

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1183 of 2022

Arising Out of PS. Case No.-410 Year-2021 Thana- GAYA KOTWALI District- Gaya

RAHUL YADAV Son of Mahesh Yadav Resident of Village - Golbagicha
Gabada, P.s.- Kotwali, Distt.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Abhinav Kumar @ Lakki Kumar Son of Awadhesh Choudhary Resident of
Village - Sriram nagar Colony, Jailganj, Nai Godam, P.s.- Kotwali, and
Dist.- Gaya.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1200 of 2022

Arising Out of PS. Case No.-410 Year-2021 Thana- GAYA KOTWALI District- Gaya

Rajesh Yadav Son of Late Vishnu yadav Resident of Mohalla - Gol Bagicha
(Gabrapar), P.S.- Kotwali, District - Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1183 of 2022)

For the Appellant/s : Mr. Manish Kumar No 2, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

(In CRIMINAL APPEAL (SJ) No. 1200 of 2022)

For the Appellant/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 28-09-2022

Cr. App. (SJ) No. 1183 of 2022

1. Heard learned counsel for the appellant, learned
Special P.P. for the State and learned counsel for the informant
on point of admission and on merit also.

2. The appellant has 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 25.02.2022 passed by the learned Exclusive Special Judge (SC/ST), Gaya in connection with Kotwali P.S. Case No. 410 of 2021 registered under Sections 302, 337, 338, 427, 504, 506, 120(B) and 34 of the Indian Penal Code and under Section 3(2) (va) of SC/ST Act.

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

4. Notice has been issued to Respondent no.2, served upon and duly represented.

5. Appellant is named in F.I.R. and is in custody since 22.11.2021.

6. The allegation against the appellant is to commit murder of uncle of the informant, along with other co-accused persons for previous enmities.

7. Learned counsel for the appellant submitted that the allegation of assault against the appellant is very much general and omnibus, where the allegation of assault with rod is specific against co-accused, namely, Mahesh Yadav, as per the version of information available under F.I.R. It is further submitted that the cause of death is "Cranial-cerebral" injuries, which suggest that



death was caused by assault, which was alleged to be made with rod by co-accused, Mahesh Yadav. It is submitted that the act of appellant cannot be suggested on its face that same can be said as an atrocities within the meaning of act. While concluding the argument, it is submitted that investigation is completed, for which, charge-sheet is submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant 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 duly assisted by learned counsel appearing on behalf of informant, while opposing the prayer of bail, fairly conceded that specific allegation, as regard to fatal assault is against co-accused, Mahesh Yadav.

10. In view of the facts and circumstances, as mentioned above, as allegation of fatal assault is not available against this appellant, rather same is against co-accused Mahesh Yadav, let the appellant, above named, is directed to be released on bail in connection with Kotwali P.S. Case No. 410



of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 25.02.2022 is set aside.

12. Hence, appeal stands allowed.

Cr. App. (SJ) No. 1200 of 2022

1. Heard learned counsel for the appellant, learned Special P.P. for the State and learned counsel for the informant on point of admission and on merit also.

2. The appellant has 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 12.01.2022 passed by the learned Exclusive Special Judge (SC/ST), Gaya in connection with Kotwali P.S. Case No. 410 of 2021 registered under Sections 302, 337, 338, 427, 504, 506, 120(B) and 34 of the Indian Penal Code and under Section 3(2) (va) of SC/ST Act.

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



4. Notice has been issued to Respondent no.2, served upon and duly represented.

5. Appellant is named in F.I.R. and is in custody since 31.08.2020.

6. The allegation against the appellant is to commit murder of uncle of the informant, along with other co-accused persons for previous enmities.

7. Learned counsel for the appellant submitted that the allegation of assault against the appellant is very much general and omnibus, where the allegation of assault with rod is specific against co-accused, namely, Mahesh Yadav, as per the version of information available under F.I.R. It is further submitted that the cause of death is “Cranio-cerebral” injuries, which suggest that death was caused by assault, which was alleged to be made with rod by co-accused, Mahesh Yadav. It is further submitted that admittedly, appellant was not available at place of occurrence, rather he was in judicial custody, where nothing surfaced during the course of investigation to connect him with present occurrence. It is submitted that the act of appellant cannot be suggested on its face that same can be said as an atrocities within the meaning of act. While concluding the argument, it is submitted that investigation is completed, for which, charge-



sheet is submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant 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 duly assisted by learned counsel appearing on behalf of informant, while opposing the prayer of bail, fairly conceded that specific allegation, as regard to fatal assault is against co-accused, Mahesh Yadav.

10. In view of the facts and circumstances, as mentioned above, as allegation of fatal assault is not available against this appellant, rather same is against co-accused Mahesh Yadav, let the appellant, above named, is directed to be released on bail in connection with Kotwali P.S. Case No. 410 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.



11. Accordingly, impugned order dated 12.01.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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