

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4637 of 2023

Arising Out of PS. Case No.-23 Year-2019 Thana- SC/ST District- Patna

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1. SATYENDRA SINGH S/o- LATE PARAMHANSH SINGH Village- Naya Tola Harnahiya Ps- Bakhtiyarpur Dist- Patna
 2. Sumit Kumar @ Rana Sumit Kumar son of Satyendra Singh Village- Naya Tola Harnahiya Ps- Bakhtiyarpur Dist- Patna

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Prashant Kumar Choudhary Mr.Shivendra Kumar Sinha Mr.Ranjeet Patel Mr.Ankit Kumar Singh Mr.Diwit Vinod
For the Respondent/s	:	Ms.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

8 03-05-2024 Heard the learned counsel for the appellants as well as the learned counsel for the informant.

2. This appeal has been filed for quashing the order dated 22.02.2022 passed by Special Judge, Patna in Special Case No. 294 of 2019 arising out of Barh SC/ST P.S. Case No. 23 of 2019 whereby the learned court below issued summons to the appellants to face trial for the offences punishable under Sections 323, 341, 504 of the IPC and 3(i)(r)(s) of SC/ST Act.

3. There is allegation against the appellants that when the informant/complainant was taking tea at the tea stall, the accused persons reached there, all of a sudden. They started assaulting him and also abused in filthy words by calling his caste



name. They uttered as to why was he sitting on the bench before them.

4. Learned counsel for the appellants has submitted that the complaint petition was sent to the police station for investigation under Section 156(3) of the Cr.P.C. The investigating authorities investigated the veracity of the complaint. The statement of owner of the tea stall was also recorded. Mr. Sudama Saw, the tea stall owner, categorically stated in his statement before the investigating authorities that no such occurrence had taken place in his tea stall. As there no evidence emerged during investigation, the investigating authorities submitted final form. The notice was sent to the informant. He appeared and filed the protest petition and the cognizance was taken on 22.02.2022 on the basis of protest petition.

5. Learned counsel for the appellants has submitted further that the best person who can substantiate the veracity of the occurrence is the owner of the tea stall, who specifically denied the occurrence. There was no material at all for taking cognizance but vide impugned order, the cognizance was taken which was nothing but an abuse of process of the Court. He has also submitted that there is inimical terms between the appellants and co-villager namely Rana Diliph Singh and at the instance of Rana Diliph Singh, the informant/complainant has filed this protest



petition as well as the complaint.

6. On the other hand, the learned counsel for the informant submitted that the appellants are dominant persons in the locality and due to their fear and pressure, no witness could make statement against them before the police. He submitted further that there was *prima facie* material for taking cognizance and the learned court below did not commit illegality in proceeding on the basis of protest petition, filed by opposite party no. 2, Dinesh Paswan.

7. The learned Magistrate, at the first instance, to verify the veracity of the complaint, sent it to the investigating authorities for investigation. During investigation, the statement of tea stall owner was recorded. The tea stall owner Sudama Saw specifically denied about the occurrence in his statement.

8. It appears that the order dated 22.02.2022 by which, summons were issued to the appellants for facing trial, is nothing but an abuse of process of Court.

9. Accordingly, the order dated 22.02.2022 is set-aside and this appeal is allowed.

(Nawneet Kumar Pandey, J)

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