

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1874 of 2021

Arising Out of PS. Case No.-244 Year-2020 Thana- UDWANTNAGAR District- Bhojpur

1. RAJNEESH OJHA Son of Swayam Prakash Ojha Resident of Village - Aroura, P.O.- Dularpur, P.S. - Udawantnagar, District - Bhojpur.
2. Akhilesh Kumar Ojha @ Akhalesh Ojha Son of Late Abhimanyu Ojha Resident of Village - Aroura, P.O.- Dularpur, P.S. - Udawantnagar, District - Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dharm Sheela Kunwar Wife of Late Guddu Ram @ Guddu Das Resident of Village - Aroura, P.O.- Dularpur, P.S. - Udawantnagar, District - Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ganesh Prasad Singh
For the Respondent/s	:	Mr.Suresh Singh
		Mr.Vivek Kumar Singh
		Mr.Bipin Kumar

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

5 13-10-2022 Heard learned counsel for the appellants, learned counsel for the informant and learned A.P.P. for the State.

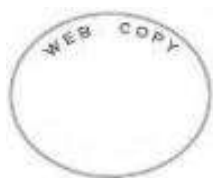
This appeal has been directed against the order dated 19.01.2021 passed by 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Act, Bhojpur at Ara in SC/ST Case No.173 of 2020 arising out of Udawantnagar P.S. Case No.244 of 2020 whereby and whereunder the learned Judge has directed to issue summon against the appellants to appear before him and face trial.

Learned counsel for the appellants submits that the



appellants have not committed any offence as alleged in the F.I.R. They have been implicated in this case due to local politics at the instance of their enemies. He further submits that the police after investigation has not sent up the appellants for trial rather they have been exonerated from the accusation. It is also submitted that the court below has passed the impugned order summoning the appellants for facing trial only on the basis of surmises and conjectures in a mechanical manner. As such, the order impugned is fit to be quashed.

Learned counsel for the informant vehemently opposed the submissions made by learned counsel for the appellants. He submits that the informant of this case filed a protest petition dated 14.12.2020 stating that the police knowingly did not submit charge sheet against Rajneesh Ojha (appellant no.1), Akhilesh Ojha (appellant no.2) and Amit Kumar Ojha although there is sufficient material against them. It is also submitted that the trial court has found that from perusal of the record, it appears that Amit Kumar Ojha, Rajneesh Ojha and Akhilesh Ojha are F.I.R. named accused of the case but they have neither been shown as sent up for trial nor charge sheet has been submitted against them by the Investigating Officer. On the basis of which, a report was called for from the Investigating



Officer on 16.12.2020, who submitted a report stating that due to clerical mistake, the names of Amit Kumar Ojha, Akhilesh Ojha and Rajneesh Ojha have been left to be mentioned in the charge sheet as well as in case-diary. It is further submitted that after considering the report, the court below found that there is a clerical mistake in the charge sheet and there are sufficient materials against them in the case-diary. Therefore, the court below has issued summons to the appellants.

Having considered the submissions advanced on behalf of the parties and the materials available on record, it appears that the court below has passed the order impugned after considering the materials available on record including the case-diary. This Court does not find any error in the order passed by the court below. Accordingly, this appeal is dismissed being devoid of any merit.

(Arvind Srivastava, J)

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