

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4906 of 2021

Arising Out of PS. Case No.-283 Year-2020 Thana- BETTIAH CITY District- West
Champaran

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Vikash Mahto, @ Vikash Kumar Mahto S/O Raj Kumar Mahto, R/O Village-
Baswariya Ward No. 30, Daroga Tola, P.S.- Bettiah Town, District- West
Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Taramuni Devi Wife, of Subhash Ram, Resident of Village-Baswariya Ward
No- 30 P.S.- Bettiah Town, Dist- West Champaran.

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 1449 of 2022

Arising Out of PS. Case No.-283 Year-2020 Thana- BETTIAH CITY District- West
Champaran

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Jitesh Kumar, Son Of Rajesh Patel, R/O Village- Baswariya, Ward No.-28,
P.S.- Bettiah Town, District- West Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Taramunni Devi wife of Subhash Ram resident of village- Baswaria, ward
no. 28, P.S.- Bettiah town District-west champaran

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 4906 of 2021)

For the Appellant/s : Mr.Anant Kumar Mishra

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

Mr. Priyesh Kumar, Advocate

(In CRIMINAL APPEAL (SJ) No. 1449 of 2022)

For the Appellant/s : Mr.Aditya Nath Jha, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

Mr. Priyesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 21-07-2022

Since both the appeals arise out of Bettiah Town P.S.



Case No. 283 of 2020, as such, they have been heard together and are being disposed of by this common judgment.

Heard learned counsel for the appellants and learned counsel for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

Both the appeals have been preferred for setting aside the impugned orders passed by learned 1st Additional District & Sessions Judge-cum- Special Judge (SC/ST), Bettiah, West Champaran arising out of Bettiah Town P.S. Case No. 283 of 2020 for the offences under Sections 302/34 of the Indian Penal Code and Sections 3(2)(Va) of the SC/ST (POA) Act, by which prayer for bail of the appellants has been rejected.

The prosecution case is that the son of the informant left his house at about 10.00 A.M on 11.05.2020 and one Sandeep Ram gave information on the mobile of husband of the informant from the mobile of son of the informant that the appellants along with named co-accused and 2-3 unknown persons had been assaulting the son of the informant with bamboo and iron rod and the son of the informant fell down due to the assault. When the informant reached there, the assailants



fled away and the son of the informant was brought to the hospital and he was referred to SKMCH, Muzaffarpur for better treatment where the son of the informant died in the course of the treatment. The informant has further alleged that her injured son also named the appellants and one co-accused and 2-3 unknown persons as assailants.

The learned counsel for the appellants submits that the appellants are innocent and they have been falsely implicated in this case. It has been mentioned in the F.I.R that information was received by the father of the victim on his mobile phone and fardbeyan of the father was recorded by the police at Muzaffarpur hospital on 11.05.2020 at 15:15 hours in which details of occurrence was given. But the father of the deceased did not say anything about involvement of the appellants, but said that some unknown person killed his son. But the fardbayan was not made the basis for F.I.R and rather after due deliberation and afterthought, the informant registered this case against the appellants. The husband of the informant did not name Sandeep Ram as the person who gave the first information even this Sandeep Ram has not been examined during the investigation. The co-accused Guddu Mahto was granted bail by a Coordinate Bench vide order dated 01.06.2021 passed in



Cr. Appeal (SJ) No. 1701 of 2021. The charge-sheet has been submitted in this case and the appellants are in custody 14.08.2021 and 11.02.2022.

Learned Special PP as well as learned counsel for the informant vehemently opposes the contention made on behalf of the appellants. Learned counsel for the informant submits that a number of witnesses named the appellants in their statements recorded during investigation. The son of the informant died due to injury caused by hard and blunt substance.

Perused the record.

Having regard to the submission made on behalf of the appellants and considering the discrepancy in the statement of the father of the deceased which was recorded first and the written report made by the mother of the deceased, which is the basis of the F.I.R, there is likelihood of false implication, further considering the fact that co-accused Guddu Mahto has been granted bail by a Coordinate Bench, let the appellants, above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each of the satisfaction of the learned 1st Additional District and Sessions Judge-cum-Special Judges (SC/ST) Bettiah, West Champaran, arising out of Bettiah Town P.S Case



No. 283 of 2020 subject to the following conditions:

- (i) One of the bailors will be a close relative of the appellants.
- (ii) The appellants will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the appellants will be liable to be cancelled by the court concerned.

Accordingly, the impugned orders are set aside and both the appeals are allowed.

(Arun Kumar Jha, J)

Diwakar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	25.07.2022
Transmission Date	25.07.2022

