

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2618 of 2021

Arising Out of PS. Case No.-12 Year-2020 Thana- SC/ST District- Madhubani

1. Ram Bilas Chaurwar Son Of Late Khushi Lal Chaurwar Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.
2. Kapil Chaurwar Son Of Late Khushi Lal Chaurwar Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.
3. Nikki Chaurwar Son Of Ram Bilas Chaurwar Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.
4. Ankit Kumar Chaurwar Son Of Kapil Chaurwar Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.
5. Amit Chaurwar Son Of Mohan Chaurwar @ Mohan Prasad Yadav Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.
6. Rajan Chaurwar @ Rajan Son Of Late Brahmdev Chaurwar Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.
7. Sunil Chaurwar @ Dulli Son Of Late Sukmar Chaurwar Resident Of Village - Belhi, P.S.- Laukahi, Distt.- Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bauye Jee Jha, Advocate Mr. Bimal Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Sp.PP
For the O.P. No. 02	:	Mr. Amrit Abhijat, Advocate Mr. Upendra Yadav, Advocate Mr. Ghanshyam, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

11 20-03-2025 Heard the learned counsel for the appellants, learned
Spl. PP for the State and the learned counsel for the O.P. No. 02.

2. This is an appeal for quashing of the cognizance order dated 14.09.2020 passed in G.R. No. 47/2020 passed by the learned 1st Addl. Sessions Judge-cum-Special Judge, Madhubani (Annexure-P/2) in connection with Madhubani



SC/ST P.S. Case No. 12 of 2020 dated 12.04.2020 offences under Sections 341, 323, 354, 379, 504/34 of the I.P.C. and under Sections 3(i) (r)(s) (F), 3(2) (va) of the SC/ST Act by which the Court below has taken cognizance.

3. As per the prosecution case, on 05-04-2020 the informant was constructing his house on his land upon which they are living since two generation. It is alleged by the informant that on that day the accused persons named in the FIR came there and started abusing with caste reference and stopped the construction of the house and went away and on 09-04-2020 when they started construction again, the accused persons came there and started abusing with caste reference and assaulted them. When informant's wife came to save, then Ankit Chaurwar threw informant's wife and disrobed her and they tried to outrage her modesty, Sunil Chaurwar snatched Silver Neck Ring (Hasuli), Amit Chauwarand Rajan Chaurwar wrapped rope in his neck and started pulling. Nicky snatched Rs. 2000/- from his pocket. Thereafter, upon *hulla* by his son the villagers came there then the accused persons fled away.

4. After thorough investigation, charge sheet was submitted by the police bearing Charge Sheet no. 28/2020 u/s 341, 323, 354, 379, 504/34 of I.P.C. and Section 3(I) (r) (s) (F),



3(2) (Va) SC/ST (POA) Act by which the police found the case not true u/s 376 of I.P.C. After submission of Charge sheet, the case was placed for taking cognizance and the learned Court below took cognizance on 14-09-2020.

5. It has been submitted by the learned counsel for the appellants that the land in question was purchased by the appellants and the informant and others have forcefully tried to grab the land and when the appellants opposed the grabbing of the land, they attacked upon the appellants, for which a FIR bearing Laukahi P.S. case no. 62/2020 was lodged against the informant and others u/s 143, 341, 323, 379, 308, 504, 506 & 188 of I.P.C. in which charge sheet too, has been submitted bearing Charge Sheet no. 119/2020 u/s 341, 323, 324, 504/34 of I.P.C. He further submits that the appellants are innocent and belong from a farmer family. The appellants have purchased the land and are under possession of land, but the informant tried to grab the said land at the instigation of some influential persons of the village.

6. It has been further submitted by the learned counsel for the appellants the appellants conveyed the said dispute before the respectable persons of the village, they assured for Panchayati, but without waiting the Panchayati, they lodged FIR



first. He further submits that the informant did not obey the papers of registry and in connivance with some muscleman and influential persons, they tried to oust the appellants from the land which was purchased by the appellants and the same is in their possession. He further submits that both are agnates and villagers, there is land dispute between them. The sections of SC/ST Act has been inserted in the FIR only to make out a case non-bailable. The appellants have not abused with caste reference or assaulted or snatched ornaments and cash, rather a false, fabricated and concocted story was planted by the informant. In the case diary also, there is no material available to connect the appellants for the offences u/s 341, 323, 354, 379, 504/34 of I.P.C. and section 3(I) (r) (s) (F), 3(2) (va) SC/ST (POA) Act, 1989. There is no evidentiary proof with respect to assault, snatching ornaments and cash of the informant & others, only allegation have been leveled against the appellants.

7. Learned APP appearing for the State as well as the learned counsel for the informant have vehemently opposed the application of the appellants.

8. I have heard the rival submissions of the parties and have also gone through the records of the case.

9. From perusal of the materials available on record, it



appears that the present case has been filed because of pending land dispute between the parties and the offence has not been committed with an intention that the victim belongs to the Scheduled Caste category.

10. Considering the aforesaid facts and circumstances of the case as well as considering the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana & Ors. vs. Bhajan Lal & Ors. reported in 1992 Supp(1) SCC 335*, this kind of mala-fide prosecution should not be allowed to continue and the cognizance has been taken without application of mind.

11. Accordingly, this application is allowed and the cognizance order dated 14.09.2020 passed in G.R. No. 47/2020 passed by the learned 1st Addl. Sessions Judge-cum-Special Judge, Madhubani in G.R. No. 47/2020 in connection with Madhubani SC/ST P.S. Case No. 12 of 2020 is hereby quashed.

(Sandeep Kumar, J)

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