

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1758 of 2019

In

CRIMINAL APPEAL (DB) No.177 of 2019

Arising Out of PS. Case No.-269 Year-2014 Thana- AKBARPUR District- Nawada

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1. UDAY YADAV Son of Suresh Yadav.
 2. Rita Devi Wife of Uday Yadav.
 3. Mukesh Yadav @ Mukesh Kumar Son of Ashok Yadav.
All are resident of Village - Nemdarganj, P.S.- Akbarpur, District - Nawadah.

... .. Appellants

Versus

1. The State of Bihar
2. Sanju Devi Wife of Sadan Rajak Resident of Village - Rajapur Indaul, P.S.- Akbarpur, Distt - Nawadah.

... .. Respondents

Appearance :

For the Appellants : Mr. Arun Kumar, Advocate
For the Respondents : Ms. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 18-03-2025

Heard learned counsel for the appellants and
learned counsel for the State.

2. Notices have been issued twice upon the
informant but they remain unserved as the informant is avoiding
the service of notice.

3. In view of nature of order, which is going to
be passed in this case, I do not deem it proper to await the
appearance of the informant indefinitely.

4. The present appeal has been filed against the
order dated 28.01.2019 passed by the learned 1st Additional



Sessions Judge -cum- Special Judge, SC/ST Act, Nawada, in Special (H) Case No.31 of 2016, arising out of Akbarpur P.S. Case No.269 of 2014, by which the learned Special Judge has rejected the discharge petition filed by the appellants.

5. Learned counsel for the appellants has submitted that the impugned order rejecting the discharge petition is bad in law as it has been passed only on the ground that the fact of dismissal of discharge application of co-accused Suresh Yadav and Bina Devi was not mentioned in the discharge petition of the appellants.

6. I have considered the submissions of the appellants and perused the impugned order. From perusal of the impugned order, it appears that the discharge petition of the appellants has been rejected only on the ground of non-mentioning of fact regarding dismissal of the discharge application of co-accused. Even if the aforesaid fact was not mentioned by the appellants in the discharge petition, the Court below ought to have considered the case of discharge of the appellants on merits.

7. In view of the aforesaid, this application is allowed. Accordingly, the impugned order dated 28.01.2019 passed by the learned 1st Additional Sessions Judge cum-



Special Judge, SC/ST Act, Nawada, in Special (H) Case No.31 of 2016, arising out of Akbarpur P.S. Case No.269 of 2014, is quashed. The matter is remanded back to the learned Special Judge, SC/ST Act, Nawada, for fresh consideration in accordance with law. The Special Judge will hear the lawyer for the informant if he appears in the district Court.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
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