

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1219 of 2021

Arising Out of PS. Case No.-126 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

MD. SHEKHAWAT, aged about 65 years, Gender-Male, S/o Oli Mohammad,
Resident of Village- Balaha, P.S.- Khanpur, District- Samastipur.

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Dilip Kumar Roy, Advocate.
For the Respondent : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 06-08-2021 Heard learned counsel for the appellant and learned
Special P.P. for the State through Virtual mode.

Learned counsel for the appellant submits that the
limitation, as pointed out by the office, be condoned in the light
of the order dated 08.03.2021, passed by the Hon'ble Apex
Court, in Suo Motu Writ Petition (Civil) No. 03 of 2020.

Considering the submissions made on behalf of
learned counsel for the appellant, the limitation, as pointed out
by the office, is condoned.

Learned counsel for the appellant is directed to
remove the defects, as pointed out by the office, within a period
of four weeks from the date of restoration of normalcy.

The matter relates to grant of anticipatory bail to the



appellant in connection with Complaint Case No. 126/2019, registered for the offences under Sections 323, 341, 354, 504/34 of the I.P.C. and Sections 3(1)(r)(s)(w)/3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, in short, is that Mohammad Shekhawat (appellant) was filling earth encroaching upon the *Rasta* of the complainant and when the complainant resisted, occurrence of abuse and assault was committed by him.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against him. A complaint case was filed. There was petty dispute in respect of *Rasta* which is evident from Annexure-3 to the present appeal. No grievous injury is said to have been caused in course of occurrence. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 24.09.2019, passed in A.B.P. No. 2185/2019, arising



out of Complaint Case No. 126/2019 by learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST Act, Samastipur, is set aside. The criminal appeal is allowed.

Let the appellant above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of the learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST Act, Samastipur, in connection with Complaint Case No. 126/2019.

Once the normalcy is restored, the appellant shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) only with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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