

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1194 of 2016

Arising Out of PS.Case No. -4 Year- 1996 Thana -PURNIA COMPLAINT CASE District- PURNIA

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1. AMAR KANT JHA @ LALAN KUMAR JHA, SON OF LATE KRISHNA KANT JHA @ LACHHE JHA.
 2. BHOLAN JHA, SON OF LATE KRISHNA KANT JHA @ LACHHE JHA.
 3. RAMA KANT JHA SON OF LATE KRISHNA KANT JHA @ LACHHE JHA.
 4. MIHIR KUMAR JHA, SON OF SRI RAMA KANT JHA.
 5. SHISHIR KUMAR JHA SON OF SRI RAMA KANT JHA.
- ALL RESIDENT OF VILLAGE-RAGHUNATHPUR, P.S.-SARSI,
DISTRICT-PURNEA.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Krishna Prasad Singh, Sr. Adv.
Mr. Amit Kumar Anand, Adv.
For the State : Mr. Sri Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 01-03-2017 Heard learned counsel for the appellants as well as
learned Special Public Prosecutor.

In *Bisheshwar Mishra vs. State of Bihar* reported in
2016(4) PLJR 1058 at para-28 it has been observed:

“28. We reiterate that while considering the application under Section 438 of the Code, it is not open to the Court to enter into roving inquiry of the veracity of allegations levelled under the Act. It can only look to the First Information Report or the Complaint just in order to prima facie determine whether the



ingredients of any offence under the Act at all can be said to have been attracted against the person seeking pre-arrest bail.”

From perusal of the complaint petition, it is evident that prosecution party happens to be member of a scheduled caste and further, apart from this there happens to be specific assertion that complainant was completely naked while his wife was half naked during course of illegal activity having at the end of the appellants and others. It has also been incorporated that prosecution party happens to be engaged as a *Begar* at the end of the accused Amar Kant Jha and further, raised voice for wage as a result of which, proper litigation was drawn up before the Labour Commissioner.

Learned counsel for the appellants has submitted that from Annexure-2, it is apparent that the petition filed by the prosecution party before the Labour Superintendent, Purnea got dismissed. Furthermore, it has been submitted that in the aforesaid background the allegation has been levelled.

Be that as it may, in terms of para-28 of the aforesaid judgment as incorporated above, meticulous examination is forbidden. Therefore, the court are expected to see the allegation on its face so coming out from perusal of the written



report/fardbeyan/complaint petition. From perusal of the same, it is apparent that there happens to be applicability of SC/ST (POA) Act and on account thereof, this appeal is found barred in terms of Section 18 of the Act. Consequent thereupon, appeal is dismissed.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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