

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2108 of 2023

Arising Out of PS. Case No.-68 Year-2023 Thana- KALYANPUR District- East Champaran

1. Nandan Singh, Son of Ambika Singh,
2. Ambika Singh, Son of Ramanup Singh,
Both are resident of village - Bahuara Harivans, P.S.- Kalyanpur, District - East Champaran

... .. Appellants

Versus

1. The State of Bihar.
2. Shushila Devi, Wife of Nagendra Das, Resident of village - Math Govardhan, P.S.- Kalyanpur, District - East Champaran

... .. Respondents

Appearance :

For the Appellant/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-07-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

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') for setting aside the impugned order dated 12.04.2023 passed by the learned Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with Kalyanpur P.S. Case No.68 of 2023 registered for the offences punishable under Sections 279, 341, 342, 323, 324, 307, 354-B, 504, 506 read with 34 of the Indian Penal Code and Section 3(1)(r)(s) of the Act.



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

4. Notice was issued vide order dated 23.06.2023 by this Court regarding present proceedings in terms of Section 15-A(2) of the Act to the informant.

5. It is submitted by learned Special Public Prosecutor that information already given to informant in terms of aforesaid order but, she failed to join the present proceeding.

6. Accused/appellants are named in the FIR and are in custody since 03.03.2023.

7. The allegation against the appellants is to commit murder of son of informant along with other co-accused persons by causing head injury by assaulting with iron rod, where occurrence is arises out of motorcycle accident with she-goat.

8. It is submitted by learned counsel that appellants have been falsely implicated with present case. It is submitted that if narration of FIR be taken into consideration then, the specific allegation as to cause fatal assault on head of deceased caused by iron rod is available against co-accused, Sanjeet Singh. It is submitted that nothing surfaced during the course of investigation, which may suggest that act of appellants can be said an atrocities within the meaning of Act, as to cause present



occurrence. While concluding argument, it is submitted that appellants are men of clean antecedent 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.

9. 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]***.

10. Learned Special Public Prosecutor while opposing the prayer for bail of the appellant submitted that appellants were actively participated in occurrence.

11. In view of above-mentioned facts and circumstances, as allegation of fatal head injury is available against co-accused, Sanjeet Singh not against these appellants, coupled with the fact that charge-sheet has already submitted, where appellants is in custody since 03.03.2023, accordingly, the appellants, above-named, are directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST (POA) Act, East



Champaran at Motihari in connection with Kalyanpur P.S. Case No.68 of 2023, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 12.04.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

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