

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.647 of 2002

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Safir Sabji Faros @ Samiruddin son of Alauddin Sabji Faros, resident of
village- Nawabganj Balutola, Police Station- Manihari, District- Katihar

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranbir Singh (Amicus Curiae)
For the Respondent/s : Mr. Binod Bihari Singh, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 09-11-2017

Challenging their conviction and sentence ordered by
the Court of learned 1st Additional Sessions Judge-cum-Special
Judge, SC/ST (P.A.) Act,1989 Katihar in C.A. Case No.18 of
1997/T.R. No.55/2002 for the offence under Sections 3(1)(x) and
3(1)(xi) of the SC/ST (P.A.) Act, 1989,(hereinafter referred to as
the Act), this appeal has been filed by the appellant who has been
sentenced to undergo 3 years' R.I. and 4 years' R.I. respectively for
the aforesaid offences.

Having heard learned counsel for the parties and on
going through the record, it is seen that it is the case of the
prosecution that on 30th of March, 1997, at about 4:00 p.m., when
the informant, P.W.6, the complainant was returning from the
market with his wife with Rs.300/-, 5 K.G. of rice and 50 k.g. of



Maize, the accused persons are said to have apprehended them and forcibly taken away Rs.300/- and the materials they were carrying.

Based on the aforesaid allegation, the prosecution has been lodged and the learned Court, on account of the fact that it amounts to physical harassment, mental torture and financial constraint on a member of the SC.ST community has convicted the appellant. However, Section 3(1)(x) and 3(1)(xi) of the Act read as under:

"3(1)(x): intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

3(1)(xi): assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;"

To make out an offence under Section 3(1)(x), there has to be intentional insult, intimidation and intent to humiliate a member of the S.C. or S.T. and to make out an offence under Section 3(1)(xi), there has to be assault or use of force to any woman belonging to the S.C. or S.T. with an intention to dishonour and outrage her modesty.

The necessary ingredients for making out the offence are- intentional insult or use of force to outrage the modesty of a woman. If the evidence of the prosecution, namely, the complainant, P.W.6, and his wife are taken note of, along with the statement of other witnesses available on record, it is clear that it is



a case where the accused, threatening the complainant on dagger point, have taken away the money and the grocery items they were carrying. There is nothing in the statement or the evidence that has come on record that the same was done with intention to humiliate a member of the particular community or to outrage the modesty of a female member of the community. It is a case where theft of the property has been committed by use of force and the ingredients necessary for conviction under Sections 3(1)(x) and 3(1)(xi) are not made out. That being so, the conviction under the aforesaid Sections cannot be upheld.

Accordingly, the appeal is allowed. The appellant is acquitted of the charges. Appellant is already on bail. He is discharged from the liability of bail bonds.

(Rajendra Menon, CJ)

K.C.Jha/-

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