

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3221 of 2023

Arising Out of PS. Case No.-117 Year-2023 Thana- AMAUR District- Purnia

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1. Bijay Sharma @ Vijay Sharma, Son of Late Harakchandra Sharma
 2. Arun Sharma, Son of Late Kishan Lal Sharma
 3. Varun Sharma @ Varuna Sharma, Son of Late Kishan Lal Sharma
- All are R/o village-Khari Mahingaon, Ward No. 8, P.S.-Amour, Distt.-Purnea

... .. Appellants

Versus

1. The State of Bihar
2. Bharti Devi, wife of Jitendra Boshak, resident of village-Khari Mahingaon, Ward No.08, P.S.-Amour, District-Purnea, Bihar PIN-854315.

... .. Respondents

Appearance :

For the Appellants	:	Mr. Mritunjay Kumar, Advocate
For the State	:	Mr. Usha Kumari 1, Spl. P.P.
For the Informant	:	Mr. Ram Pravesh Kumar, Advocat

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-08-2023 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State and learned counsel for the informant.

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 20.06.2023 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea in connection with Amour P.S. Case No.117 of 2023 registered for the offences punishable under



Sections 147, 341, 380, 504, 506, 323 of the Indian Penal Code and Sections 3(1)(r)(s) & 3(2)(va) of the Act.

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

5. Since learned counsel for the informant, Mr. Ram Pravesh Kumar has appeared *sumo motu* in this case and as such there is no need to issue notice under Section 15-A(3) of the Act.

6. Accused/appellants are named in the FIR and are in custody since 03.09.2023.

7. Allegation against the appellants is to commit theft along with other co-accused persons in the house of informant and while committing so, taken away total cash of Rs.55,000/-.

8. It is submitted by learned counsel that the allegation against these appellants is appearing very much general and omnibus in nature and that too out of previous enmity. It is submitted that in furtherance of allegation, no recovery of currency notes was made from these appellants during the course of investigation. It is also pointed out by learned counsel that nothing can be gathered from FIR or 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 appellant no.3 is a man of clean antecedent whereas appellant nos. 1 and 2 found involved in one more criminal case, which was filed by same informant.

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 duly assisted by Mr. Ram Pravesh Kumar, learned counsel for the informant, while opposing the prayer for bail of the appellants submitted that all above-named appellants were actively participated in present occurrence.

11. In view of above-mentioned facts and circumstances and by taking note of fact as allegation of theft is appearing very much general and omnibus against the appellants, where appellants are in custody since 03.06.2023, accordingly, the appellants, above-named, are directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of the learned Additional District and Sessions Judge-I-cum-Special Judge, SC/ST Act, Purnea in connection with Amour P.S. Case No.117 of 2023 subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 20.06.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

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