

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2818 of 2022

Arising Out of PS. Case No.-274 Year-2014 Thana- BIRAUL District- Darbhanga

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1. SINGHESHWAR SAHU SON OF LATE SUKHI SAHU R/O VILLAGE- GHOGHSAR, P.S.- BIRAUL, DISTRICT- DARBHANGA
 2. SANJAY SAHU SON OF LAXMN SAHU R/O VILLAGE- GHOGHSAR, P.S.- BIRAUL, DISTRICT- DARBHANGA
 3. MANOJ SAHU SON OF LAXMAN SAHU R/O VILLAGE- GHOGHSAR, P.S.- BIRAUL, DISTRICT- DARBHANGA
 4. LAXMAN SAHU @ HARKAN SAHU SON OF LATE HARINANDAN SAHU R/O VILLAGE- GHOGHSAR, P.S.- BIRAUL, DISTRICT- DARBHANGA
 5. BAHADUR SAHU SON OF LATE RAGHUNANDAN SAHU R/O VILLAGE- GHOGHSAR, P.S.- BIRAUL, DISTRICT- DARBHANGA

... .. Appellant/s

Versus

1. The State of Bihar
2. LAXMI DEVI W/O RAMA NAND RAJAK R/O VILLAGE- GHOGHSAR, P.S.- BIRAUL, DISTRICT- DARBHANGA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Shailesh Kumar
For the Respondent/s	:	Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT

Date : 30-11-2022

This appeal is directed against the order dated 21.06.2022 passed by 3rd Additional Sessions Judge-cum-Exclusive SC/ST (POA) Act, Darbhanga in SC/ST/GR Case No. 503 of 2017/ R. No. 503 of 2017 arising out of Biraul P.S. Case No. 274 of 2014 registered under sections 147, 149, 341, 323, 337, 504, 379 of the Indian Penal Code and section 3(1)(X) of the SC/ST (POA) Act, 1989, whereby and whereunder the



petition for discharge has been rejected.

2. The facts of the case, in short, is that while the informant and her husband were returning to home the accused persons stopped them, abused by their caste name. The accused Laxman Sahu @ Garkan Sahu pulled her saari and assaulted with bricks. They further snatched a gold chain worth Rs. 30,000/- and when the husband of the informant came for rescue, they assaulted him also.

3. The police after investigation submitted police report no. 34 of 2015 on 07.02.2015 against the appellants under sections 341, 323, 337, 504, 379 of the Indian Penal Code and section 3(1)(x) of SC/ST (POA) Act, 1989.

4. The submission of the learned counsel for the appellant is that the appellant nos. 1 to 3 purchased a land through a registered sale deed no. 558 dated 22.01.2010 from Sri Amlendu Mallick and after the execution of this deed, the informant also got Basgit Purcha of same land in connivance with the Circle Officers and others. It is further submitted that the appellants filed Title Suit No. 227 of 2013 against the informant of this case besides Government officials which is pending before the court of Sub Judge I, Benipur, Darbhanga. It is also submitted that informant filed this case with ulterior



motive due to land dispute which is apparent from bare perusal of the FIR itself.

5. Thereafter on 20.02.2018 appellants file a petition for discharging them because of lack of evidence, false accusation and biased investigation.

6. The submission of the learned counsel for the appellants is that the prosecution has been launched against the appellants is out an out civil dispute for which Title Suit is pending before the competent court of law. During course of investigation the Investigating Officer has not examined any independent witnesses of locality instead all the witnesses are interested witnesses. The evidence of witnesses are contradictory to each other and not sufficient grounds for framing charge and fit to be discarded. From perusal of para 27 of the case diary, it appears that the informant did not receive any injury and was never treated in any hospital.

7. Learned Spl. P.P. appearing for the State opposes the appeal and submits that all the above submissions advanced by the learned counsel for the appellants are disputed which can only be examined in course of trial. So far as the submission of the appellants that no injury has been found on the person of the informant Laxmi Devi is concerned, the appellants can pray



before the trial Court at the time of framing of charge that no charge is required to be framed under the related section.

8. The relevant extract of the order passed by the Special Judge is quoted hereinbelow :

“From perusal of the case diary it appears that FIR is registered on 03.08.2014 as per para 27 of the case diary the informant namely Laxmi Devi did not received any injuries and was never treated in any hospital. In para no. 7,8, 9 of the case diary all witnesses have supported the prosecution version as well as there is specific allegations against the accused persons that they abused informant and her husband by their caste name.

At the stage of framing of charge the Court has to apply his mind to the question whether or not there is any ground for presuming the commission of offences by the accused, the Court has to see while considering the question of framing of charge as to whether material brought on record could reasonably connect the accused with trial. Nothing more is required to be inquired into. The test of prima facie case has to be apply. Even if there is strong suspicion about the commission of offence and the involvement of the accused, it is sufficient for the Court to frame the charge.

Under the facts and circumstances as



discussed above, this Court is of the opinion that the present application has no merit and the same is liable to be dismissed, hence the petition dated 20.02.2018 filed under section 227 of the Cr. P.C. stands dismissed.

9. Perused the record. All the points raised on behalf of the appellants are disputed questions of fact which can only be examined during trial. This Court agrees with the submissions advanced on behalf of the State as also with the findings arrived at by the court below. There is no error in the order under challenge. The appellants can raise all the above noted points during trial. Accordingly, the appeal is dismissed at the stage of admission itself.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
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