

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.535 of 2019

In
CRIMINAL MISCELLANEOUS No.4128 of 2019

Arising Out of PS. Case No.-31 Year-2017 Thana- SC/ST District- Sitamarhi

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Mahanth Ram Mohan Das @ Ram Mohan Das Chele Waris Late Mahanth Ram Sundar Das, S/o Late Ram Lakhan Singh resident of Paktola Tole Bhataulia Math, Ward no.1, P.S-Dumra, Distt.-Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mahesh Paswan S/o Late Sakhichand Paswan, resident of village-Paktola Tole, Bhataulia, P.S-Dumra, Distt.-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Arvind Kumar Jha, Advocate
For the State : Mr.Usha Kumari 1, Spl.PP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

16 21-10-2024 Heard learned counsel for the appellant; learned Special P.P. for the State and learned counsel for the opposite party no. 2.

2. The present application has been filed against the order taking cognizance dated 06.11.2018 passed by the learned Additional District & Sessions Judge-cum-Special Judge, Sitamarhi in SC/ST (Sitamarhi) P.S. Case No. 31 of 2017 (G.R. No. 1591 of 2017) for the offence committed under Sections 323, 341 and 504 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Caste and Scheduled Tribes Act.

3. From the reading of the impugned order, it appears



that the charge-sheet of a different case was considered by the Court below and the impugned order taking cognizance was passed.

4. In view of the above, all the parties i.e., the appellant, learned Spl. P.P. for the State and learned counsel for the opposite party no. 2 submit that the matter may be remitted back for fresh consideration on the point of cognizance in accordance with law.

5. While considering the records at the stage of cognizance, the Special Judge will consider the judgment of the Hon'ble Supreme Court in the case of **Dharam Pal & Ors. Vs. State of Haryana [(2014) 3 SCC 306]** and **Hardeep Singh Vs. State of Punjab [(2014) 3 SCC 92]**.

6. In view of the submissions of the learned counsel for the appellant that final form exonerating the appellant was submitted by the police after investigation, this application is allowed.

7. Accordingly, this application is disposed of with the aforesaid direction.

(Sandeep Kumar, J)

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