

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4424 of 2023

Arising Out of PS. Case No.-155 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. Chandrika Prasad Rai @ Chandrika Rai @ Chandrika Roy Son Of Late Ram Lochan Roy Resident Of Village - Jitwariya, Ps- Kalyanpur, Distt- Samastipur
 2. Sunil Rai @ Sunil Roy @ Sunil Kumar Son Of Chandrika Prasad Rai @ Chandrika Rai @ Chandrika Roy Resident Of Village - Jitwariya, Ps- Kalyanpur, Distt- Samastipur
 3. Raja Rai @ Raja Roy @ Raja Kumar Son Of Chandrika Prasad Rai @ Chandrika Rai @ Chandrika Roy Resident Of Village - Jitwariya, Ps- Kalyanpur, Distt- Samastipur

... .. Appellant/s

Versus

1. The State Of Bihar
2. Ram Pukar Sada Son Of Late Sanichar Sada Resident Of Village - Jitwariya, Ps- Kalyanpur, Distt- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Dilip Kumar Roy, Advocate
For the Respondent No.2	:	Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 13-03-2024

1. Heard the parties.

2. The instant appeal has been filed against the order dated 12.06.2019 passed by the learned Special Judge SC/ST Act, Samastipur, by which cognizance has been taken of the offences punishable under sections 436, 354B, 427 of the Indian Penal Code (in short 'IPC') and under Section 3(i)(r)(s), 3(2) (va) of SC/ST (POA) Act. and in this appeal the appellants have made a prayer to quash/set aside the said order of cognizance.



3. Mr. Dilip Kumar Roy, learned counsel for the appellants submits that the respondent no.2 filed a complaint Case bearing no. 155 of 2018 in the court of Special Judge SC/ST, Samastipur, in which she made a false statement regarding the conviction of the appellant namely, Chandrika Prasad Rai @ Chandrika Rai @ Chandrika Roy and others in relation to Trial No. 2887 of 2017, while the said case did not end in the conviction of the appellants so the respondent no.2 did not come with clean hands before trial court. He further submits that the respondent no.2 also made a false statement in his complaint regarding his attempt to lodge an FIR in the police station concerned as in view of the statements of the inquiry witnesses, it is not believable that the respondent no.2 made an attempt to lodge an FIR of the alleged occurrence so it can be deemed that the respondent no.2 directly filed a complaint in the trial court with different type of allegations. He further submits that the complainant/respondent no.2 made several contradictory statements before the trial court while recording his statement under Section 200 of Cr.P.C. and the alleged offences of the SC/ST Act of which cognizance has also been taken, are clearly not made out as according to the respondent no.2 the alleged incident took place at his house and the same



did not take place at public place or in public view. He further submits that as per prosecution's story, the alleged incident took place on 07.10.2018 and but the complaint was filed on 02.11.2018 without giving any explanation of long delay in filing the complaint and the inquiry witnesses made contradictory statements regarding the quantity of the grains which are said to have been burnt by the appellants during the course of commission of the alleged occurrence.

4. On the contrary, Mr. Rajesh Kumar learned counsel appearing for the respondent no.2 as well as Mr. Sadanand Paswan, learned APP appearing for the State has vehemently opposed this appeal and submitted that after the alleged occurrence a *Panchayat* meeting was held in the village of the respondent no.2 but the appellants did not become agree to follow the directions of *Panchas*' and thereafter the respondent no.2 approached to the police station by filing an application but no action was taken by the S.H.O. of concerned police station in the name of inquiry and finally the respondent filed a complaint when upon his application the police did not lodge an FIR, so the delay in filing the complaint as well as non-registration of the FIR has been properly explained by the respondent no.2. It is further submitted that there are specific



allegations attracting the alleged offences, against all the appellants and during course of inquiry, all witnesses including the independent witnesses fully supported the allegations made by the complainant in his complaint.

5. Heard both the sides and perused the order impugned and other relevant materials. Admittedly, there was no good relation in between the appellants and the respondent no.2 on account of previous litigation which can be deemed to be a motive on the part of the appellants to commit the alleged occurrence with revengeful attitude. As per allegation, the appellants armed with weapons came at the house of respondent no.2 and thereafter started abusing him and used caste based abusive words while abusing him and the appellant no.1 instigated the other appellants to assault the family members of the respondent no.2 and set their house on fire and consequently the appellant no. 3, namely Rama Roy sprinkled kerosene oil on the straw hut of the respondent no.2 and the same was set on fire, on account of which, wheat, rice and some house holds articles were reduced into ash. In support of these allegations, the respondent no.2 examined five witnesses, out of them, two are co-villagers who can be deemed to be the independent persons. Both the said witnesses and other witnesses supported



the main allegations levelled by the respondent no.2 in his complaint. These materials are sufficient to *prima facie* attract the alleged offences. Hence, the learned trial court has rightly taken cognizance of the alleged offences.

6. Accordingly, this court finds no merit in this appeal so it stands dismissed.

(Shailendra Singh, J)

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