

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1292 of 2021

Arising Out of PS. Case No.-319 Year-2020 Thana- ARARIA District- Araria

Manoj Kumar S/O Sri Rajendra Sharma The Then District Agriculture Officer, Araria And Resident Of 3/372, Buddha Colony, Hajipur, P.S.- Hajipur Sadar, District- Vaishali At Hajipur, Presently Posted As Deputy Director Agro Information, Agriculture Department, Government Of Bihar, New Secretariat, Patna- 800001

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Singh- Sr. Advocate
For the Respondent/s : Mr. Usha Kumar-1-S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 08-07-2021 Heard Mr. Ashok Kumar Singh, the learned Senior Advocate for the appellant and Ms. Usha Kumari-1, the learned Special Public Prosecutor for the State.

The appellant has challenged the order dated 03.09.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (P.O.A.) Act, Araria in connection with Araria (Bairgachhi) P. S. Case No. 319 of 2020, instituted for the offences under Sections 353, 355, 500, 504 and 506 of the Indian Penal Code and Section, Section 51 of the National Disaster Management Act, 2005 and Section 3(i)(r) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of



anticipatory bail has been rejected.

A peculiar F.I.R. has been registered after four days of the occurrence. A video showing a *Chaukidar* being punished was made viral. When that was investigated by the local police, it was found out that on a particular day, the *Chaukidar* was manning the check-post to prevent the unnecessary flow of traffic because of COVID Pandemic.

It has further came to light in the investigation that the appellant and another were trying to cross that check-post and when pass was demanded from them, they got angry, went back and again came to the barrier along with five persons. In the meantime, some of the police officials also had arrived. The appellant, who is a government employee is said to have disclosed his identity and threatened the *Chaukidar* so much that he of own, started doing sit ups holding his ears as an act of expiation for the demand which he had made.

The learned Senior Advocate for the appellant has submitted that the accusation has been hurled in the F.I.R. on completely distorted facts. In fact, the



appellant along with his associates was trying to cross the barrier on public duty and even when this was made known to the person manning the barrier, money was demanded from him. It was only then that the appellant realized that he should get back and come to the barrier again with proper document to establish his identity. When the appellant along with his associates arrived at the barrier, some of the police persons also were present from before, who were informed about the attempted illegal extraction of money from the appellant. This actually sent fear in the mind of the *Chaukidar* who of his own started apologizing for his act.

It has been submitted that the accusation in the F.I.R. is based on facts which have been narrated in such a way so as to create an impression that the appellant by using his official position had threatened the *Chaukidar* and made him kneel down. The situation, on the contrary, was absolutely different. Had the appellant exerted his influence as an officer and would have bully-ragged the Chowkidar that surely would have been noticed and stopped by the police officers who at that



time had arrived at the place of occurrence. That not having been done, and the investigation proceeded on only the basis of the video clipping, makes the case doubtful.

The learned Advocate for the appellant has submitted that the entire investigation is faulty and only for the purposes of giving protection to such police persons who had allowed the Chaukidar to extract money from passers by, this case has been lodged. Even otherwise, the learned Advocate has submitted that none of the offences under the I.P.C. or for that matter under the S.C./S.T. (Prevention of Atrocities) Act or National Disaster Management Act can at all be said to have been made out against the appellant.

For the afore-stated facts, the order dated 03.09.2020, referred to above, is set-aside.

The appeal stands allowed.

The appellant, above-named, in the event of his arrest or surrender before the learned Court below within a period of eight weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.10,000/- (Rupees



Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (P.O.A.) Act, Araria in connection with Araria (Bairgachhi) P. S. Case No. 319 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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