

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (U/S) No.2 of 2018

Arising Out of PS. Case No.-3802 Year-2007 Thana- SARAN COMPLAINT CASE District-
Saran

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Bachhu Das, son of Jagdeo Das, resident of Village- Mohammadpur, Police
Station- Revilganj, District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Jammu Rai.
3. Gautam Rai.
4. Pramod Rai.
5. Kamal Rai.

All are sons of Late Mithu Rai.

6. Satyendra Rai, son of Sudama Rai.
7. Ajeet Rai, son of Baliram Rai.

All are residents of Village- Mohammad, P.S.- Revilganj, District- Saran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukesh Kumar Singh, Adv.

For the Respondent/s : Mr. Bindhyachal Singh, Adv.

For the State : Mr. Z. Hoda, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 22-11-2018 The appellant has challenged the judgment and order
of acquittal dated 02.12.2016 passed by the learned 1st Addl.
Sessions Judge-Cum-Special Judge, Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, Saran at
Chapra in connection with Sessions Trial No. 234 of 2010
arising out of Complaint Case No. 3802 of 2007.

It appears from the record that a complaint was
lodged against the opposite parties with respect to offences
under Sections 147, 323 and 452 of the Indian Penal Code and



Section 3(1)(X) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*in short SC/ST (POA) Act*).

According to the prosecution case, the opposite parties had purchased a plot of land which was contiguous to the plot which was purchased by the informant/appellant. Earlier there was some dispute with respect to the demarcation but after the demarcation, respective parts of the land were being tilled by the respective owners. The allegation against the opposite parties is that one particular day, when the informant/appellant saw that an encroachment was being made on his land, he made a complaint before the District Magistrate with respect to the action of the opposite parties. When he came back home, he was threatened, abused and assaulted for having filed such a case. Another occurrence is said to have taken place after sometime in front of the house of the informant/appellant and near the potato field. The main thrust of allegation, therefore, is of assaulting the informant/appellant and his son and also denigrating his position in society by abusing him by taking his caste name.

Since the charges in this case was also under the provisions of SC/ST (POA) Act, the case was tried by the Sessions Court.



During trial, three witnesses have been examined on behalf of the prosecution. Though, P.W. 1 has supported the version of the appellant about the caste abuse hurled by the opposite parties, but P.W. 2 had a different story to narrate. P.W. 2, in his cross-examination, has clearly stated that after the demarcation, the plots of land were being cultivated by the respective owners. There was some dispute with respect to the demarcation but later on, no encroachment was made. He has also, in his cross-examination, held that he has a poor eye-sight and has problem with his auditory senses as well. So far as the time and place of the occurrence is concerned, the aforesaid two witness, viz., P.Ws. 1 and 2 have differed in material particulars.

P.W. 3, who is the appellant, has made a valiant attempt to support the prosecution version but his deposition, if seen in entirety, clearly makes out that there was a dispute with respect to the contiguous plots of land on which claim is being staked by the parties and only because of some occurrence which had taken place on a particular day, this case has been lodged.

The Trial Court, after having perused the entire records, found that P.Ws. 1 and 2 had made contradictory statements with respect to the time of the occurrence. In fact,



the Court also came to the conclusion that the occurrence, attracting the mischief of the provision of SC/ST (POA) Act, was committed at a place which could not be said to be a public place. In any view of the matter, the Trial Court seriously doubted the correctness of the prosecution version. The view taken by Trial Court may or may not be correct, but it is definitely not perverse.

No good grounds have been raised by the learned counsel for the appellant to differ with the view and the opinion of the Trial Court.

There is no merit in this appeal and it is, therefore, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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