

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1176 of 2023

Arising Out of PS. Case No.-55 Year-2022 Thana- PALANWA District- East Champaran

1. Gopal Pandit Son of Late Maharaj Pandit Resident of village - Kharkatwa (Durganagar), P.S.- Palanwa, District - East Champaran.
2. Jamadar Pandit Son of Late Mahabir Pandit Resident of village - Kharkatwa (Durganagar), P.S.- Palanwa, District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Abhimanyu Sah Gond Son of Late Sahdeo Sah Resident of village - Kharkatwa, P.S.- Palanwa, District - East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Rashmi Jha, Advocate
	:	Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Vijendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 07-07-2023 Heard learned counsel for the appellants, learned Special P.P. for the State and learned counsel for the informant 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 10.02.2023 passed by the learned Special Judge SC/ST (POA) Act, East Champaran, Motihari in connection with Palanwa P.S. Case No. 55 of 2022 registered under Sections 341, 323, 447, 379, 436 and 504/34 of the Indian Penal Code and Section 3(1)(r)II (v-a) F.W. of SC/ST (P.O.A.) Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Special P.P. that information has been given to the respondent no.2, in terms of the order dated 16.05.2023, about the present Court proceedings, where informant is duly represented through learned counsel.

5. Both appellants are named in the F.I.R., where appellant no.1 is in custody since 28.01.2023 and appellant no.2 is in custody since 05.01.2023.

6. Allegations against the appellants is to commit mischief by fire and while committing so put the house of nephew of informant, namely Kanhiya Sah Gond, on fire alongwith other 30 named co-accused persons, when informant and others refused to compromise in Palanwa P.S. Case No. 49 of 2018. It is further alleged that accused persons including



appellants taken away household articles like box, almirah, chair-table and cash of Rs. 10,000/- during the course of occurrence.

7. Learned counsel for the appellants submitted that the appellants have been falsely implicated with this case out of previous enmities and same is apparent from the narration of the F.I.R., itself. It is submitted that during the course of occurrence the house of the nephew of the informant was put on fire and not of the informant, where nothing appears from narration of the F.I.R. that the house, which was put on fire was a dwelling hut, dedicated as a place of worship or as a place for custody of property, as an essential ingredient to constitute alleged offence, *prima facie*. It is also submitted that nothing surfaced from the bare perusal of the F.I.R., which may, on its face, suggest that the act of appellant attract atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellants are implicated with five other cases either with same informant or by his relatives, where they are on bail and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted and, 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. duly assisted by learned counsel appearing on behalf of informant, while opposing the prayer of bail, submitted that appellants actively participated in the present occurrence, where house of nephew of informant was put on fire.

10. In view of the facts and circumstances, as mentioned above and by taking note of the nature of allegations, *qua*, mischief by fire is appearing very much general and omnibus against both the appellants coupled with the fact, that charge-sheet has already submitted, where appellant no.1 is in custody since 28.01.2023 and appellant no.2 is in custody since 05.01.2023, accordingly both the appellants, above named, are directed to be released on bail in connection with Palanwa P.S. Case No. 55 of 2022 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 Additional District and Sessions Judge-I-cum-SC/ST Court, Buxar/concerned Court, subject to the conditions as laid down under Section



437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 10.02.2023 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J.)

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