

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1210 of 2022

Arising Out of PS. Case No.-211 Year-2021 Thana- CHARPOKHARI District- Bhojpur

Shiwam Kumar S/o Sunil Singh Resident of Village- Ratnarh, P.S.- Garhani,
District- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Krishna Prasad S/o Late Manohar Prasad Resident of Village- Bagen, Police
Station- Charpokhari, District- Bhojpur.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1534 of 2022

Arising Out of PS. Case No.-211 Year-2021 Thana- CHARPOKHARI District- Bhojpur

Manjeet Kumar S/o Ashok Kumar Singh Resident of Village- Laxmipur, P.S.-
Ayar, District- Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1210 of 2022)

For the Appellant/s : Mr. Ashok Kumar Singh, Advocate

For the Informant : Mr. Sehazanand Sharma, Advocate

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

(In CRIMINAL APPEAL (SJ) No. 1534 of 2022)

For the Appellant/s : Mr. Jawed Gaffar Khan, Advocate

For the Informant : Mr. Sehazanand Sharma, Advocate

For the Respondent/s : Ms. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 28-09-2022

Cr. Misc. No. 1210 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 25.03.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Act, Bhojpur at Ara in connection with Charpokhari P.S. Case No. 211 of 2021 registered under Sections 307 and 34 of the Indian Penal Code, under Section 27 of the Arms Act and Section 3(i) (r) (s) 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 not named in F.I.R. and is in custody since 16.02.2022.

6. The allegation against the appellant is to open fire upon wife of informant, along with other co-accused persons due to previous enmities.

7. Learned counsel for the appellant submitted that injured wife of informant failed to name appellant at the time of alleged occurrence but subsequently, during investigation, named appellant after 15 days of the present occurrence, mere on the basis of the suspicion, as one of the co-accused, namely, Manjeet Kumar, having love affairs with elder sister of injured, namely, Shobha Kumari. It is further pointed out that act of appellant cannot be said an atrocities within the meaning of Act. While concluding the argument, it is



submitted that investigation of this case 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, namely, Mr. Sehzanand Sharma, while opposing the prayer of bail, fairly conceded that injured failed to identify appellant at the time of occurrence.

10. In view of the facts and circumstances, as mentioned above, as injured failed to name appellant at the time of occurrence, let the appellant, above named, is directed to be released on bail in connection with Charpokhari P.S. Case No. 211 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 1st Additional Sessions Judge-cum-Special Judge, Bhojpur at Arrah/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 25.03.2022 is set aside.



12. Hence, appeal stands allowed.

Cr. Misc No. 1534 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 25.03.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Act, Bhojpur at Ara in connection with Charpokhari P.S. Case No. 211 of 2021 registered under Sections 307 and 34 of the Indian Penal Code, under Section 27 of the Arms Act and Section 3(i) (r) (s) 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 not named in F.I.R. and is in custody since 06.12.2021.

6. The allegation against the appellant is to open fire upon wife of informant, along with other co-accused persons due to previous enmities.

7. Learned counsel for the appellant submitted that injured



wife of informant failed to name appellant at the time of alleged occurrence but subsequently, during investigation, named appellant after 15 days of the present occurrence, mere on the basis of the suspicion, as appellant, having love affairs with elder sister of injured, namely, Shobha Kumari. It is further pointed out that act of appellant cannot be said an atrocities within the meaning of Act. While concluding the argument, it is submitted that investigation of this case 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, namely, Mr. Sehzanand Sharma, while opposing the prayer of bail, fairly conceded that injured failed to identify appellant at the time of occurrence.

10. In view of the facts and circumstances, as mentioned above, as injured failed to name appellant at the time of occurrence, let the appellant, above named, is directed to be released on bail in connection with Charpokhari P.S. Case No. 211 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 1st Additional Sessions Judge-cum-Special Judge, Bhojpur at Arrah/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 25.03.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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