IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.130 of 2022

Arising Out of PS. Case No.-232 Year-2018 Thana- GAYA COMPLAINT CASE District- Gaya

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BIRENDRA KUMAR S/o Late Shatrudhan Singh R/o village- Munshi Tola, Sherghati, P.S.- Sherghati, District- Gaya, at Present Clerk in Bank of Baroda, Branch Hemjapur, P.S.- Amas, District- Gaya

... ... Appellant/s

Versus

1. The State of Bihar
2. Krishna Choudhari S/o Late Manki Chaudhari R/o village- Nadiyawa, P.S.- Gurua, District- Gaya

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Md. Javed Jafar Khan
For the Respondent/s	:	Mr.Usha Kumari 1

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
Date : 01-12-2022

This appeal is directed against the order dated 29.06.2018 passed by Special Judge, SC/ST, Gaya in Complaint Case No. 232 of 2018 corresponding to Complaint Case No. 232 of 2018, whereby and whereunder cognizance has been taken against the appellant and two others for the offence under section 406, 409 of the Indian Penal Code and sections 3(1)(r)(s) of the SC/ST Act.

2. The facts, in short, is that in the month of January, 2017 the Bank of Baroda sanctioned Rs. 25 lakhs under the Scheme of Pradhan Mantri Rozgar Shrijan Kryakaram to the opposite party no. 2 and after inquiry Rs. 7 lacs credited in the

account of complainant and told for construction of shed and further after inquiry Rs. 5 lakhs was credited in his loan account and for the rest amount a chque amounting to Rs. 9 lakhs was issued in C.S. and C.C. A/c was opened and entire loan statement was given to him. In the meanwhile Bank Manager was transferred. On 23.12.2017 at about 12 P.M. when he went to withdraw Rs. 50,000/- the accused Branch Manager Birendra Kumar (the appellant) who is an employee of the Bank demanded Rs. 3 lakhs as bribe and when he denied to pay the same, they abused by taking caste name and drove out from the bank and told that the said loan amount was wrongly sanctioned and not will be given to him by Bank. Further he asked for the bank details of statement, then he found that Rs. 1,50,000/- was withdrawn from his account with the help of another co-accused namely, Dilip Kumar Das.

3. The order taking cognizance has been challenged mainly on the grounds that the appellant, who is working as Clerk in the Bank, has no authority to either sanction the loan amount or to withhold the transaction of the loan amount of the complainant, there is no direct or indirect allegation against the appellant and that the appellant has not abused in any way the complainant and has not committed any

offence under the SC/ST Act.

4. Learned Spl. P.P. appearing for the State opposes the appeal and submits that cognizance has been taken for the offence under sections 406, 409 of the Indian Penal Code and section 3 and other allied sub-sections of the SC/ST (Prevention of Atrocities) Act. The submission of the appellants that nothing is alleged either in the complaint or in the evidence of witnesses is wrong. So far as commission of offence under special act is concerned, the appellant can make a prayer before the trial court that no offence is made out against him under the special act at the time of framing of charge.

5. This court agrees with the submissions advanced by the learned Spl. P.P.. There is no error in the order taking cognizance. Accordingly, the appeal is dismissed at the stage of admission itself.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.02.2023
Transmission Date	04.02.2023