

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2018 of 2019

Arising Out of PS. Case No.-63 Year-2013 Thana- SC/ST District- Gaya

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1. SUBHASH PRASAD Son of Shree Raghunandan Singh Resident of Village - Bahadur, P.S.- Nardee Ganj, District- Nawada the then Circle Officer Wajir Ganj, P.S.- Wajirganj, District- Gaya
 2. Pankaj Sinha Son of Bishun Singh The Then Nazir Circle Office, P.S.- Wazir Ganj, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar Bihar
 2. Uday Paswan Suresh Paswan R/o vill- Gorla, P.S- Wazirganj, Dist- Gaya
- Respondent/s

Appearance :

For the Appellant/s : Mr.Dr. Anjani Pd. Singh
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

11 21-06-2024 Heard the learned counsel for the appellants as well as the learned APP for the State.

2. This appeal has been preferred against the order of sentence dated 28.03.2019 passed by SC and ST Trial No. 29/18 by learned Special Judge SC/ST Special Court, Gaya passed in SC/ST P.S. Case No. 63/13 whereby and whereunder the application under Section 227 of the CrPC filed by the appellants for discharge was rejected.

3. As per allegation, the complainant Uday Paswan lodged complaint against the appellant nos. 1 and 2, who are Circle Officer and Nazir of the Wazirganj Block District Gaya. He made allegation that the household article of the complainant burnt in conflagration and he was provided relief and



compensation by the government of Rs. 1200/- in cash. Then, Circle Officer assured him to provide one quintal of wheat. Thereafter, the Circle Officer was transferred and appellant no. 1 joined as Circle Officer. Initially he evaded to provide the wheat but on persistent request, appellant no. 1 and appellant no. 2 abused the complainant in filthy words by calling his caste name. The complaint was sent to the concerned police station under Section 156(3) of the CrPC for investigation. Thereafter, the FIR was registered and cognizance was taken.

4. As there was no material for framing of the charges, the appellants filed an application for discharge under Section 227 of the CrPC, which was rejected by the impugned order.

5. Learned counsel for the appellants submits that one Akshay Kumar Singh is instrumental in lodging the false case against the appellants. As the case on behest of the appellants have been lodged against Akshay Kumar Singh. He has further submitted that the occurrence had taken place on 08.01.2013, but the case was filed on 09.07.2013 and there is no explanation of delay. He has also submitted that not a single witness has been examined by the investigating authorities during course of investigation.



6. On the other hand, the learned counsel for the informant/ complainant has submitted that the accused persons intentionally humiliated and intimidated the informant by calling their caste name in public view. As such Section 3(i) (x) of SC/ST is clearly attracted in this case. He has further submitted that the informant has no concern with said Akshay Kumar Singh.

7. It appears that the occurrence is alleged to have taken place on 08.01.2013 but the case was lodged on 09.07.2013. There is no explanation of delay in lodging the case. The learned trial court while rejecting the application of the appellants under Section 227 of the CrPC did not mention the statement of any witness, which shows that no any witness has supported the occurrence.

8. It appears that there is no material on the record for framing of the charges. As such, the impugned order is set aside. The application for discharge under Section 227 of the CrPC is allowed and consequently, this appeal is also allowed.

(Nawneet Kumar Pandey, J)

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