

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3056 of 2023

Arising Out of PS. Case No.-178 Year-2013 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

Ram Bilas Paswan, Son of Late Lodho Paswan, Resident of Amar Asthan
(Sanhauli), P.O.- Khagaria, P.S.- Chitragupt Nagar, District - Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Pushplata Devi, Wife of A.K. Mishra, Resident of Jaiswal Bhawan, East Side of P.W. School, East Street of East Dargah, P.S.- Chitragupt Nagar, P.O.- Khagaria, District - Khagaria, At present Village - Choudhary Tola Rahimpur, P.S.- Muffasil, District - Khagaria.
3. Ajay Kumar Mishra, Husband of Pushplata Devi, Resident of Jaiswal Bhawan, East Side of P.W. School, East Street of East Dargah, P.S.- Chitragupt Nagar, P.O.- Khagaria, District - Khagaria, At present Village - Choudhary Tola Rahimpur, P.S.- Muffasil, District - Khagaria.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Mrityunjay Kumar, Adv.
For the Respondent/s	:	Mrs. Usha Kumari No. 1, SPP
For the Informant	:	Mr. P. Kumar, Adv.
		Mr. Amar Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

8 06-02-2024 1. Heard learned counsel for the appellant, learned
SPP for the State and learned counsel for the informants.

2. The instant appeal has been filed for setting aside
the order dated 23.03.2023 passed by learned Additional
Sessions Judge-I-cum-Special Judge SC/ST, Khagaria, in
Complaint Case No. 178C/2013 arising out of Begusarai SC/ST
P.S. Case No. 101/2011, G.R. No. 1115/2011 registered for the
offences punishable under sections 341, 323, 504 and 506 read
with 34 of IPC and section 3(i)(x) of SC/ST Act, whereby the



appellant's protest petition, later converted into complaint, was dismissed by the learned trial court.

3. The main submissions advanced by Mr. Mritunjay Kumar, learned counsel for the appellant, are that the appellant, firstly, lodged Begusarai SC/ST P.S. Case No. 101/2011 in which the police submitted final report with a conclusion of appellant's case being untrue and thereafter, the appellant filed protest petition before the court concerned that was treated as Complaint Case No. 178C/2013 and the complainant's statement was recorded on S.A. and statement of two inquiry witnesses namely Lakshman Pandit and Vijay Paswan were also recorded during the inquiry and all of them fully supported the allegation levelled by the complainant/appellant in the complaint petition as well as in the FIR bearing Begusarai SC/ST P.S. Case No. 101/2011 and the presence of both the inquiry witnesses at the place of occurrence was natural but even then the learned trial court did not place reliance upon their statement and furthermore, the order impugned was passed in the absence of appellant and in this regard, order impugned itself is sufficient.

4. Mr. P. Kumar, learned counsel appearing for the respondents no. 2 and 3 has vehemently opposed the appeal and



submitted that the order impugned dismissing the complaint of appellant has been rightly passed as the witnesses produced by the appellant before the inquiry court were not reliable, out of whom, one had some dispute with the respondent no. 1 and the second witness was interested in the complainant and the police submitted final report in favour of the respondents after thorough investigation. It is further submitted that the respondent no. 3, who happens to be husband of the respondent no. 2 is in government service, he was not present at the alleged place of occurrence rather he was discharging his official duty with higher government officials and the appellant lodged his case with malafide intention to harass the respondents no. 2 and 3.

5. Heard both the sides and perused the order impugned and other relevant materials. The appellant, firstly, lodged SC/ST Begusarai P.S. Case No. 101/2011 by filing his written application and from its perusal, it appears that the inquiry witnesses were produced before the trial court afterthought. Inquiry witness Lakshman Pandit stated before the trial court that there was a case in between him and the respondent no. 2 that was running in Gram Kachhari, Sanhauli. By this fact, it is clearly evident that the said witness had some



dispute and tense relation with the respondent no. 2 so the learned trial court rightly did not place reliance upon him and so far as the second inquiry witness namely Vijay Paswan is concerned, he belongs to the caste of appellant, so on this aspect, he also does not appear to be an independent person and as per prosecution's story described by the appellant, in the FIR of Begusarai SC/ST P.S. Case No. 101/2011, several persons residing nearby the place of occurrence gathered when the alleged occurrence was being committed but none of them was produced by the appellant before the trial court during inquiry in support of the allegation levelled by him in his protest petition-cum-complaint and no attempt was made by him to get the presence of any of them before the trial court. Considering all these facts, this Court is of the opinion that the learned trial court rightly dismissed the complaint of the appellant by the order impugned. Accordingly, I find no force in the instant appeal, so it stands dismissed.

(Shailendra Singh, J)

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