

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4451 of 2023

Arising Out of PS. Case No.-241 Year-2020 Thana- GRIYAK District- Nalanda

1. Md. Murad @ Md. Murad Alam @ Murad, Son of Md. Alamgir, Resident of Mohalla Mahalpar Police Station Biharsharif, Distt - Nalanda
2. Md. Alamgir Son of Not Given Resident of Mohalla Mahalpar Police Station Biharsharif, Distt - Nalanda
3. Arun Paswan, Son of Late Prayag Paswan, R/o Vill - Koiri Bigha, P.S. - Katri Sarai, Distt. - Nalanda

... .. Appellants

Versus

1. The State of Bihar
2. Krishna Choudhary, Son of Chhotan Choudhary, R/o vill - Sakuchi Dih, p.s. - Katri Sarai, Distt. - Nalanda

... .. Respondents

Appearance :

For the Appellant/s : Mr.Thakur Brajesh Singh, Advocate
For the Respondent/s : Mr.Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

15 25-07-2024 Heard learned counsel appearing on behalf of the

appellants learned Additional Public Prosecutor for the State.

2. This appeal is being preferred against the order dated 12.06.2023 passed by learned Additional Sessions Judge - 1st – cum-Special Judge, Nalanda at Biharsharif in connection with Giriyaak (Katri Sarai) P.S. Case No. 241 of 2020, SC/ST Trial No. 187/2020, in which cognizance has been taken against the first two appellants under Sections 341, 323, 506, 504/34 of the Indian Penal Code and



Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter referred to as the "SC/ST (POA) Act, 1989") and against the third appellant under Sections 341, 323, 506, 504/34 of the I.P.C.

3. Learned counsel appearing on behalf of the appellants submitted that in view of ratio of the judgment of Hon'ble Supreme Court as available through **Gulam Mustafa Vs. State of Karnataka and Anr [2023 SCC OnLine SC 603]**; the case under SC/ST (POA) Act, 1989 is not *prima-facie* being made out against the appellants/accused persons, whereas he could not place a convincing argument against order taking cognizance, which was taken by the Special Court for the offences under Sections 341, 323, 506, 504/34 of the I.P.C.

4. After short argument with aforesaid submission, learned counsel appearing for the appellants seeks permission to withdraw the present appeal with liberty to raise all such issues before the learned trial court itself, at the time of framing of charge.



5. Request allowed.

6. Considering the aforesaid, the present appeal is
dismissed as withdrawn, however, with aforesaid liberty.

(Chandra Shekhar Jha, J.)

Rajeev/-

U		T	
---	--	---	--

