

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.2098 of 2018

Arising Out of PS. Case No.-281 Year-2016 Thana- PURNIA COMPLAINT CASE District-
Purnia

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1. Damodar Yadav @ Damodar Mandal, Son of Late Chandi Yadav,
 2. Anish Kumar @ Ashish Kumar, Son of Damodar Yadav, Both are residents of village - Bhatsara, Police Station - Barhara Kothi, District - Purnea.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Sridhar Paswan, Son of Late Sundar Paswan, Resident of Village-Bhatsara, Police Station-Barhara Kothi, District-Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Raj Kumar, Advocate
For the Respondent/s	:	Smt. Usha Kumari No-1, SPP-247
For the Complainant	:	Mr. Ram Prawesh Kumar, Advocate
		Mr. Avinash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 29-10-2018

Heard learned counsel for the parties.

This is an appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the order dated 17.04.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge SC/ST, Purnea in Special SC/ST Case No.17 of 2016, arising out of Complaint Case No.281 of 2016.

The appellants are accused in connection with Complaint Case No.281 of 2016, corresponding to Special SC/ST Case No.17 of 2016 pending before the learned 1st Additional Sessions Judge-cum-Special Judge, Purnea.



The appellants have challenged the order, taking cognizance and issuance of process, dated 17.04.2018 for the offences under Sections 323, 504 of the Indian Penal Code as well as under Section 3(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Submission of the learned counsel for the appellants is that the complaint petition would itself reveal that both sides have adjoining land and land dispute is the reason behind the occurrence. Therefore, the chances of mala fide prosecution cannot be ruled out.

No doubt the statement of the complainant on oath would reveal that the appellants side damaged the ridge of the field of the complainant while ploughing their field, with a tractor and for that reason the appellants allegedly abused the complainant by taking his caste name. The impugned order would reveal that three witnesses examined during inquiry under Section 202 of the Code of Criminal Procedure have also supported allegation as disclosed in the complaint petition.

After hearing the parties, I do not find any infirmity with the impugned order on the basis of material available on the record. Hence, this appeal is dismissed as devoid of any merit.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

