

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1696 of 2023

Arising Out of PS. Case No.-248 Year-2018 Thana- DHARHARA District- Munger

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RANA YADAV Son of Ramadhar Yadav R/V-Bari Govindpur, PS- Dharhara,
Dist- Munger, State- Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Meera Devi Wife of late Vijay Tanti R/o Sarobag, PS- Dharhara, Dist-
Munger, State- Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Amit Narayan

For the Respondent/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT

Date : 24-08-2023

1. The present appeal is an example of as to how
two accused together can obstruct the trial of the case.

2. Sessions Trial No. 24 of 2019 under section
302/34, 364/34, 201/34 and 120B of the Indian Penal Code was
pending in the Court of Sessions Judge, Munger. In light of the
direction of the Patna High Court, the trial was to be concluded
within 6 months. The trial court, working efficiently, recorded
the evidence and statements within the stipulated time and the
trial was fixed for argument.

3. Co-accused Matuki Yadav filed an application
before the court of Sessions Judge that the deceased was a
member of the Scheduled Caste, so the trial should be



conducted in the court of the Special Judge, Scheduled Caste and Scheduled Tribe.

4. It is worth mentioning that this application was not filed by the prosecution, but the Sessions Judge, without considering this point that the application was given only for the purpose of delaying the trial, accepted the same and transferred the trial to the Special Court.

5. In the special court the charges were amended accordingly and charges were also framed under section 3(2) (v) of the SC/ST (POA) Act.

6. An application was filed by Matuki Yadav under section 217 of the Code of Criminal Procedure to the effect that since charges have been amended, so all the witnesses should be recalled.

7. The Special Judge, keeping in view the direction of the Hon'ble High Court, rejected the application.

8. Being aggrieved, the co-accused Rana Yadav (Not Matuki Yadav), filed the present appeal against the aforesaid order.

9. When an application was filed by co-accused Matuki Yadav that the trial be transferred to the Special Court, the accused Rana Yadav was not aggrieved although this



application was affecting him adversely. But on rejection of the application under section 217 Cr. P.C. he felt that he was being adversely affected and filed the present appeal.

10. From the aforesaid facts it is clear that on one hand the accused Matuki Yadav initially filed an application for transfer of the case to the Special Court and thereafter files an application for recall of the witnesses and on the other hand the accused Rana Yadav has filed the present appeal challenging the refusal of the prayer for recall of the witnesses whereas it was accused Matuki Yadav whose prayer for recall of the witnesses was rejected. It appears that both the accused persons, having hands together, are tactfully trying to delay the trial of the case. It is a clear case of abuse of the process of law.

11. Having considered the facts stated hereinbefore, I am not inclined to interfere with the order impugned. The appeal is, accordingly, dismissed.

(Arvind Srivastava, J)

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CAV DATE	
Uploading Date	
Transmission Date	

