

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.546 of 2020

Arising Out of PS. Case No.-176 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. SURENDRA NARAYAN MISHRA @ SURESH MISHRA Son of Late Mahendra Narayan Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 2. Hari Mishra @ Harikant Mishra Son of Late Chunchun Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 3. Amresh Kumar Mishra @ Guudu Mishra @ Amresh Kumar @ Guddu @ Guddu Mishra Son of Late Satya Narayan Mishra @ Sahdev Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 4. Pramod Mishra Son of Late Nabablal Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 5. Vijay Mishra @ Vijay Kumar Mishra Son of Surendra Narayan Mishra @ Suresh Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 6. Durga Nand Mishra Son of Nabablal Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 7. Deepak Mishra @ Deepak Kumar Mishra Son of Late Satya Narayan Mishra @ Sahdev Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 8. Pramanand Mishra Son of Late Nabablal Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 9. Aswani Kumar Mishra @ Rinku Mishra Son of Late Satya Narayan Mishra @ Sahdev Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.
 10. Sanjay Mishra @ Sanjay Kumar Mishra Son of Pramod Mishra Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Asha Devi Wife of Sukan Sada Resident of Village- Salempur, P.S.- Ujiyarpur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Jitendra Narain Sinha
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 16-12-2020

This matter is taken up for consideration through



Video Conferencing under the orders of Hon'ble the Chief Justice.

The present memo of appeal has been filed for setting aside the order dated 04.01.2020 passed by learned 1st Additional Sessions Judge, Samastipur in connection with Complaint Case No. 176 of 2019 corresponding to Trial No. 1184 of 2019, registered under Sections 147, 148, 149, 341, 323, 427 of the Indian Penal Code and section 3(x) of the SC/ST Act, but cognizance has been taken under Sections 147, 149, 341, 323, 427 of the IPC and sections 3(1)(r)(s)(w) of the SC/ST Act.

The complainant in her complaint alleged that on 14.05.2019 at about 5.00 pm, the appellants along with twenty others variously armed came at the Kirana shop of the complainant, abused her by calling her caste name and dismantled the shop and took away house hold articles, cloth, ornaments and cash of Rs. 60,000/-. It is further alleged that appellant no. 3 and 5 also assaulted her.

It is submitted on behalf of the appellants that there is long standing land dispute. Entire allegation is false and concocted. The occurrence took place on 14.05.2019, but complaint was filed on 12.06.2019 without any plausible explanation. No case under SC/ST Act is made against the



appellants. Appellants have got clean antecedent, as stated in para 3 of the petition.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 04.01.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Samastipur in connection with Complaint Case No. 176 of 2019 corresponding to Trial No. 1184 of 2019 is set aside.

Let the appellants above-named be released on bail on furnishing bail bond of Rs. 10,000 (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, Samastipur, in connection with Complaint Case No. 176 of 2019 corresponding to Trial No. 1184 of 2019.

(Prabhat Kumar Singh, J)

vinita/-

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