

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 3496 of 2024

Arising Out of PS. Case No.-356 Year-2023 Thana- PARSA District- Saran

1. Deepak Kumar @ Deepak Kumar Rai SON OF BALMIKI RAI Resident of Village- Sikati, P.S. Parsa, District- Saran
2. SANTOSH KUMAR @ SANTOSH KUMAR RAY SON OF ARJUN RAI Resident of Village- Sikati, P.S. Parsa, District- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. LAKHO DEVI WIFE OF RAJESHWAR RAM VILLAGE- BEDWALI, PO- SRIRAMPUR, PS- PARSA, DIST- SARAN

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhavesh Kumar, Advocate

For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 27-08-2024 Heard learned counsel for the appellants and the learned Special Public Prosecutor for the State.

2. The learned counsel for the appellants submit that I.A. No.01 of 2024 has been filed seeking condonation of delay in filing appeal by two days.

3. In view of the grounds taken in the I.A. application, the delay in filing the appeal is condoned.

4. The learned counsel for the appellants at the outset seeks permission to withdraw the present appeal with respect to



appellant no.1, Deepak Kumar @ Deepak Kumar Rai, who has been arrested during pendency of the appeal.

5. Permission is accorded.

6. Accordingly, the appeal is dismissed as withdrawn as against appellant no.1.

7. The appellants have challenged the order dated 15.04.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Chapra, Saran in connection with Parsa P.S. Case No.356 of 2023 instituted for the offences under Sections 341, 323, 324, 504, 506/34 of the IPC and Section 3(i)(r)(s) of the SC & ST Act, whereby their prayer for grant of anticipatory bail has been rejected.

8. It is next submitted that appellant no.2 is a person with clean antecedent and has been falsely implicated in the instant case by the informant. It is further submitted that informant alleges that his son had gone for catching fish on 23.10.2023 at 05:00 PM in the evening when the accused persons including the appellant came and abused his son by taking his caste name and started assaulting him with hard and blunt substance and when the informant reached the place of occurrence and asked why they were assaulting his son when it is alleged that the accused persons assaulted him on his head



causing injury. He was admitted to Primary Health Center, Parsa.

9. The learned counsel submits that from perusal of the allegation as alleged in the FIR, it would manifest that no specific allegation of assault is alleged against the appellant. It is also submitted that even presuming what has been alleged is true without admitting then the FIR does not even remotely suggests that either the allegation of hurling abuse or assault was witnessed by any independent witnesses. It is also submitted that even the injuries caused to the injured is simple in nature. It is further submitted that since the occurrence has not taken place in public view as such no offence under the SC/ST Act is made out.

10. The learned Special P.P. opposes the appeal.

11. Regard being had to the aforesaid submissions, the order dated 15.04.2024 is set aside.

12. The appeal stands allowed.

13. The appellants above named, in the event of their arrest or surrender before the learned court below within a period of six weeks, is directed to be released on bail on their furnishing bail bonds in the sum of Rs.5000/-(Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST (POA)



Act, Chapra, Saran in connection with Parsa P.S. Case No.356
of 2023, subject to the conditions laid down under Section
438(2) of the Cr.P.C.

(Satyavrat Verma, J)

Prakash Narayan

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