

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.93 of 2022

Arising Out of PS. Case No.-20 Year-2021 Thana- BHANGHA District- West Champaran

1. Awadhesh Prasad @ Awadhesh Subba, S/O Late Laxman Prasad, R/o village- Rampur, P.S.- Bhangaha, District- West Champaran
2. Rabbi Kumar Subba @ Rabbi Subba, S/o Sri Awadhesh Prasad, R/o village- Rampur, P.S.- Bhangaha, District- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 872 of 2022

Arising Out of PS. Case No.-20 Year-2021 Thana- BHANGHA District- West Champaran

Baliram Sah, Son of Puran Sah, Resident of Village - Sahnaula, P.S.- Manpur,
District - West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Jayanathi Devi, Wife of Jairam Prasad, Resident of Village - Rampur, P.S.- Bhangaha, District - West Champaran.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 93 of 2022)

For the Appellant/s : Mr. Umesh Chandra Verma, Advocate

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

For the Informant : Mr. Bimlesh Pandey, Advocate

(In CRIMINAL APPEAL (SJ) No. 872 of 2022)

For the Appellant/s : Mr. Arun Kumar, Advocate

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

For the Informant : Mr. Bimlesh Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 28-07-2022

Since both the appeals arise out of Bhangaha P.S.

Case No. 20 of 2021, as such, they have been heard together and



are being disposed of by this common judgment.

Heard learned counsel for the appellants and learned counsel for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

Both the appeals have been preferred for setting aside the impugned orders passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran in connection with Bhangaha P.S. Case No. 20 of 2021 registered for the offences under Sections 420, 467, 468, 471, 506/34 of the Indian Penal Code and Sections 3(1) (r) (g) and 3 (2) (va) of the SC/ST (POA) Act, by which prayer for bail of the appellants has been rejected.

The case has been registered on a written report being filed on behalf of the respondent no.2, who is informant of the case, against the appellants. It is the contention of the respondent no.2, in her written report, that she has been allotted some land under Bihar Privileged Persons Homestead Tenancy Act, 1947, but the said land was sold by appellant Awadhesh Prasad to the appellant Baliram Sah and two other co-accused persons by making forged papers. Thereafter, he tried to oust her



from her homestead land. The informant has also submitted in her written report that the appellant Awadhesh Prasad belongs to ST community, but he has mentioned his caste as Mahto in the registered sale deed. Informant further alleged that she was being threatened with her life as she is a female of Scheduled Caste.

It has been submitted by the learned counsel for the appellants Awadhesh Prasad & Rabbi Kumar Subba that no case is made out against the appellants, who are quite innocent and have not committed any offence. They have been falsely implicated in this case. It is an admitted land dispute. The land in question is the share of the appellants received as a result of family partition and Jamabandi No. 109 was running in the name of Laxman Prasad, the father of the appellant no.1. A supplementary affidavit has been filed on behalf of these appellants submitting that the informant/respondent no.2 was allotted 'Parcha' in respect of land measuring about five decimals in Khata No. 612 of Khesra No. 388 on 17.02.2021 from Jamabandi No. 59 of his landlord Laxman Prasad, whereas the appellant Awadhesh Prasad had executed a sale deed no. 9094 on 18.12.2020 in favour of three vendees much before issuance of 'Parcha' in favour of the informant, that too, with



respect to different pieces of land under the same Khata and Khesra. Learned counsel further submits that from the perusal of the FIR, it is apparent that no case is made out under the provisions of SC/ST (POA) Act as the appellants Awdhesh Prasad and Rabbi Subba are themselves members of the Scheduled Tribes Community. The learned counsel further submits that the appellants are in custody since 03.11.2021.

It has been submitted on behalf of the appellant Baliram Sah that he is merely a purchaser of this land from appellant Awadhesh Prasad. The learned counsel for the appellants further submits that informant has got 'Basgit Parcha' of land of Kapildeo Prasad in Jamabandi No. 59, but this appellant had purchased the land from appellant Awadhesh Prasad from Jamabandi No. 109 and, as such, the informant should not have any grievance with the present appellant. Learned counsel further submits that no case under any of the provisions as mentioned in the FIR or under the provisions of SC/ST Atrocities Act is made out against the appellant. The appellant is in custody since 13.01.2022.

Learned counsel for the respondent no.2 submits that the appellants prepared forged papers and tried to oust the informant, a lady of weaker section, from her homestead land.



If the appellants are submitting that the land sold by them is different from the land which was allotted to the informant/respondent no.2, they should not disturb the possession of this respondent.

Perused the record.

From the record, it is apparent that the land dispute is a writ large on the face of record in the present case. The appellants have been arraigned in this case on the basis of dispute over the ownership and title of some land and the nature of this dispute appears to be predominantly civil as per record so far produced before me. Under the circumstances, the impugned orders are not sustainable and are set aside and the appeals are allowed.

Accordingly, let the appellants above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each of the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Bettiah, West Champaran, in connection with Bhangha P.S Case No. 20 of 2021 subject to the following conditions:

- (i) The bail bond of the appellants will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the



appellants.

(ii) One of the bailors will be a close relative of the appellants.

(iii) The appellants will remain present on each and every date fixed by the court below.

(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the appellants will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

balmukund/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2022
Transmission Date	29.07.2022

