

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4421 of 2021

Arising Out of PS. Case No.-114 Year-2020 Thana- BIBHUTIPUR District- Samastipur

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Kuldeep Kumar S/o Late- Sanjeet Mahto Resident of Village- Panchwati Chowk, Singhiya Ghat, P.S.- Bibhutipur, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Komal Kumari Daughter of Om Prakash Paswan R/O village- Ekdara Tola Jogiya Ward No. 13 P.S.- Bibhutipur, District- Samastipur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mirityunjay Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 07-07-2022 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 13.04.2021 passed by the learned Special Judge, SC/ST Act, Samastipur in connection with Bibhutipur P.S. Case No. 114 of 2020 registered under Sections 120(B), 302 and 34 of Indian Penal Code, Sections 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, further by taking a guiding note of the direction of the Hon'ble Supreme Court in the matter of ***IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION vide order dated 23.09.2021 passed in Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020***, where paragraph no.8 of the order reads as:

“8. Therefore, we dispose of the M.A. No. 665 of 2021 with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of



limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.

III. -----

IV. -----.”

4. Notice has been issued to Respondent no.2, served upon, but failed to appear.

5. Appellant is not named in F.I.R. and is in custody since 07.06.2020.

6. The allegation against the appellant is to help one, Baby Devi, in the conspiracy hatched to kill the mother of the informant.

7. Learned counsel for the appellant submitted that the appellant is not named in the F.I.R. It is submitted that the name of the appellant surfaced in the present case during the course of investigation merely on the basis of suspicion. It is further submitted that neither there is any eye witness to the alleged occurrence nor there is any circumstantial evidence to suggest the participation of the appellant in the present occurrence. 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 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 opposes the prayer of bail of the appellant.

10. Considering the facts and circumstances, as mentioned above, as neither there is any eye witness to the alleged occurrence nor there is any circumstantial evidence to suggest the participation of the appellant in the present occurrence 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 Bibhutipur P.S. Case No. 114 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Samastipur,



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 Jay Prakesh Mahto, who is the brother-in-law of the appellant and deponent of the present appeal.”

11. Accordingly, impugned order dated 13.04.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

Ankit/-

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