

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.605 of 2025

Arising Out of PS. Case No.-34 Year-2020 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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The State of Bihar through Bharat Soni, IPS, the Then ASP (New Probationer) S/O Sri Manoj Soni R/O Naya Bass, Jhanwar Road, Sujangarh, P.S- Sujangarh, Distt.- Churu, Rajasthan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Saraswati Devi W/O Anil Bharti R/O Village- Ward No. 16, P.O and P.S- Kahalgaon, Distt.- Bhagalpur.

... .. Respondent/s

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with
CRIMINAL APPEAL (SJ) No. 619 of 2025

Arising Out of PS. Case No.-136 Year-2020 Thana- KAHALGAON District- Bhagalpur

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1. Pankaj Kumar Jha Son of Late Gopal Jha Resident of Village- Belapatti, P.S.- Triveniganj, Distt.- Supaul at present posted as Station House Officer, Amarpur, Distt.- Banka
 2. Purushottam Kumar Jha @ Purushottam Jha Son of Late Chandra Shekhar Jha Resident of Village- Navtoliya, Balbahadurpur, P.s.- Bahadurpur, Distt.- Darbhanga at present posted as Assistant Sub Inspector, Pirpainti Police Station, Bhagalpur
 3. Niti Kumari @ Niti Maidam Wife of Sri Arun Kumar Singh Resident of Village- Kokraha, P.S.- Sakatpur, Distt.- Darbhanga at present posted in Police Line, Bhagalpur as Asstt. Sub Inspector
 4. Jitendra Jha @ Jitendra Kumar Son of Shyam Nandan Sharma Resident of Village- Jagdishpur, Makhdumpur, P.S.- Makhdumpur, Distt.- Jehanabad at presently posted as Sub Inspector Rajaun Police Station, Distt.- Banka

... .. Appellant/s

Versus

1. The State of Bihar through its Home Secretary, Govt. of Bihar, Patna
2. Saraswati Devi Wif of Anil Bharti Resident of Village- WArD No. 16, P.O. and P.S.- Kahalgaon, Distt.- Bhagalpur

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 605 of 2025)

For the Appellant/s : Mr. P.K.Shahi, Advocate General
Mr. Md. Nadim Seraj, G.P.5
Mr. Shahbaj Alam



Mr. Alim Muqtadir

	Mr. Shailesh Kumar
For the State	Mr. Syed Ashfaque Ahmad APP
For O.P.No.2	Mr. D.K.Pandey.
(In CRIMINAL APPEAL (SJ) No. 619 of 2025)	
For the Appellant/s :	Mr. Siddhartha Prasad
	Mr. Om Prakash Kumar
For the Informant	Sri D.K.Pandey

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

5 17-06-2025 **I.A.No. 01 of 2025 (Cr.Appeal (SJ) No.619/2025).**

The present interlocutory application has been filed by the appellants of Cr.Appeal (SJ) No. 619 of 2025 for condoning the delay of 102 days in preferring the said memo of appeal.

2. For the reasons disclosed in I.A.No. 01 of 2025 (Cr.Appeal (SJ) No.619/2025), it is allowed and the delay is condoned.

Heard the learned counsel for the parties.

2. The present appeals have been preferred against the order dated 26.07.2024 passed by the learned Additional Sessions Judge III-cum-Special Judge SC/ST Act, Bhagalpur in connection with Complaint Case No. 34 of 2020, whereby the cognizance has been taken against the appellants under Sections 323, 341, 354 and 34 of the IPC and Sections 3(i)(r)(s) and 3(va) of the SC/ST (POA) Act.



3. The appellants are police officials and they were entrusted investigation of a case lodged by the complainant herein against co-accused Ravi Bhushan Tiwari. That case was lodged on 26.02.2020 by the complainant Saraswati Devi and on the basis of the *fardbayan* of Saraswati Devi, Khalgaon P.S.Case No. 136 of 2020 was registered with an allegation that the accused persons of that case had assaulted the complainant and and they humiliated the family members of the complainant and her husband by calling their caste name.

4. The present complaint case has been lodged by the complainant against the appellants/police officials who were entrusted investigation of that case. The complainant makes allegation that Ravi Bhushan Tiwari, the accused of Kahalgaon P.S.Case No. 136 of 2020 was arrested and was brought to the police station and the complainant and her husband were called by the police for his identification and when she and her husband went to the police station, the appellants after levelling the allegation against the complainant and her husband that they were falsely implicating innocent persons, snatched their purse and mobile phones and abused the complainant and her husband by calling their caste name and they also assaulted them.

5. Mr. P.K.Shahi, the learned Advocate General,



appears on behalf the appellant, the State of Bihar, through Bharat Soni, IPS, the then ASP (New Probational) in Cr.Appeal No. 605 of 2025 and Mr. Siddharth Prasad and Mr. Om Prakash Kumar appear in Cr.Appeal No. 619 of of 2025, which has been preferred by other four police officials including the investigating officers against whom the allegations were made.

6. The learned Advocate General, while assailing the order, whereby the cognizance has been taken, has submitted that it is nothing but a gross misuse of process of the court. As a matter of fact, the police did not exonerate the main accused Ravi Bhushan Tiwari, rather after collection of the evidences during the course of investigation, his complicity was found and the charge-sheet was submitted by the investigating authorities against him. It is false/incorrect to say that he has been exonerated by the investigating authorities. Further submission of the learned Advocate General is that said Ravi Bhushan Tiwari was granted bail by the court. As a matter of fact, at initial stage when the complainant and her husband were called to the police station for identification of Ravi Bhushan Tiwari, they failed to identify him and it was the reason that after taking personal bond Ravi Bhushan Tiwari was allowed to depart from the police station. Later on, he surrendered and was granted bail



by the court. It has also been submitted that the complainant and her husband have lodged five cases against the other persons under the provisions of the SC/ST Act. From perusal of the detailed report submitted by the Sr. Superintendent of Police, Bhagalpur to the learned Additional Sessions Judge-III, Bhagalpur, through letter no. 7933 dated 28.12.2022 (Annexure-P-3), it appears that the complainant and her husband have filed four cases against different persons under the provisions of the SC/ST Act. The details of 5th case has been furnished by the learned counsel for the appellants in Cr.Appeal (SJ) No. 619 of 2025 (Annexure P/6), which shows that Kahalgaon P.S.Case No.541 of 2021 dated 24.08.2021 under Sections 341, 323, 504, and 506/34 of the IPC has also been lodged by the complainant and her husband and their son. It has also been submitted by the learned Advocate General that the husband of the complainant has criminal antecedents and he is involved in four criminal cases.

7. On the other hand, the learned counsel for the complainant has submitted that after considering the prima facie material for issuance of summons, the learned court below has taken cognizance.

8. The allegation that the police officials are in



collusion with the accused of Kahalgaon P.S.Case No.136 of 2020 appears to be false, because the investigating authorities found his complicity in the alleged occurrence and he was charge-sheeted.

9. It appears that the complainant and her husband are habitual in lodging cases under the provisions of SC/ST Act and the details of the cases have been given by the appellants.

10. Considering the above mentioned facts and circumstances of the case, the order dated 26.07.2024, whereby the learned court below ordered for issuance of summons, is not sustainable in the eye of law.

11. Accordingly, the order dated 26.07.2024, passed by the learned Additional Sessions Judge-III-cum-Special Judge SC/ST Act, Bhagalpur in connection with Complaint Case No. 34 of 2020, whereby the cognizance has been taken against the appellants, is hereby quashed and the appeals are allowed.

(Nawneet Kumar Pandey, J)

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