

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1633 of 2023

Arising Out of PS. Case No.-56 Year-2020 Thana- SC/ST District- Saran

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1. Manan Yadav, Son of Adalat Yadav, Resident of Village-Narpaliya, P.S.-Manjhi, District-Saran
 2. Munni Lal Yadav, Son of Ram Janam Yadav, Resident of Village-Dharhara, P.S.-Manjhi, District-Saran
 3. Sandeep Yadav @ Sandeep Kumar @ Sandeep Kumar Yadav, Son of Munnilal Yadav, Resident of Village-Dharhara, P.S.-Manjhi, District-Saran
 4. Om Prakash Yadav, Son of Shiv Prasad Yadav, Resident of Village-Dharhara, P.S.-Manjhi, District-Saran
 5. Nitesh Yadav @ Nitesh Kumar @ Nitesh Kumar Yadav, Son of Sri Ram Yadav, Resident of Village-Dharhara, P.S.-Manjhi, District-Saran
 6. Kishi Yadav, Son of Suraj Yadav, Resident of Village-Dharhara, P.S.-Manjhi, District-Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Kalawati Devi, Wife of Shankar Manjhi, Resident of Village-Dharhara, P.S.-Manjhi, District-Saran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ravindra Kumar Singh, Adv.
For the State	:	Ms. Usha Kumari No. 1, SPP
For the Respondent no.2	:	Mr. Ajay Kumar Tiwary, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 22-04-2024

1. Heard learned counsels for the parties.

2. The instant appeal has been filed under section 14(A) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (in Short 'SC/ST Act') against the order dated 02.02.2023 passed by the court of Exclusive Special SC/ST (POA) Act, Saran at Chhapra in connection with SC/ST Trial Case No. 69/2022 arising out of Saran



SC/ST P.S. Case No. 56/2020 registered under sections 147, 148, 341, 323, 354B, 379 and 384 read with section 34 of the Indian Penal Code and under sections 3(i)(r)(s) and 3(2)(va) of the SC/ST Act, whereby the discharge prayer made by the appellants has been rejected.

3. Mr. Ravindra Kumar Singh, learned counsel appearing for the appellants submits that the alleged occurrence is said to have occurred with the informant on 23.07.2020 but she filed the Complaint Case No. 348/2020 before the Special Judge, SC/ST Act, Saran at Chhapra on 08.09.2020 after an inordinate delay of 47 days and in this regard, no explanation was given by her. Learned counsel further submits that the real fact is that the wife of the appellant no. 4 was *mukhiya* of the panchayat at that time and during her tenure, a PCC *pucca* road was proposed to be constructed in the village but when the measurement was done, it was found that the informant had encroached upon the land and to frustrate the construction of the road, she had kept 'nad' and 'khunta' of her animals and she was not ready to remove the encroachment and due to that reason, a public petition signed by the wife of the appellant no. 4 and some other villagers was filed on 11.02.2020 before the SHO,



Manjhi, Saran against the encroachment made by the informant over the land or the public place and the copy of the public petition has been filed as Annexure-2 and thereafter, the public petition was again given before the circle officer, Manjhi, Saran on 11.07.2020 regarding the removal of the said encroachment and after these proceeding, the informant Kalawati Devi filed her complaint with false allegations. Learned counsel further submits that the witnesses cited by the informant/complainant in her complaint are not independent persons and among them, only one Tara Devi was examined by the investigating officer during investigation and another person named Sunil Sah, who is said to be an independent person, was examined and the said independent person did not support the complainant's allegation rather he supported the land dispute being pending in between both the parties.

4. Mr. Ajay Kumar Tiwary, learned counsel appearing for the respondent no. 2 has vehemently opposed this appeal and submitted that against the appellants there is sufficient material in the case diary to attract the alleged offences and the police chargesheeted them after concluding the allegations to be true and the learned trial court rightly



rejected the discharge prayer of the appellants.

5. Ms. Usha Kumari No. 1, learned SPP for the State has also opposed this appeal.

6. Heard the parties, perused the order impugned and also gone through the case diary. This Court finds substance in the above submissions made by learned counsel for the appellants as the informant/complainant did not give any cogent explanation regarding the inordinate delay which occurred on her part in taking legal action against the alleged act of the appellants and she filed her case after the filing of the public petition showing her encroachment over a public land and in the said petition, the wife of the appellant no. 4 was also a party and during the course of investigation, an independent witness did not say anything in support of the informant's allegations rather mentioned the existence of land dispute in between both the parties at the relevant time of the commission of the alleged occurrence. In view of these facts, this Court forms the opinion that the complainant/informant filed her case with malice intention and revengeful attitude to harass the appellants if the appellants are put on trial in respect of the allegations levelled by the informant it would amount an abuse of the process of the court, so, considering



this, the order impugned stands set aside and the appellants
are discharged from all the allegations levelled by the
respondent no. 2 in her complaint/FIR.

(Shailendra Singh, J)

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