

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3127 of 2022

Arising Out of PS. Case No.-125 Year-2022 Thana- DURAULI District- Siwan

1. TAJ MOHAMMAD MIYAN S/o Mansoori Miyan @ Mansur Miyan R/o village- Dumarhar Khurd, P.S.- Darauli, District- Siwan
2. Imamuddin Miyan @ Imamuddin Ansari S/o Mansoori Miyan @ Mansur Miyan R/o village- Dumarhar Khurd, P.S.- Darauli, District- Siwan
3. Samsuddin Miyan @ Samsuddin Sai @ Samsuddin Miyan sai S/o Adalat Sai R/o village- Dumarhar Khurd, P.S.- Darauli, District- Siwan

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Ramjannam Gaur S/o Late Ram Ekbal Gaur R/o village- Dumarhar Khurd, P.S.- Darauli, District- Siwan

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2959 of 2022

Arising Out of PS. Case No.-125 Year-2022 Thana- DURAULI District- Siwan

VIKASH KUMAR GUPTA @ VIKASH GUPTA Son of Sanjay Kumar Gupta @ Sanjay Gupta @ Sanjay Sah Resident of Village - Dumarhar Bujurg, P.S. Darauli, District - Siwan.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. RAMJANAM GAUR Son of Late Ram Ekbal Gaur Resident of Village - Dumarhar Bujurg, P.S. Darauli, District - Siwan.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 3127 of 2022)

For the Appellant/s : Mr.Udbhav, Advocate
For the Respondent/s : Ms.Usha Kumari 1, Spl.P.P.
For the Informant : Mr.Mukesh Kumar Thakur, Advocate

(In CRIMINAL APPEAL (SJ) No. 2959 of 2022)

For the Appellant/s : Ms.Vaishnavi Singh, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl.P.P
For the Informant : Mr.Mukesh Kumar Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER



3 21-12-2022

In Cr. Appl. (SJ) No.3127 of 2022

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

2. The appellants have 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 10.08.2022 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge, Siwan in connection with Darauli P.S. Case No. 125 of 2022 registered under Sections 147, 341, 323, 307, 504, 302 and 120(B) of Indian Penal Code and Section 3(1)(r)(s) and 2v of the 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. Appellants are named in F.I.R. and are in custody since 27.07.2022.

6. The allegation against the appellants is to murder of wife of the informant, along with other co-accused persons, by making an assault with farsa, lathi, rod, bricks etc., due to previous enmities arises out of neighbourhood disputes and



differences.

7. Learned counsel for the appellants submitted that allegation as regard to assault is very much general and omnibus against these appellants, whereas allegation of fatal assault is available specifically against co-accused, namely, Salauddin Mian @ Hiro Mian, who caused death of wife of the informant, during the course of occurrence, by causing assault with bricks on her head. It is submitted that nothing can be gathered from the face of F.I.R., which may, on its face, suggest that the act of appellants is an atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellants 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 for the informant, while opposing the prayer of bail submitted that allegation of collective assault is available



against these appellants.

10. In view of the facts and circumstances, as mentioned above, as allegation regard to assault, against these appellants, appearing very much general and omnibus, where specific allegation of assault is against co-accused, namely, Salauddin Mian @ Hiro Mian, coupled with the fact that charge-sheet has already been submitted, let the appellants, above named, are directed to be released on bail in connection with Darauli P.S. Case No. 125 of 2022 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 District and Sessions Judge-cum-Special Judge, Siwan/concerned Court, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 10.08.2022 is set aside.

12. Hence, appeal stands allowed.

In Cr. Appl. (SJ) No.2959 of 2022

1. Heard learned counsel for the appellant and learned Special P.P. for the State, 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 02.08.2022 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge, Siwan in connection with Darauli P.S. Case No. 125 of 2022 registered under Sections 147, 341, 323, 307, 504, 302 and 120(B) of Indian Penal Code and Section 3(1)(r)(s) and 2v of the 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 07.05.2022.

6. The allegation against the appellant is to murder of wife of the informant, along with other co-accused persons, by making an assault with farsa, lathi, rod, bricks etc., due to previous enmities arises out of neighbourhood disputes and differences.

7. Learned counsel for the appellant submitted that allegation as regard to assault is very much general and omnibus against this appellant, whereas allegation of fatal assault is available specifically against co-accused, namely, Salauddin



Mian @ Hiro Mian, who caused death of wife of the informant, during the course of occurrence, by causing assault with bricks on her head. It is submitted that nothing can be gathered from the face of F.I.R., which may, on its face, suggest that the act of appellant is an atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has already been 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 for the informant, while opposing the prayer of bail submitted that allegation of collective assault is available against this appellant.

10. In view of the facts and circumstances, as mentioned above, as allegation regard to assault, against this appellant, appearing very much general and omnibus, where specific allegation of assault is against co-accused, namely,



Salauddin Mian @ Hiro Mian, coupled with the fact that charge-sheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Darauli P.S. Case No. 125 of 2022 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 District and Sessions Judge-cum-Special Judge, Siwan/concerned Court, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 02.08.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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