out against the appellant under Section 279 & 304 of the
Indian Penal Code and Section 3(2)(v) of S.C./S.T. (Prevention of
Atrocities) Act.

Submission of the learned counsel for the appellant is
that on the basis of materials available on record, it clearly appears
that this is a case of accident and the deceased died due to injuries
received in the said accident and the Dy.S.P., Vaishali after
investigation found the case true under Section 279 of the Indian
Penal Code but on the direction of the I.G. of Weaker Sections,



the charge sheet has been submitted under Section 279 and 304 of the IPC as well as Section 3 (ii)(v) of the S.C./S.T. (Prevention of Atrocities) Act. It is further submitted that though the informant and some other witnesses have named the appellant and also stated that he has killed the deceased, however, they are not eye witness of the occurrence, whereas witness Sanjeev Singh and Namo Narayan Singh and other witnesses in para 10, 12, 13, 14 and other paragraphs have mentioned that the deceased has received injury in the motor cycle accident and as such Dy. S.P. Vaishali in his supervision note found the case under Sections 279 and 304 of the IPC, however, without considering the aforesaid materials, the learned Special Judge has found the case true under Section 279 and 304 of the Indian penal Code and also under Section 3 (ii)(v) of the SC/ST (Prevention of Atrocities) Act as well as in order to blackmail the appellant, the present case has been filed. It has also been found in the evidence that Rs.50,000/- was taken by the informant for treatment of the deceased and more money was also demanded but he has not fulfilled, as such the present case has been lodged.

Heard learned Special P.P., who has opposed the prayer for bail, however, he has conceded this fact that except family members of the informant, who are not eye witnesses of the



occurrence almost all the witnesses have stated about the injury caused to the injury in an accident.

Having heard both sides and in view of the facts and circumstances, this appeal is allowed.

Let the impugned order dated 6.4.2017 passed in Hajipur SC/ST P.S.Case No.08 of 2013 is set aside. Learned Special Judge is directed to proceed in accordance with law as materials show only a prima facie case U/S 279 and 304A of the Indian Penal Code found against the appellant.

(Vinod Kumar Sinha, J)

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