

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1956 of 2023

Arising Out of PS. Case No.-138 Year-2023 Thana- BAHERA District- Darbhanga

Sushil Kumar Choudhary Son Of Mahesh Prasad Chaudhary @ Mahesh Dutt
Choudhary Village And Po- Pokhram, Ps Biroul, Distt- Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar
2. Jawahar Paswan Son Of Late Phudar Paswan Village Andauli, Ps -Alinagar,
Distt- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Adv
	:	Mr. Rajesh Kumar Jha
For the State	:	Mr. Binay Krishna, Spl. P.P
For the Respondent no.2	:	Mr. Gopal Jha Adv, Mr. Shreepal Jha

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 18-05-2023 Heard learned counsel for the appellant, learned
counsel for the informant and learned Special Public Prosecutor
for the State.

The instant appeal has been filed by the appellant against the order dated 3.4.2023 passed by learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge SC/ST (POA) Act, Darbhanga in SC/ST BP No. 35 of 2023 whereby the prayer for bail of the appellant in connection with Bahera P.S. Case no. 138 of 2023 under Sections 341, 323, 384, 379, 354(B), 420, 504, 506/34 of the Indian Penal Code and sections 3(i)(r), 3(i)(w) & 3(2)(va) of the SC/ST Act was rejected.

As per allegation in the F.I.R., the appellant who is a



practicing advocate at Benipur Court, had been exerting pressure upon the informant to come with Rs. 35,000/- otherwise he will get his bail bond canceled and send him behind bar. On 4.3.2023, the informant along with his wife reached at Benipur Court and met the appellant. Thereafter, the appellant demanded the said money from them but some altercation took place between them. Then, the appellant with two other co-accused persons caught hold the informant and taking out of Rs. 3,000/- from his pocket and started abusing him by taking caste name. When the informant's wife intervened, all the accused persons with intention to outrage her modesty, assaulted her. The informant concluded by stating that the appellant threatened the him after showing the fear of court and taken more than three lacs rupees from him by cheating and in September 2022, the accused appellant also cheated the informant to the tune Rs. 40,000/- in the name of paying the same to the officer for getting a favourable order passed in a Title Suit no. 49 of 2016.

It is submitted by learned counsel for the appellant that appellant has committed no offence and has falsely been implicated in this case. The present case has been filed after inordinate delay of 23 days without explaining any valid reasons



by way of filing a written complaint. In fact, no any alleged occurrence has been occurred on the alleged date & time of the occurrence at Benipur Court premises nor the informant or his wife visited Benipur Court premises which can be corroborated from the CCTV footage of the Court and to this effect, the pairvikar of the appellant also requested to the Court management to provide such footage but the same has yet to be provided. The police has also not taken steps or made any efforts towards getting CCTV footage from the Benipour court management. It is further submitted that the FIR has been lodged on 26.3.2023 at 9:45 hrs at Bahera Police Station and while the appellant was on way to attend the court at Benipur, has been arrested in the morning 27.3.2023 itself by the police under jurisdiction of Laheriasarai police station. And on 27.3.2023 itself, the petitioner has been produced before learned 3rd Addl. Sessions Judge-Cum-Exclusive Spl Judge SC/ST (POA) Act, Darbhanga which clearly shows that how the appellant has been targeted/trapped in a pre-planned false case. In fact, the deponent has claimed that the appellant has been arrested by the Laheriasarai Police on direction of higher police officials on 27.3.2023 in connivance with others and the instant FIR has been lodged in back date under thatched conspiracy. It



is further submitted that the appellant refused to conduct the said cases and returned the files to the informant and accordingly, the informant on next date i.e. 23.3.2023, engaged in another advocate namely, Sanjeev Kr. Jha (Who has enmical term with the appellant) who appeared in Alinagar P.S. Case No. 13 of 2016 on behalf of the informant in the concerned Court but the informant has not filed any complaint either with respect to the alleged occurrence (as mentioned in the FIR) or any threat of loss of life from the appellant which also goes to prove the case false & concocted. No offence is made out under the provisions of the SC/ST Act against the appellant as he has not taken the caste name of the informant in public view. The appellant has also no intention to disgrace the image of the informant in public view and languishing in judicial custody since 27.3.2023.

Learned Spl. P.P and learned counsel for the informant have vehemently opposed the appeal.

Having heard learned counsel for the parties and considering the facts and circumstances of the case, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 3.4.2023 passed in SC/ST B.P. No. 35 of 2023 is hereby set aside.



The appellant is directed to be enlarged on bail in connection with Bahera P.S. Case No. 138 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned 3rd Additional Sessions Judge-Cum-Exclusive Special Judge SC/ST (POA) Act, Darbhanga, Bihar.

(Sunil Kumar Panwar, J)

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