

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1652 of 2022

Arising Out of PS. Case No.-387 Year-2021 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Baraki Soren Wife of Late Guru Marandi R/O Village- Pasant, P.S.-
Dandkhora, District- Katihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Jawahar Lal Mandal Son of Late Lalji Mandal R/O Village- Pakariya, P.S.-
Paranpur, District- Katihar
3. Kunal Nishad Son of Late Ghanshyam Singh R/O Village- Rosna, P.S.-
Paranpur, District- Katihar

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s	:	Mr. Bhola Prasad, Advocate
		Mr. Indrajeet Kumar, Advocate
For the State	:	Mrs. Usha Kumari 1, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

9 04-01-2024 Heard learned counsel appearing for the appellant,

learned counsel appearing for the Respondents Nos. 2 & 3 and

learned Spl. P.P. appearing for the State.

2. The present appeal is preferred for dismissal of
complaint against the impugned order dated 07.02.2022 passed
by 1st Additional Session Judge-cum-Special Judge, Katihar in
complaint case No. 387/2021 under Section 341, 323, 504/34 of
Indian Penal Code and 3(1)(r)(s) of SC & ST Act.

3. Learned counsel appearing for the appellant
submitted that despite clear and specific allegation as to abuse in



the name of castes and community coupled with the fact that appellant was assaulted by accused persons, police after investigation submitted final form, whereupon protest the offence committed was supported but it was dismissed by learned trial court under Section 203 of Code of Criminal Procedure without supplying just reason. It is pointed out that the land dispute is nowhere concerned with present occurrence despite that one of the reasons assigned for dismissal of the protest petition is the land dispute.

4. Learned counsel appearing for the Respondents Nos. 2 and 3 submitted that impugned order is speaking and reasoned as a *prima facie* case is not being made out from the statement of enquiry witnesses. It is also submitted that there are several material contradictions are available amongst statement of enquiry witnesses *qua* the statement of complainant recorded during enquiry.

5. On perusal of records, it appears that after investigation police submitted final forms against respondents, finding it false in the background of land disputes. From the statement of Enquiry Witness No. 1, namely, Saheb Murmur, it appears that he received information regarding occurrence from complainant whereas, EW-2 Sonelal Murmur set out a different



narration regarding occurrence/assault, whereas complainant/ appellant while recording her statement specifically stated that she was assaulted by only Respondent No. 3/Kunal Nishad, similarly, EW-3/Tunnu Marandi also stated that both respondents assaulted complainant/appellant. The caste name of appellant/informant was also not available in the statement of EW-2.

6. In view of aforesaid facts and by taking note of contradictions amongst the statement of enquiry witnesses *qua* statement of complainant/appellant regarding occurrence, impugned order, as to dismiss the protest petition, is not required to interfere.

7. Hence, the appeal stands dismissed.

(Chandra Shekhar Jha, J)

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