

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.999 of 2019

Arising Out of PS. Case No.-5 Year-2017 Thana- SC/ST District- Lakhisarai

-
1. Umakant Verma Son Of Late Gauri Verma Resident Of Mohalla-Chitranjan Road, Purani Bazar, Ward No-11, P.S And Dist.-Lakhisarai
 2. Shrikant Verma @ Bullu Verma Son Of Shri Umakant Verma Resident Of Mohalla-Chitranjan Road, Purani Bazar, Ward No-11, P.S And Dist.-Lakhisarai
 3. Niranjana Kumar Verma Son Of Late Mathura Prasad Verma Resident Of Mohalla-Chitranjan Road, Purani Bazar, Ward No-11, P.S And Dist.-Lakhisarai

... .. Appellant/s

Versus

1. The State Of Bihar
2. Shambhu Kumar Chaudhary Son Of Ramchandra Chaudhary Resident Of Mohalla-Marwari (Purani Bazar) Chitranjan Road, Ward No-11, P.S And Dist.-Lakhisarai

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Siddharth Harsh
For the Respondent/s	:	Mr. Sadanand Paswan
For the Respondent No. 2	:	Md. Irshad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

25 16-01-2025 Heard the learned counsel for the appellants, learned Spl. PP for the State and the learned counsel for the respondent no. 02.

2. This is an appeal for setting aside the order dated 01.11.2018 passed by the learned Additional District & Sessions Judge-1st-cum-Special Judge, SC/ST, Lakhisarai in Special Case No. 129 of 2017, arising out of SC/ST P.S. Case No. 5 of 2017 by which the Court below has taken cognizance for the offences under Sections 147, 504, 506, 427, 467, 323, 420, 468



of the Indian Penal Code and under Sections 3(i) (r)(g)(2)(VA) of the SC/ST Act against the accused persons including these appellants.

3. The factual matrix giving rise to the instant proceeding on the basis of F.I.R., in brief, is that on 29.01.2017 at about 05:00PM, all the accused persons including these appellants went to the land of the informant and started destroying the crop of mustard with the help of Tractor. On protest, the accused persons started abusing the informant and threatened to kill, and they also abused him with his caste name. The informant assessed the loss to a tune of Rs. 25,000/- and stated fraudulent execution of 3 sale deeds dated 11.07.2014 by accused no. 01 to 06 and helped in that execution by the appellants to be the reason for occurrence.

4. After investigation, the police submitted final form in favour of the accused persons including the appellants finding no material against the accused persons for sending them up for trial. The police while submitting final form has specifically mentioned that there was no material against the appellants.

5. It has been submitted by the learned counsel for the appellants that the appellants are innocent and they are not expected to be indulged in the occurrence as alleged in the FIR.



The appellants have fraudulently been made accused in the present case. The appellants are not related to the land with respect to which the sale deeds are alleged to have been executed in favour of the other co-accused. From bare perusal of the FIR, no offence as alleged is made out against the appellants. There is no allegation of any overt act against the appellant. There is no allegation against the appellants of abusing the informant with his caste name. During investigation, no material has come to attract complicity of these appellants in the alleged occurrence. A number of witnesses have suggested that no such occurrence ever took place. Nothing transpires against the appellants except one line statement that the appellants had helped in selling the land but the allegation is not specific and is a bald allegation without there being any substance and the manner as to how the appellants helped in selling the land.

6. Learned counsel for the appellants has next submitted that the appellants have their land bearing Plot No. 2109 adjacent to the existing Plot No. 2111 upon which the occurrence is alleged to have been taken. The informant has been trying to grab the land of the appellants by filing a false case. The parties are on litigating term over the land of the



appellants.

7. Learned Spl P.P. for the SC/ST Act as well as the learned counsel for the respondent no. 02 have opposed the application and have submitted that the impugned order taking cognizance is not mechanical, but materials have been considered in the impugned order and from reading of the entire materials on record, offenses are alleged are made out against the appellants.

8. I have considered the submissions of the parties and gone through the records of the case.

9. From reading of the FIR, it appears that no overt act is alleged against the appellants. They are neither the vendor nor the vendee, identifier of the sale deeds in question. A bald statement has been made in the FIR that the appellants have played role in the execution of the sale deed. This statement has been reiterated in paragraphs no. 02 to 06 of the case diary which has been relied upon by the Magistrate in the impugned order. Para no. 27 to 32 of the case diary talks about the various documents and there is nothing to show that the appellants have played any role in the sale deed. Moreover, from the records it appears that the parties are litigating and having civil dispute between them and this civil dispute is being given



colour of criminal litigation.

10. From the materials also it appears that the offenses have not been committed with the informant belonging to Schedule Caste and Schedule Tribes with the intention that it was being done on the ground of caste.

11. Considering the aforesaid, this application is allowed. Accordingly, the order dated 01.11.2018 passed by the learned Additional District & Sessions Judge-1st-cum-Special Judge, SC/ST, Lakhisarai in Special Case No. 129 of 2017, arising out of SC/ST P.S. Case No. 5 of 2017 is hereby set aside.

(Sandeep Kumar, J)

Shishir/-

U		T	
---	--	---	--

