

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.129 of 2015

Arising Out of PS.Case No. -33 Year- 2009 Thana -RAJAULI District- NAWADA

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1. Sidheshwar Yadav son of Hemraj Yadav	
2. Saryu Yadav, son of Malo Yadav	
3. Uma Yadav, son of Malo Yadav	
4. Vinod Yadav, Son of Rameshwar Yadav	
5. Amirak Yadav, son of Chando Yadav	
6. Navlesh Yadav, son of Chando Yadav	
7. Mundrika Yadav son of Chando Yadav	
8. Shravan Yadav, son of Paro Yadav All are resident of village Damodarpur, P.S. Rajauli, District- Nawadah	 Appellant/s
	Versus
1. The State of Bihar	 Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar Mishra, Adv. Mr. Nalin Vilochan Tiwary, Adv.
For the Respondent/s	:	Mr. S.A. Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 16-01-2018

Heard learned counsel for the appellants as well as learned APP.

2. It has been submitted on behalf of the appellants that none of the appellants has got criminal antecedents nor they carried criminal intention or design during course of commission of occurrence rather it took place in spur of moment on account of absence of informant, Ashok Kumar Choudhary during Holika Dahan and that being so, appellants are entitled for getting benefits so prescribed under the Probation of Offenders Act (hereinafter referred to as the 'Act') which the learned lower court had not considered. It has also been submitted that even the Special Act, SC/ST (POA) Act



did not prescribe any sort of embargo in application of the Act. So submitted that the substantial sentences be erased and substituted in form of sentence so prescribed under the Act.

3. Learned APP also endorsed the same in the background of long pendency of instant appeal inconsonance with the date of occurrence to be 10.03.2009.

4. In the aforesaid facts and circumstances of the case, maintaining the conviction recorded by the learned lower court, sentence inflicted therefor, is hereby, erased and is substituted directing the appellants to be released on due admonition as prescribed under Section 3 of the Act and for that, all the appellants will be physically present before the learned lower court on 5th of February 2018.

5. On presence of appellants the learned lower court will perform the rituals in terms of Section 3 of the Act. Till then, the privilege of bail, which the appellants are enjoying is extended, failing which the learned lower court will be at liberty to proceed against the appellants in accordance with law. Instant appeal is disposed of in terms thereof.

(Aditya Kumar Trivedi, J)

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AFR/NAFR	AFR
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