

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1222 of 2025**

Arising Out of PS. Case No.-301 Year-2023 Thana- NOORSARAI District- Nalanda

Pappu Mahto @ Ajit Prabhakar S/o Late Shivji Mahto Resident of Kundi, PS-
Nursarai, Distt- Nalanda

... .. Appellants

Versus

1. The State of Bihar
2. Rohit Kumar S/o Kishore Chaudhary R/o Prahladnagar, P.s.- Nursarai,
Distt.- Nalanda

... .. Respondents

Appearance :

For the Appellant/s	:	Md Fazle Karim, Adv.
For the State	:	Mrs. Usha Kumari I, Special P.P.
For the Informant	:	Mr. Ashutosh Singh, Adv.

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 24-11-2025

Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the Informant.

2. The present appeal is directed against the order
dated 24.02.2025 passed by the learned Additional Sessions
Judge – VI cum Special Judge, SC/ST Court, Nalanda at
Biharsharif in connection with Special SC/ST Case No. 136 of
2023 arising out of Noorsarai P.S. Case No. 301 of 2023
registered under Sections 341, 323, 307, 504, 506/34 of the IPC,
and Section 3(1)(r)(s), 3(2)(v)(a) of SC/ST Act and later on
Section 302 of IPC was added, whereby and whereunder
summons have been issued against the appellant and Lakshman



Mahto after taking cognizance under Sections 341, 323, 302, 504, 506/34 of the IPC and Section 3(1)(r)(s), 3(2)(v) of SC/ST Act against the appellant and other.

3. The prosecution story, in brief, informant alongwith his father was working in agricultural field and the four accused persons including the appellant were grazing their buffaloes near the said agricultural field. When the buffalo of accused persons entered in the agricultural field of informant, then, informant's father went and tried to stop the buffaloes from entering the said field. Meanwhile, all accused persons started abusing the informant by using caste name and when the same was protested, then, co-accused Daroga Mahto assaulted the informant's father upon his head by means of khanti attached with lathi as result of which informant's father sustained injury. Thereafter, all the accused persons started assaulting the informant's father by means of lathi as a result of which he became unconscious. It is alleged that on raising alarm, nearby people started gathering due to which all the accused persons ran away.

4. On the basis of written statement of informant, Noorsarai P.S. Case No. 301 of 2023 has been registered under Sections 341, 323, 307, 504, 506/34 of the IPC and Section 3(1)



(r)(s), 3(2)(v)(a) of SC/ST Act. Later on, Section 302 of the IPC was added.

5. Learned counsel for the appellant submits that the occurrence took place on 01.07.2023 and FIR was lodged on 05.07.2023 i.e. after delay of about four days and the reason of delay has not been explained. He further submits that there is no specific allegation against the appellant. He further submits that in the present case, supplementary charge sheet no. 194 of 2024 has been submitted against some of the accused persons but appellant and co-accused Lakshman Mahto were not sent up for trial but the learned trial court has taken cognizance against the appellant and co-accused Lakshman Mahto also while differing from the opinion of Investigating Officer but no reasoning has been cited by the learned trial court. In this way, the order of the cognizance passed by the concerned court is not justified and legal.

6. Learned counsel for the appellant has relied upon decision of ***S.M. Mahtab Ahmed Vs. State of Bihar*** reported in ***2016 (4) PLJR 508*** in which at para 8 and 9 of the said decision it has been held as follows:-

8. Besides hearing learned counsel for the parties, I have also perused the materials available on



record including the Lower Court Record After going through the record. it is evident that the complaint petition was thoroughly investigated by Investigating agency and thereafter, it was found that it was not a case of criminal offence, rather the investigating officer had noticed that it was a civil dispute Accordingly petitioner's name was not included in column no. 11 of the charge sheet. Meaning thereby that petitioner was not forwarded as accused in the case and final report was submitted. So far as point, which has been raised by the learned counsel for the complainant that even in business transaction, there can be case of criminal offence, this Court is in agreement with his submission, but in the present case, the case was investigated thoroughly by the statutory investigating agency and no sufficient material was found to forward the petitioner to face trial and his name was not incorporated in the charge-sheet as accused. The learned Chief Judicial Magistrate though was competent to pass order of cognizance differing with the police report, it was essential on his part to assign reason



succinctly for differing with the police report On perusal-of the impugned order the Court is satisfied that no reason has been assigned by the learned Magistrate and as such, on this very point, the order of cognizance is liable to be set aside.

9. It goes without saying that if an investigating agency after thorough investigation submits final report exonerating accused persons, the said report may not be treated as waste paper Once such report is submitted, the learned Magistrate at the time of differing with the police report is required to assign succinct reason. Since in the order impugned, no reason has been assigned, the Court is satisfied that order impugned is liable to be set aside, particularly; in view of nature of accusation, as has been levelled in the complaint petition.

7. Learned counsel for the State and learned counsel for Respondent no. 2 have submitted that appellant and others are said to have assaulted the informant's father as a result of which he became unconscious and fell down. He further submits that all the accused persons concertedly abused the informant by denoting his caste name and the allegation as alleged in the FIR



is sufficient to take cognizance against the appellant and other. They further submit that in the present case, the learned trial court while passing the order of cognizance has recorded the finding that from the perusal of FIR, charge sheet and case diary a *prima facie*, case is made out against the accused persons including the appellant, who are FIR named accused and the learned trial court has found that there is sufficient material to proceed the case against the accused person, namely, Daroga Mahto @ Manoj Mahto and non sent up accused Lakshman Mahto and Pappu Mahto (appellant) under Sections 341, 323, 302, 504, 506/34 of the IPC and Section 3(1)(r)(s), 3(2)(v) of SC/ST Act. He further submits that the learned trial court has applied its judicial mind and after going through all the material available on record, the court has passed the reasoned order and hence, no interference is needed.

8. After hearing the arguments of parties and perusing the material available on record, it is clear that the Investigating Officer after making due inquiry has given clean chit to the appellant and co-accused Lakshman Mahto whereas charge sheet has been submitted against co-accused Daroga Mahto @ Manoj Mahto but the learned trial court took cognizance against all the accused persons including the



appellant but the concerned court has not differentiated between the accused who have been charge sheeted and the accused against whom clean chit has been given by the Investigating Officer. The contention of the learned counsel for the appellant is quite tenable and sustainable in the light of the fact that the concerned court, at the time of differing from the opinion of the investigating officer, is required to assign succinct reason since in the impugned order no reason has been assigned by the concerned court while differing from the opinion of the Investigating Officer and the present appellant has been given clean chit by the Investigating Officer and the concerned court while taking cognizance has not assigned any reason while differing from the opinion of the Investigating Officer. In the light of aforesaid facts and circumstances of the case, the impugned order dated 24.02.2025 is non speaking order as the learned trial court has not assigned any reason and hence, the said order is nothing but nullity.

9. In the light of aforesaid facts and circumstances of the case and discussions made above, cognizance order dated 24.02.2025 is fit to be quashed and, accordingly, the same stands quashed. The matter is remanded to the concerned court to pass appropriate order against those who have not been sent



up for trial.

10. Accordingly, the appeal stands disposed of.

11. The order passed by this court shall have no effect in respect of accused Daroga Mahto @ Manoj Mahto against whom charge sheet has been submitted.

(Alok Kumar Pandey, J)

shahzad/-

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