

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2046 of 2019

Arising Out of PS. Case No.-4 Year-2018 Thana- SC/ST District- Rohtas

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1. SUNIL KUMAR DUBEY @ SUNIL DUBEY Son of Late Paras Dubey Resident of Village-Tetri, P.S.-Sasaram (M), District-Rohtas at Sasaram.
 2. Anil Dubey @ Anil Kumar Dubey Son of Late Paras Dubey Resident of Village-Tetri, P.S.-Sasaram (M), District-Rohtas at Sasaram.
 3. Mamta Kunwar @ Namita Kunwar Husband of Late Paras Dubey Resident of Village-Tetri, P.S.-Sasaram (M), District-Rohtas at Sasaram.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Gita Devi Wife of Satyendra Paswan Resident of Village-Tatri, P.S.-Sasaram (M), District-Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajive Ranjan Singh, Advocate
For the Respondent/s : Ms. Usha Kumari 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

10 19-06-2025 Heard learned counsel for the parties.

2. The present appeal has been preferred against the order of cognizance dated 12.03.2019 passed by learned Additional Sessions Judge-1st, Rohtas for the offences under Sections 341, 376, 511, 323, 504, 506 and 34 of the Indian Penal Code and Section 3(i)(v)s(w)(v)(II) of the S.C./S.T. Act in connection with Dehri P.S. Case No. 04 of 2018.

3. Learned counsel for the appellants by drawing my attention towards Annexure-2 has submitted that the family members of the appellants had filed C.W.J.C. No. 18183 of 2011



against the family members of the informant as they had encroached the land of the appellants and the co-ordinate bench of this Court vide order dated 02.04.2012 directed the Circle Officer, Sasaram to take appropriate action and pass final order in that encroachment case. Learned counsel for the appellants submits that after order of the co-ordinate bench of this Court, the encroachment was removed by the Circle Officer and this is the reason for false implication of the appellants.

4. Learned counsel for the appellants has also submitted that there is no explanation of delay of three days in lodging of the F.I.R. Learned counsel has submitted further that the informant, in last portion of the *fardbeyan*, has stated in clear words that she complained regarding the occurrence to the mother and father of the appellant but the father of the appellant was not alive on the day of lodging of the F.I.R., he had died much prior to lodging of the F.I.R.

5. On the other hand, learned counsel for the informant submits that the occurrence had taken place in public view as such, the provision of 3(i)(v)s(w)(v)(II) of the S.C./S.T. Act attracted.

6. It appears that there is land dispute between the parties. There is no explanation of delay in lodging of the F.I.R.



The father of the appellant was not alive on the day of occurrence whereas the informant says that she complained to mother and father of the appellants. The allegation appears to be false and frivolous, no cognizance can be taken.

7. Accordingly, on the basis of above-mentioned observations, order dated 12.03.2019 is set aside and the appeal is allowed.

(Nawneet Kumar Pandey, J)

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