

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1069 of 2019

Arising Out of PS. Case No.-36 Year-2013 Thana- MAHILA P.S. District- Sheikhpura

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1. VIJAY SINGH Son of Late Bishundev singh Resident of Village - Gabai, P.S.- and Distt - Sheikhpura.
 2. Prakash Kumar @ Gorelal singh Son of Nawal kishore Sharma Resident of Village - Gabai, P.S.- and Distt - Sheikhpura.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Rano Devi W/o- Ghanshyam Manjhi R/o Village Gabai, P.S./ Dist Sheikhpura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dr. Anjani Pd. Singh
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 20-01-2025 Heard learned counsel for the appellants and learned Special P.P. for the State. None has appeared on behalf of the opposite party no. 02, despite valid service of notice.

2. This appeal has been filed for quashing the order dated 21.01.2019 passed by the learned ADJ-1st, Sheikhpura in SC/ST Case No. 165 of 2017 arising out of Sheikhpura Mahila P.S. Case No. 36 of 2013.

3. As per the prosecution case, one Rano Devi lodged a written report before the Officer Incharge, Mahila Police Station, Sheikhpura that on 23.08.2013 at 12:00 noon, when she



was going to attend the natural call, one Gorelal Singh tried to commit rape upon her but after raising halla, Gorelal Singh fled away. After the incident, when she reached her house, she narrated the same to her family members, her family members went to the house of Gorelal Singh upon which Gorelal Singh, Nawal Kishore Singh and Vijay Singh have threatened her and her family members.

4. The accused persons have filed an application for discharge but the same has been rejected by a cryptic order by the Special Judge, Sheikhpura without considering the materials available on record.

5. The impugned order/judgment is in the teeth of the law laid down by the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. The State of Bihar*** reported in **2022 (9) SCC 577**. The Special Judge, Sheikhpura cannot act a post office who will pass a cryptic order on a set formant saying that offences are made out against the appellants rather the Special Judge is expected to consider the application of discharge, consider the materials available on record, consider the submission of the parties and thereafter give a finding with regard to the case and pass a detailed order which is missing in the present case.



6. In view of the above, this application is allowed and accordingly, the order dated 21.01.2019 passed by the learned ADJ-1st, Sheikhpura in SC/ST Case No. 165 of 2017 arising out of Sheikhpura Mahila P.S. Case No. 36 of 2013 is hereby quashed. The matter is remitted back to the Special Judge, SC/ST Act, Sheikhpura for fresh consideration of the same in accordance with law and also in view of the law laid down by the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. The State of Bihar (Supra)***.

(Sandeep Kumar, J)

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