

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Appeal (SJ) No.1059 of 2016**

Arising Out of PS.Case No. -43 Year- 2016 Thana -JAMHORA District- AURANGABAD

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1. SALU ANSARI @ MINHAI ASGHAR Son of late Satar Ansari @ late Abdul Sattar Resident of Village- Bharthouli Sharif, P.S.- Town, District- Aurangabad.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Ms. Leelawati Kumari

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA**ORAL JUDGMENT****Date: 09-01-2017**

1. Heard learned counsel for the appellant as well as learned Special Public Prosecutor for the State.

2. This criminal appeal filed under section 14 (2) A of the SC/ST (Prevention of Atrocities) Amendment Act has been preferred against the order dated 5.11.2016 passed by learned Sessions Judge, Aurangabad in ABP no. 1194/2016.

3. Appellant is said to have assaulted the informant by means of lathi causing injury on his hand and other parts of the body and also uttered caste name of the informant with an intention to humiliate but submission on behalf of the appellant is that informant lodged this false case with a view to save his skin from Jamhore P.S. Case no. 41/2016 and so far as injury of the informant is concerned, he appears to have sustained simple injury said to be caused by hard and blunt substance. It is further submitted that so far as application of SC/ST (Prevention of Atrocities) Act is concerned, the same does not appear to be applicable in the



present case because according to the prosecution case itself, caste name of the appellant was uttered in Bahiyar and none was present at the time of occurrence. It is further submitted that learned Sessions Judge did not take note of the above stated fact and wrongly appreciated the fact of the present case because according to the prosecution case itself, occurrence took place due to grazing of the crops of the appellant.

4. Therefore, considering the aforesaid facts and circumstances as well as submissions of the parties, this criminal appeal is allowed and the impugned order dated 5.11.2016 passed by learned Sessions Judge, Aurangabad in ABP no. 1194/2016 is set aside.

5. 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 appellant above named be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Aurangabad in Jamhore P.S. Case no. 43/2016 subject to condition as laid down under section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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