

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3960 of 2018

In
Criminal Writ Jurisdiction Case No.2310 of 2018

Arising Out of PS. Case No.-856 Year-2015 Thana- AHIYAPUR District- Muzaffarpur

Mukesh Kumar and Anr

... .. Appellant/s

Versus

The State Of Bihar Through Commissioner Tirhut Division, Mizaffarpur and
Ors

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Archana Sinha @ Archana Shahi
For the Respondent/s : Mr.Md. Nasrul Huda Khan Sc1

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

ORAL ORDER

22 07-05-2024 Heard learned counsel for the appellant as well as
learned Spl.P.P. for the State.

2. This criminal appeal has been for setting aside the order dated 03.07.2018 passed by Special Judge SC/ST Muzaffarpur in Ahiyapur P.S. Case No. 856/2015(G.R. No. 4897/15, Tr. No. 287/16) by which the learned court below has dismissed the discharge petition filed under Section 237 of CrPC.

3. While assailing the order dated 03.07.2018, whereby the learned court below also found the case for framing the charges under the provisions of SC/ST Act, learned counsel for the appellant has submitted that the FIR itself shows that the occurrence had taken place at the house of the informant and not in a public view. As per the essential ingredient for attraction of provisions of 3(1)(r) of SC/ST Act, the occurrence must have



taken place within the public view.

4. On the other hand, the learned Spl.P.P. submitted that the accused persons came to the house of the informant, they assaulted his family members and also abused them by calling their caste.

5. The occurrence for attraction of the provisions of SC/ST Act, the public view is an essential ingredient. If the occurrence did not take place within the public view, the provisions of this Act shall not attract. There is nothing in the FIR which shows that the occurrence had taken place within the public view.

6. The learned counsel for the appellant rightly submitted that the provisions of SC/ST Act is not applicable in this case.

7. Considering the above-mentioned facts and circumstances, the order dated 03.07.2018 passed by the learned court below is amended to the extent that provisions of SC/ST are not applicable in this case.

8. With these observations, the application is disposed of.

(Nawneet Kumar Pandey, J)

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