

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4148 of 2021

Arising Out of PS. Case No.-126 Year-2021 Thana- BATHNAHA District- Sitamarhi

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1. Munni Mahto Son of Genesh Mahto Resident of Village - Lucchua, P.s.- Bathnaha, Distt.- Sitamarhi.
 2. Rambir Mahto Son of Ram Iqbal Mahto Resident of Village - Lucchua, P.s.- Bathnaha, Distt.- Sitamarhi.
 3. Vijay Bhagat @ Vijoy Mahto Son of Sukha Mahto Resident of Village - Lucchua, P.s.- Bathnaha, Distt.- Sitamarhi.
 4. Ravindra Bhagat Son of Late Chanadeo Mahto Resident of Village - Lucchua, P.s.- Bathnaha, Distt.- Sitamarhi.
 5. Shivji Mahto Son of Chanadeo Mahto Resident of Village - Lucchua, P.s.- Bathnaha, Distt.- Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 3585 of 2021

Arising Out of PS. Case No.-126 Year-2021 Thana- BATHNAHA District- Sitamarhi

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1. Virendra Mahto Son of Mahendra Mahto Resident of Village- Bhataulia, P.S.- Bathnaha, District- Sitamarhi.
 2. Surendra Mahto Son of Mahendra Mahto Resident of Village- Bhataulia, P.S.- Bathnaha, District- Sitamarhi.
 3. Dahaur Raut Son of Bhola Raut Resident of Village- Bhataulia, P.S.- Bathnaha, District- Sitamarhi.
 4. Sanjeet Mahto S/o Bkaur Mahto Resident of Village- Bhataulia, P.S.- Bathnaha, District- Sitamarhi.
 5. Vishwanath Bhagat Son of Ram Chandra Bhagat Resident of Village- Bhataulia, P.S.- Bathnaha, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Subh Karan Manjhi @ Kumbh Karan Manjhi Laxmi Manjhi Village- Bhatauliya east, P.S.-Bathnaha, District- Sitamarhi

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 4275 of 2021

Arising Out of PS. Case No.-126 Year-2021 Thana- BATHNAHA District- Sitamarhi



Amiri Lal Mahto @ Amiri Bhagat Son of Late Satahu Mahto @ Chhotu Bhagat Resident of Village- Bhataulia, Purbi, P.S.- Bathnaha, District-Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 4330 of 2021
In
CRIMINAL MISCELLANEOUS No.51557 of 2021

Arising Out of PS. Case No.-126 Year-2021 Thana- BATHNAHA District- Sitamarhi

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1. Ramesh Bhagat Son of Baidhnath Bhagat @ Ganeshi Mahto Resident of Bhtaulia, Police Station-Bathnaha, District-Sitamarhi.
2. Raju Kumar Bhagat @ Raju Bhagat Son of Hari Narayan Bhagat Resident of Bhataulia, Police Station-Bathnaha, District-Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 4479 of 2021

Arising Out of PS. Case No.-126 Year-2021 Thana- BATHNAHA District- Sitamarhi

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1. Ajay Mahto @ Ajay Bhagat S/o Late Dukha Mahto @ Late Sukha Bhagat R/o Village - Bhataulia Purbi, P.S. - Bathnaha, Dist. - Sitamarhi.
2. Ram Swarth @ Ram Swarth Raut @ Sogarath Raut @ Sargath Raut s/o ram chandra raut @ chandar raut @ chandra raut r/o village - bhataulia purbi, p.s. - Bathnaha, Dist. - Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 4148 of 2021)

For the Appellant/s : Mr.Subhash Kumar

For the Respondent/s : Mr.Sadanand Paswan

(In CRIMINAL APPEAL (SJ) No. 3585 of 2021)

For the Appellant/s : Mr. Virendra Kumar

For the Respondent/s : Mr. Binay Krishna



(In CRIMINAL APPEAL (SJ) No. 4275 of 2021)

For the Appellant/s : Mr. Pushpendra Kumar Singh

For the Respondent/s : Ms. Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 4330 of 2021)

For the Appellant/s : Mr. Subhash Kumar

For the Respondent/s : Mr. Binay Krishna

(In CRIMINAL APPEAL (SJ) No. 4479 of 2021)

For the Appellant/s : Mr. Alok Kumar Alok

For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 07-07-2022

Cr. Appeal (SJ) Nos. 4148 of 2021

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 08.08.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Bathnaha P.S. Case No. 126 of 2021 registered under Sections 147, 148, 323, 324, 307, 427, 354(B), 504, 506 and 34 of the Indian Penal Code, Sections 3(1)(r)(s) and 3(2)(v) of the Act and Section 27 of Arms 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, but failed to appear.



5. Appellants are named in F.I.R. and appellant nos. 1 and 2 are in custody since 24.05.2021, appellant no.3 is in custody since 04.06.2021, appellant no.4 is in custody since 30.06.2021 and appellant no.5 is in custody since 24.05.2021.

6. The allegation against the appellants is to cause collective assault, equipped with deadly weapons like farsa, Garasa, country made pistol etc, to the informant and family members to cause the death of one, Munna Manjhi and injured several persons. The informant, deceased and injured all belongs to the SC/ST community. The F.I.R. was lodged, where 54 persons are named and 100 unknown persons were made accused.

7. Learned counsel for the appellants submitted that allegation of assault is very much general and omnibus against the appellants, whereas, as regard to abuse by caste name, same is alleged to be specific against the co-accused, namely, Vijay Bhagat, but it is also not specified against informant or any person in public view. It is submitted that, earlier, an incident took place, when the sister of one of the appellants (as appellants in all connected matters) was disrobed by informant and others, while she was going for attending nature's call. It is submitted that nothing surfaced during the course of



investigation, which may suggest atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellants are persons of clean antecedent and, moreover, chargesheet has already been submitted in this case, 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 conceded the fact that the allegation of assault is very much general and omnibus, as regard to assault in the occurrence, which was a free fight between the parties. It is further submitted that specific allegation of abuse by caste name is against co-accused, namely, Vijay Bhagat, who was equipped with pistol.

10. Considering the facts and circumstances, as mentioned above, as the allegation against the appellants is very much general and omnibus, as also the occurrence was a free fight between the parties in the background of previous enmities, negating intention to cause death on its face coupled with the fact that chargesheet has already been submitted, let the



appellants, above named, are directed to be released on bail in connection with Bathnaha P.S. Case No. 126 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi, subject to the following conditions:

“(i) Appellants shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellants, duly supported by the documents.

(ii) That one of the bailors shall be Pachu Mahto, who is the brother of the appellant no.2 and deponent of the present appeal.”

11. Accordingly, impugned order dated 08.08.2021 is set aside.

12. Hence, appeal stands allowed.

Cr. Appeal (SJ) No. 4479 of 2021



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 08.08.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Bathnaha P.S. Case No. 126 of 2021 registered under Sections 147, 148, 323, 324, 307, 427, 354(B), 504, 506 and 34 of the Indian Penal Code, Sections 3(1)(r)(s) and 3(2)(v) of the Act and Section 27 of Arms 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, but failed to appear.

5. Appellants are named in F.I.R. and are in custody since 02.09.2021.

6. The allegation against the appellants is to cause collective assault, equipped with deadly weapons like farsa, Garasa, country made pistol etc, to the informant and family members to cause the death of one, Munna Manjhi and injured



several persons. The informant, deceased and injured all belongs to the SC/ST community. The F.I.R. was lodged, where 54 persons are named and 100 unknown persons were made accused.

7. Learned counsel for the appellants submitted that allegation of assault is very much general and omnibus against the appellants, whereas, as regard to abuse by caste name, same is alleged to be specific against the co-accused, namely, Vijay Bhagat, but it is also not specified against informant or any person in public view. It is submitted that, earlier, an incident took place, when the sister of one of the appellants (as appellants in all connected matters) was disrobed by informant and others, while she was going for attending nature's call. It is submitted that nothing surfaced during the course of investigation, which may suggest atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellants are persons of clean antecedent and, moreover, chargesheet has already been submitted in this case, 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 conceded the fact that the allegation of assault is very much general and omnibus, as regard to assault in the occurrence, which was a free fight between the parties. It is further submitted that specific allegation of abuse by caste name is against co-accused, namely, Vijay Bhagat, who was equipped with pistol.

10. Considering the facts and circumstances, as mentioned above, as the allegation against the appellants is very much general and omnibus, as also the occurrence was a free fight between the parties in the background of previous enmities, negating intention to cause death on its face coupled with the fact that chargesheet has already been submitted, let the appellants, above named, are directed to be released on bail in connection with Bathnaha P.S. Case No. 126 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi, subject to the following conditions:

“(i) Appellants shall cooperate in



the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellants, duly supported by the documents.

(ii) That one of the bailors shall be Chandan Kumar, who is the son of the appellant no.2 and deponent of the present appeal.”

11. Accordingly, impugned order dated 08.08.2021 is set aside.

12. Hence, appeal stands allowed.

Cr. Appeal (SJ) No. 4275 of 2021

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 08.08.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act,



Sitamarhi in connection with Bathnaha P.S. Case No. 126 of 2021 registered under Sections 147, 148, 323, 324, 307, 427, 354(B), 504, 506 and 34 of the Indian Penal Code, Sections 3(1)(r)(s) and 3(2)(v) of the Act and Section 27 of Arms 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, but failed to appear.

5. Appellant is named in F.I.R. and is in custody since 02.09.2021.

6. The allegation against the appellant is to cause collective assault, equipped with deadly weapons like farsa, Garasa, country made pistol etc, to the informant and family members to cause the death of one, Munna Manjhi and injured several persons. The informant, deceased and injured all belongs to the SC/ST community. The F.I.R. was lodged, where 54 persons are named and 100 unknown persons were made accused.

7. Learned counsel for the appellants submitted that allegation of assault is very much general and omnibus against the appellants, whereas, as regard to abuse by caste name, same is alleged to be specific against the co-accused, namely, Vijay



Bhagat, but it is also not specified against informant or any person in public view. It is submitted that, earlier, an incident took place, when the sister of one of the appellants (as appellants in all connected matters) was disrobed by informant and others, while she was going for attending nature's call. It is submitted that nothing surfaced during the course of investigation, which may suggest atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is person of clean antecedent and, moreover, chargesheet has already been submitted in this case, 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 conceded the fact that the allegation of assault is very much general and omnibus, as regard to assault in the occurrence, which was a free fight between the parties. It is further submitted that specific allegation of abuse by caste name is against co-accused, namely, Vijay Bhagat, who was equipped with pistol.



10. Considering the facts and circumstances, as mentioned above, as the allegation against the appellant is very much general and omnibus, as also the occurrence was a free fight between the parties in the background of previous enmities, negating intention to cause death on its face coupled with the fact that chargesheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Bathnaha P.S. Case No. 126 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, SC/ST (POA) Act, Sitamarhi, subject to the following conditions:

“(i) Appellant shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellant, duly supported by the documents.

(ii) That one of the bailors shall be Ganga Prasad Mahto, who is the cousin brother of the appellant and deponent of the



present appeal.”

11. Accordingly, impugned order dated 08.08.2021 is set aside.

12. Hence, appeal stands allowed.

Cr. Appeal (SJ) No. 4330 of 2021

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 08.08.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Bathnaha P.S. Case No. 126 of 2021 registered under Sections 147, 148, 323, 324, 307, 427, 354(B), 504, 506 and 34 of the Indian Penal Code, Sections 3(1)(r)(s) and 3(2)(v) of the Act and Section 27 of Arms 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, but failed to appear.

5. Appellants are not named in F.I.R. and are in



custody since appellant no.1 is in custody since 22.05.2021 and appellant no.2 is in custody since 29.05.2021.

6. The allegation against the appellants is to cause collective assault, equipped with deadly weapons like farsa, Garasa, country made pistol etc, to the informant and family members to cause the death of one, Munna Manjhi and injured several persons. The informant, deceased and injured all belongs to the SC/ST community. The F.I.R. was lodged, where 54 persons are named and 100 unknown persons were made accused.

7. Learned counsel for the appellants submitted that allegation of assault is very much general and omnibus against the appellants, whereas, as regard to abuse by caste name, same is alleged to be specific against the co-accused, namely, Vijay Bhagat, but it is also not specified against informant or any person in public view. It is submitted that, earlier, an incident took place, when the sister of one of the appellants (as appellants in all connected matters) was disrobed by informant and others, while she was going for attending nature's call. It is submitted that nothing surfaced during the course of investigation, which may suggest atrocities within the meaning of the Act. While concluding the argument, it is submitted that



appellants are persons of clean antecedent and, moreover, chargesheet has already been submitted in this case, 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 conceded the fact that the allegation of assault is very much general and omnibus, as regard to assault in the occurrence, which was a free fight between the parties. It is further submitted that specific allegation of abuse by caste name is against co-accused, namely, Vijay Bhagat, who was equipped with pistol.

10. Considering the facts and circumstances, as mentioned above, as the allegation against the appellants is very much general and omnibus, as also the occurrence was a free fight between the parties in the background of previous enmities, negating intention to cause death on its face coupled with the fact that chargesheet has already been submitted, let the appellants, above named, are directed to be released on bail in connection with Bathnaha P.S. Case No. 126 of 2021 on



furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi, subject to the following conditions:

“(i) Appellants shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellants, duly supported by the documents.

(ii) That one of the bailors shall be Lalit Kumar, who is the cousin brother of the appellant no.2 and deponent of the present appeal.”

11. Accordingly, impugned order dated 08.08.2021 is set aside.

12. Hence, appeal stands allowed.

Cr. Appeal (SJ) No. 3585 of 2021

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 08.08.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Bathnaha P.S. Case No. 126 of 2021 registered under Sections 147, 148, 323, 324, 307, 427, 354(B), 504, 506 and 34 of the Indian Penal Code, Sections 3(1) (r)(s) and 3(2)(v) of the Act and Section 27 of Arms 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, but failed to appear.

5. Appellants are not named in F.I.R. and are in custody since 04.06.2021.

6. The allegation against the appellants is to cause collective assault, equipped with deadly weapons like farsa, Garasa, country made pistol etc, to the informant and family members to cause the death of one, Munna Manjhi and injured several persons. The informant, deceased and injured all belongs to the SC/ST community. The F.I.R. was lodged, where 54



persons are named and 100 unknown persons were made accused.

7. Learned counsel for the appellants submitted that allegation of assault is very much general and omnibus against the appellants, whereas, as regard to abuse by caste name, same is alleged to be specific against the co-accused, namely, Vijay Bhagat, but it is also not specified against informant or any person in public view. It is submitted that, earlier, an incident took place, when the sister of one of the appellants (as appellants in all connected matters) was disrobed by informant and others, while she was going for attending nature's call. It is submitted that nothing surfaced during the course of investigation, which may suggest atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellants are persons of clean antecedent and, moreover, chargesheet has already been submitted in this case, 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 conceded the fact that the allegation of assault is very much general and omnibus, as regard to assault in the occurrence, which was a free fight between the parties. It is further submitted that specific allegation of abuse by caste name is against co-accused, namely, Vijay Bhagat, who was equipped with pistol.

10. Considering the facts and circumstances, as mentioned above, as the allegation against the appellants is very much general and omnibus, as also the occurrence was a free fight between the parties in the background of previous enmities, negating intention to cause death on its face coupled with the fact that chargesheet has already been submitted, let the appellants, above named, are directed to be released on bail in connection with Bathnaha P.S. Case No. 126 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi, subject to the following conditions:

“(i) Appellants shall cooperate in the trial and shall be physically present on each and every date before the Trial Court



till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellants, duly supported by the documents.

(ii) That one of the bailors shall be Virendra Raut, who is the cousin brother of the appellant no.3 and deponent of the present appeal.”

11. Accordingly, impugned order dated 08.08.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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