

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3054 of 2019

Arising Out of PS. Case No.-27 Year-2019 Thana- BIHRA District- Saharsa

HARIHAR DEVI, Wife of Lutan Chaupal @ Lutan Sharma Resident of Village - Sattar Ward No.08, P.S.- Bihra, Dist.- Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ram Prasad Yadav Son of Late Bhulan Yadav Resident of Village - Baluaha Tola, P.S.- Bihra, Dist.- Saharsa.
3. Kedar Yadav Son of Pachu Yadav Resident of Village - Baluaha Tola, P.S.- Bihra, Dist.- Saharsa.
4. Vijay Yadav Son of Shambhu Yadav Resident of Village - Baluaha Tola, P.S.- Bihra, Dist.- Saharsa.
5. Ajay Yadav Son of Shambhu Yadav Resident of Village - Baluaha Tola, P.S.- Bihra, Dist.- Saharsa.
6. Naresh Yadav Son of Ram Prasad Yadav Resident of Village - Baluaha Tola, P.S.- Bihra, Dist.- Saharsa.
7. Deven Yadav Son of Jogi Yadav Resident of Village - Baluaha Tola, P.S.- Bihra, Dist.- Saharsa.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Chandra Mohan Jha
For the Respondent/s	:	Mr. Shiva Shankar Sharma
For the State	:	Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 14-10-2019 Heard learned counsel for the appellant, learned counsel for O.P. Nos. 2 to 7 as well as learned Spl. P.P.

In a case having instituted under Sections 341, 323, 324, 354(B), 504, 506, 34 of the Indian Penal Code and Sections 3(i)(v)(r) of SC/ST (POA) Act, the learned lower court had granted bail to the Respondent Nos. 2 to 7, provisionally in the background of compromise petition having annexed with bail



petition giving impression that the case has been compromised at the end of informant as well as other victims. However, subsequently, i.e. on 18.04.2019, the complainant appeared, protested and then, as is evident from the order impugned dated 31.05.2019 the learned lower court on one pretext or other continued in extending the period of provisional bail and lastly, even observing that the matter requires thorough investigation, confirmed the provisional bail in connection with Special SC/ST Case No. 48/2019, arising out of Bihra P.S. Case No. 27/2019, by the Addl. Sessions Judge III-cum-Special Judge, Saharsa, is the subject matter of instant appeal.

Once, the learned lower court has opined that the genuineness of compromise petition happens to be subject to scrutiny, then in that circumstance, the learned lower court should have taken recourse of Section 340 of the Cr.P.C., as on the basis of aforesaid fake/forged/impersonated compromise petition, bail was granted to the accused, that means to say the Court had based its opinion on that very document, which was duly substantiated in the court. As such, the order impugned did not justify its prevalence, hence is set aside.

Appeal is allowed.

Matter is remitted back to the learned lower court to



proceed in accordance with law and, if comes to a conclusion that the compromise petition happens to be forged and fabricated one then in that circumstance, would be competent enough to take proper legal recourse. The aforesaid exercise must be completed within three months without granting any undue adjournment to either of the party.

(Aditya Kumar Trivedi, J)

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