

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5149 of 2023

Arising Out of PS. Case No.-125 Year-2022 Thana- DURAULI District- Siwan

Alauddin @ Salauddin Miyan @ Hero Miyan @ Hero, S/o Faud Miyan @ Faudi Maiyan, resident of Village-Dumarahar Khurd, P.S.-Darauli, Dist.-Siwan

... .. Appellant

Versus

1. The State of Bihar
2. Ramjanam Gaur, S/o Late Ram Ekbal Gaur, resident of Village- Dumarahar Khurd, P.S. -Darauli, Dist. -Siwan

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Manish Chandra Gandhi, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 20-09-2024

Heard learned counsel for the appellant and
learned Special Public Prosecutor for the State.

2. The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') for setting aside the impugned order dated 27.09.2023 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Siwan in connection with Darauli P.S. Case No.125 of 2022 registered for the offences punishable under Sections 147, 341, 323, 307,



504, 302, 120-B of the Indian Penal Code and Section 3(1)
(r)(s) /2(v) of the Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Respondent No.2/informant has appeared in this case through *Vakalatnama* but, he failed to join the present proceeding.

5. Accused/appellant is named in the FIR and is in custody since 12.09.2023.

6. Allegation against the appellant is to murder the wife of the informant along with other co-accused persons by making an assault with *farsa*, *lathi*, rod, bricks etc, due to previous enmities arises out of neighbourhood disputes and differences.

7. It is submitted by Mr. Ajay Kumar Thakur, learned counsel appearing on behalf of the appellant that from the bare perusal of the FIR, it can be gathered safely that before the alleged assault caused by this appellant on the head of deceased, she was brutally assaulted by means of *lathi*, rod by other accused persons. It is submitted that it



was the assault of other co-accused persons due to which the wife of the informant received grievous injuries and fell down to the ground. It is submitted that only thereafter it was alleged that this appellant assaulted on the head of wife of informant, make her senseless.

8. In view of aforesaid, it is submitted by Mr. Ajay Kumar Thakur that it is very difficult to gather that whether the assault as alleged to be caused by this appellant was fatal. It is submitted that moreover there is an allegation of single assault by brick-plate and non-repetition of assault on the part of appellant without having any intervening circumstance clearly suggest that appellant was not under intention to cause death of wife of the informant and, thus, the fact of this case is not convincing *qua* allegation in terms of Section 302 of IPC. It is further submitted by Mr. Thakur that nothing appears from the FIR and record that the present occurrence took place out of atrocities as defined within the meaning of the Act, rather occurrence took place due to money dispute. While concluding argument, it is submitted that investigation of this case is completed and, as



such, there is no chance of tampering with the evidence.

9. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh vs. Parasram @ Purushottam*** as reported in ***[2015 (153)AIC 276]***.

10. Learned Special Public Prosecutor while opposing the prayer for bail of the appellant submitted that there is specific allegation against this appellant to assault on head of wife of the informant causing her death.

11. In view of above-mentioned facts and circumstances and by taking note of fact as wife of informant received serious injuries prior to the assault of this appellant, where the allegation against this appellant is limited to assault with a single blow by brick-plate without having any intervening circumstances, coupled with the fact that investigation of this case is already completed, where appellant remains in custody since 12.09.2023, accordingly, the appellant, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1st-cum-Special Judge, Siwan in connection with Darauli P.S. Case No.125 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of the BNSS.

12. Accordingly, the impugned order dated 27.09.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2024
Transmission Date	21.09.2024

