

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.151 of 2025

Arising Out of PS. Case No.-193 Year-2023 Thana- KHAGARIA District- Khagaria

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1. Aman Sharma @ Aman Akash Sharma Son of Ashok Sharma Resident of village- Vishwanath Ganj, Ward No.- 16, PS and District- Khagaria
 2. Solu Sharma @ Rohit Sharma @ Rohit Kumar Sharma Son of Gopal Sharma Resident of village- Vishwanath Ganj, Ward No.- 16, PS and District- Khagaria
 3. Vishnu Sharma @ Pinki Sharma @ Vishnu Kumar Sharma Son of Late Murlidhar Sharma Resident of village- Vishwanath Ganj, Ward No.- 16, PS and District- Khagaria
 4. Ashok Sharma @ Ashok Kumar Sharma Son of Murlidhar Sharma Resident of village- Vishwanath Ganj, Ward No.- 16, PS and District- Khagaria
 5. Lovely Kumar @ Amit Kumar @ Lovely Son of Late Surendra Sharma Resident of village- Vishwanath Ganj, Ward No.- 16, PS and District- Khagaria

... .. Appellant/s

Versus

1. The State of Bihar
2. Himanshu Kumar Son of Lal Bahadur Paswan Resident of Vidya Dhar, Ward No. 15, P.S. and District- Khagaria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ranjeet Kumar, Advocate
	:	Ms. Lakshmi Kumari, Advocate
	:	Mr. Rajnish Prakash, Advocate
	:	Mr. Ankesh Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 10-02-2025 Heard Mr. Ranjeet Kumar, learned counsel for the appellants and Mr. Binay Krishna, learned Special PP for the State.

2. The present appeal has been preferred:-

“against the order dated 24.09.2024 passed by Learned Additional District and Sessions Judge-I- Cum- Special Judge, Khagaria in Special SC/ST Trial No. 21/2023 arising out of Khagaria P.S. Case No. 193/2023 whereby discharge petition filed by the Appellants have been



rejected.”

3. As per the prosecution story, the informant heard the shouting/abuse made by the accused persons, came out and upon request to stop abusing was assaulted. Allegation against some of the accused persons is of using iron rod on the body as also taking caste name which was witnessed by the locals also and the names stands incorporated. This led to the Khagaria P.S. Case No. 193 of 2023 registered for the offence punishable under sections 341, 323, 307, 506 and 34 of the Indian Penal Code and section 3(i)(r)(s) of the SC/ST Act.

4. The Police investigated the matter, charge-sheet submitted and the cognizance was taken under the aforesaid Act beside the SC/ST Act.

5. The appellants thereafter appeared before the court concerned and presented the petition under section 227 of the Cr.P.C. to discharge them from the case/trial.

6. After hearing the parties, the Court came to the conclusion that beside the informant, the locals have also supported the prosecution story. The victim was medically examined by the Doctor of the Sadar Hospital, Khagaria and the injury report is there. The Superintendent of Police, Khagaria has also found the case true, in that background, **the petition 19.08.2024 was rejected on 24.09.2024.**



7. Aggrieved, the present appeal.

8. Learned counsel for the appellants submit that in a zeal to implicate everyone from the family, even a person Govind Sharma who died way back in the year 2018, his name stands in the list of accused.

9. He has further taken this Court to injury report to show that the Doctor has recorded only pain on the head and stomach beside bleeding from the lips which falsifies the F.I.R. He as such, submits that the court concerned ignored the said facts and passed the order which needs interference.

10. Learned Special PP on the other opposes the prayer submitting that the occurrence took place in full public view, not only the victim was abused, was assaulted and the local witnesses have also supported the prosecution story which stand incorporated in the order dated 24.09.2024 of the learned Trial Court.

11. It is his further submission that the fact that the appellant was medically examined on the same day by a Government Hospital and injuries are on record cannot be ignored. Merely because one dead person is in the list, may be due to wrong identification, that cannot be ground to falsify the entire prosecution story.

12. Having gone through the facts of the case and the



submissions put forward by the parties, learned Special PP has rightly submitted that the important fact is that those who witnessed the occurrence, the villagers, they have come forward and supported the prosecution story.

13. Though it is a fact that a dead person is in the list of accused, it may be a case of wrong identification, as pointed out by the learned Special PP, the fact remains that the abuse/assault theory which stands supported by the independent witness and medical examination of the victim by a Government Hospital cannot be ignored. In that background, it is a fit case where trial needs to take place.

14. The Trial Court will take note on the facts/submissions of the parties as also the prosecution witnesses and will arrive at a conclusion. So far as the order dated 24.09.2024 of the Trial Court is concerned, the Court rightly came to the conclusion that the petition dated 19.08.2024 of the appellants is fit be rejected which in the opinion of this Court, needs no interference.

15. Accordingly, the appeal stands dismissed.

(Rajiv Roy, J)

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