

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.453 of 2018

Arising Out of PS.Case No. -19 Year- 2016 Thana -SC/ST District- MUNGER

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1. Bhrigunath Mandal, son of Late Basudeo Mandal, resident of Village- Jawayat,
P.S. Shampur (Haweli Kharagpur), District- Munger.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Amit Srivastava, Adv
: Mr. Girish Pandey, Adv
For the Respondent/s : Mr. Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-04-2018

Heard learned counsel for the parties.

This is an appeal under Section 14(A)(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2016 against refusal of the prayer of the appellant, by the learned Special Judge, Munger, in connection with Sessions Trial No.19 of 2016, to supply the referred document under Section 207 Cr.P.C.

The impugned order would reveal that the prayer has been refused mainly for the reason that the required document was not submitted with the police paper nor the same was available on the record.

Contention of the learned counsel for the appellant is that Annexure-7 is inquest report of deceased



Sunny Kumar, Son of Upendra Paswan prepared on 25.04.2016 by Sub Inspector of Police Barari police station. In the inquest report, it is written at the top that Fardbeyan of this case dated 25.04.2016 has been recorded by the Officer Incharge of Haweli Kharagpur Police Station, whereas the present prosecution arises out of Munger SC/ST P.S.Case No.19 of 2016, a case under Section 302/34 of the Indian Penal Code. Contention is that if the earlier Fardbeyan would have been available, it would have made clear that earlier Fardbeyan recorded by Haweli Kharagpur P.S. was consistent with the present Fardbeyan lodged by the same informant or there is some development in the present Fardbeyan. The non-availability of the earlier Fardbeyan would cause prejudice to the appellant in the trial.

Section 207 of the Code of Criminal Procedure, in the matter of supply of police report and other documents to the accused, reads as follows:

“207. Supply to the accused of copy of police report and other documents.-In

any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:-

(i) the police report;

(ii) the first information report recorded



under section 154;

(iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub- section (6) of section 173;

(iv) the confessions and statements, if any, recorded under section 164;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub- section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in



clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court”.

A bare perusal of the aforesaid provision reveals that only the referred documents is to be supplied to the accused and the document not available with the police report cannot be asked for in exercise of right of the accused under Section 207 Cr.P.C. Therefore, I do not find any infirmity with the impugned order. However, it is made clear that the accused shall be at liberty to procure the said document and produce the same at the stage of defence evidence or may by filing a petition ask the prosecution to produce that document and in the event of non-production, the consequence according to law will follow.

With the aforesaid observation, this appeal stands disposed off.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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