

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1585 of 2022

In
CRIMINAL MISCELLANEOUS No.33216 of 2021

Arising Out of PS. Case No.-12 Year-2020 Thana- MAHILA P.S. District- Muzaffarpur

=====

RAUSHAN PASWAN @ RAUSHAN KUMAR S/o Mahesh Paswan R/o
Mohalla- Pankha Toli, P.S.- Kazi Mohammadpur, District- Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sudhenu Kumari D/o Chandradeep Kumar Resident of Pankhatoli near
Masjid, P.S.- Kazimohammadpur, Distt.- Muzaffarpur

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Mazharul Hassan
For the Respondent/s : Mr.A.G.

=====

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

ORAL ORDER

9 17-06-2025 Heard learned counsel for the appellant and learned
counsel for the respondents.

2. The present appeal has been preferred against the order dated 16-06-2020 passed by the Ist Additional Sessions Judge-cum-Special POCSO Act, Muzaffarpur whereby and whereunder, the learned court below has taken cognizance against five accused persons including the present appellant under Sections-363, 511, 120B, 354, 354A, 354B, 354C, 354D, 341, 342, 323, 34 of the Indian Penal Code, 8 & 12 of the POCSO Act as well as Sections-3(i)(r)(w)(i)(ii) of SC/ST (Prevention of Atrocities) Act.



3. While assailing the impugned order, learned counsel for the appellant has submitted that the order taking cognizance against the appellant is an abuse of process of the court and it is not sustainable in the eye of law. Learned counsel for the appellant has submitted further that the investigating authorities did not find complicity of the appellant in the present occurrence and submitted final form against him. It has also been submitted that the CDR of Mobile Number of the appellant was detected by the investigating authorities and perusal of the same shows that on the date of occurrence, he was in the district of Vaishali. In the FIR, the Mobile Numbers of two other co-accused persons namely, Satyam Kumar and Dileep Kumar have been mentioned and the CDR of those mobile Numbers shows that the tower location of those two Mobile Numbers was found near the place of occurrence.

4. Learned counsel has further submitted that there was land dispute between the parties and Title Suit No. 100 of 1976 is pending between the grand father of the appellant and the grand father of the informant and due to that land dispute, the present case has been filed.

5. The land dispute is there between the parties and on the date of occurrence and according to the CDR of Mobile



Number of the appellant, he was not at the place of occurrence whereas the CDR of Mobile Numbers of other two accused persons namely Satyam Kumar and Dileep Kumar were found at the place of occurrence.

6. The prosecution of the appellant appears nothing but a gross misuse of process of the court.

7. Accordingly, the cognizance order taken against the appellant only in Mahila P.S. Case No. 12 of 2020, G.R. No. 27 of 2020 under order dated 16-06-2020 is, hereby, quashed and, the present appeal is *allowed*.

(Nawneet Kumar Pandey, J)

A.K.V.//-

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

