

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.746 of 2022

Arising Out of PS. Case No.-253 Year-2021 Thana- DURGAWATI District- Kaimur (Bhabua)

1. Sonu Kumar Son of Dharmendra Chaudhary @ Dharmendra Mallah Resident of Village- Dahla, Police Station- Durgawati, District- Kaimur (Bhabua).
2. Meva Kumar s/o Chandrama Chaudhary Resident of Village- Dahla, Police Station- Durgawati, District- Kaimur (Bhabua).

... .. Appellant/s

Versus

1. The State of Bihar
2. Phuljhari Devi W/O of Late Shyam Narayan Ram Resident of Village- Dumri, P.S.- Sagauli, District- Kaimur (Bhabua).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kumar Sunil, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 15-09-2022 1. Heard learned counsel for the appellants and learned Special P.P. for the State, on point of admission and on merit also.

2. The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') against the order dated 18.01.2022 passed by the learned Additional District Judge-I-cum-Special Judge, Kaimur at Bhabua in connection with Durgawati P.S. Case No. 253 of 2021 registered under Sections 302, 201 and 34 of Indian Penal Code but, subsequently, chargesheet has been submitted under Sections



302, 201 and 34 of the Indian Penal Code and Section 3(2)(V) of the Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Spl. PP that victim/informant has been informed through Superintendent of Police, Kaimur (Bhabua), in terms of the order dated 21.07.2022, but informant failed to appear.

5. Appellants are not named in F.I.R. and are in custody since 19.11.2021.

6. The allegation against the appellants is to commit murder of the son of the informant, alongwith other co-accused persons due to previous enmity.

7. Learned counsel for the appellants submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion. It is submitted that name of the appellants surfaced on the basis of confessional statement of one, Rakesh Kumar, where nothing incriminating surfaced/recovered during the course of investigation to connect the appellants with the present set of occurrence. It is submitted that knife, alleged to be used as weapon to commit murder, was recovered on the confessional statement of one, Rakesh Kumar,



having no finger print and the knife, even, not sent to the F.S.L. for any scientific examination, to connect the appellants with the present occurrence. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellants attract atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellants are persons of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellants submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.***

9. Learned Special P.P. for the State, while opposing the prayer of bail, fairly conceded that appellants are not named in the F.I.R.

10. In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where nothing incriminating surfaced/recovered during the course of investigation to connect the appellants with



the present set of occurrence coupled with the fact that chargesheet has already been submitted, let both the appellants, above named, are directed to be released on bail in connection with Durgawati P.S. Case No. 253 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District Judge-I-cum-Special Judge, Kaimur at Bhabua/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 18.01.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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