

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3047 of 2021**

Arising Out of PS. Case No.-49 Year-2019 Thana- SC/ST District- Gopalganj

1. SHEOJEE SAH Son of Late Dhari Sah Resident of Village- Sher, P.S.- Sidhwalia, District- Gopalganj.
2. Shanti Devi Wife of Sheojee Sah Resident of Village- Sher, P.S.- Sidhwalia, District- Gopalganj.
3. Meera Devi Wife of Pappu Sah Resident of Village- Sher, P.S.- Sidhwalia, District- Gopalganj.
4. Chandan Gupta @ Chandan Kumar Son of Sheojee Sah Resident of Village- Sher, P.S.- Sidhwalia, District- Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Naresh Prasad, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 09-05-2022 Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

Learned counsel for the appellants, at the very outset submits that no offence under the SC/ST Act is made out against the appellants as the informant belongs to ‘*Lohar*’ caste and the Bihar Government has notified ‘*Lohar*’ caste under the ST category but the Hon’ble Apex Court in the case of ***Sunil Kumar Rai and Ors. Versus The State of Bihar & Ors.***, passed in ***Writ Petition (Civil) No.1052 of 2021***, has quashed the said notification of the Bihar Government by which ‘*Lohar*’ was



notified as ST category.

Learned counsel for the appellants undertakes to remove the defects within four weeks of resumption of normal court proceedings. In the eventuality of non-removal of defects within stipulated period, the office will place the matter before the Bench.

In view of the Apex Court judgment, no SC/ST offence is made out against the appellants, as such, no notice is required to be issued upon the respondent no.2.

The appellants have challenged the order dated 05.03.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Gopalganj in connection with Gopalganj SC/ST P. S. Case No.49 of 2019, instituted for the offences under Sections 341, 323, 324, 387, 384, 120(B), 379, 354, 465/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(i)(r)(s)(w), 3(2)(Va) of the SC/ST Act, whereby their prayer for grant of anticipatory bail has been rejected.

On the issue of construction of a safety tank of the toilet which the appellants believed, was constructed in the middle of a road, an objection was raised but such protest was given the colour of a fight between the parties.

There is a counter-version of the occurrence also.



Between the parties, there are a spate of litigations about which reference has been made in the memo of appeal.

Thus, it has been urged that because of the dispute over construction of a safety tank, the occurrence had taken place. The accusation under the SC/ST (P.O.A.) Act is not warranted in the present set of facts. Similarly situated co-accused namely Babali Gupta, Pappu Gupta @ Pappu Kumar Gupta, Raghav Gupta have been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 20.07.2021 passed in Cr. Appeal (SJ) No.2565 of 2021 (Annexure-7 to the supplementary affidavit). Appellants have one criminal antecedent.

Regard being had to the afore-stated facts namely, the counter-version of the occurrence and nobody having been injured in any serious manner in the entire transaction, the impugned order referred to above, is set-aside.

The appeal stands allowed.

The appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, are directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to



the satisfaction of the learned 1st Additional Sessions Judge-
cum-Special Judge, Gopalganj in connection with Gopalganj
SC/ST P.S. Case No.49 of 2019, subject to the condition as laid
down under section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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