

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1026 of 2022**

Arising Out of PS. Case No.-24 Year-2019 Thana- KHAJAULI District- Madhubani

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Bisheshwar Mahto @ Bisheshwar Singh Son Of Ravinath Singh @ Ravi Mahto, Resident Of Village - Sukki, Nasi Tol, Ward No. 7, Police Station - Khajauli, District - Madhubani.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Masomat Tara Devi Wife of Dular Chand Sadai Resident of Village - Sukki, Nasi Tol, Ward No. 7, Police Station - Khajauli, District - Madhubani.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sanjay Kumar Jha, Advocate
For the State	:	None
For the Respondent No.2	:	Mr. Ugrnath Mallik, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER**

5 20-04-2024

1. Heard the parties.

2. The instant appeal has been preferred under Section 14A(1) of Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act (in short 'SC/ST Act') against the order dated 13.09.2021 passed by court of learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act Madhubani, in connection with Khajauli Case No. 24 of 2019, G.R. No. 27 of 2019, registered under Sections 147, 149, 341, 323, 427, 504 of the Indian Penal Code (in short 'IPC') and Section 3(i)(r)(s) and 3(2)(va) of SC/ST Act.

3. By order impugned, the learned trial court has



taken cognizance of the offences punishable under Sections 147, 149, 341, 323, 427, 504 of IPC and Section 3(i)(r)(s), 3(2)(va) of SC/ST Act. against the appellant and others and in this appeal, a prayer has been made to set aside the said order only to the extent of the appellant.

4. Mr. Sanjay Kumar Jha, learned counsel appearing for the appellant submits that though the appellant has been named in the FIR but against him, there is no specific allegation of abusing the informant and the FIR was registered against 5 named persons including the appellant and several unknown persons and the appellant is said to be present along with other co-accused persons but any specific role of him in the commission of the alleged offence was not revealed in the FIR. He further submits that the allegations made in the FIR were investigated by the police but the appellant was not sent up for trial, in actual, the appellant was not present at the place of occurrence at the alleged time rather he was discharging his official duty at Banka Circuit House and in this regard investigation was also made and on that basis the police did not send up the appellant considering his non-presence at the place of occurrence. He further submits that as per the FIR, one Sampati Devi is also said to be a victim but her statement was



not recorded by the investigating officer and the allegation of using caste based abusive words is not stated to have been used by the accused person at public place or in public view, so the alleged offences of Section 3(i)(r)(s), 3(2)(va) of SC/ST Act do not attract.

5. Mr. Ugrnath Mallik, learned counsel appearing for the respondent no. 2 has opposed the appeal and submitted that there is sufficient prima facie material to attract the alleged offences against the appellant and the trial court has rightly taken cognizance of the alleged offences against the appellant.

6. Nobody appears on behalf of the State.

7. Heard both the sides, perused the order impugned and the case diary. The appellant is named in the FIR and he is said to be present at the place of occurrence along with other co-accused persons, who allegedly firstly pressurized the informant to remove her hut from the alleged place of occurrence when she denied then the appellant and other named co-accused along with some unknown persons who were more than five in number forcibly removed the residential structure of the informant from the alleged place and also abused the informant by using caste based words and also committed mischief to the house of one namely, Sampati Devi during the course of



committing the alleged occurrence. Though, there is no specific allegation against the appellant in the FIR and he has also taken *plea of alibi* which was investigated by the police and the police found substance in the appellant's said plea and mainly on that ground the appellant was not sent up but in the case diary there is no supporting materials to the appellant's plea of alibi and the informant supported the allegations of the FIR in her re-statement and statements of some witnesses mentioned in para 8, 9 and 10 of the case diary are also relevant to the allegations made in the FIR. These materials are sufficient to *prima facie* attract the alleged offences. Accordingly, the order impugned appears to be proper and there is no need to interfere in the same and this court finds no merit in this appeal so it stands dismissed.

8. The appellant is directed to surrender before the trial court in the next 20 days from the date of this order, if he surrenders within the said period then the learned trial court shall decide his bail prayer on the same day taking a sympathetic view and considering the appellant's government job.

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(Shailendra Singh, J)

