

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2590 of 2024

Arising Out of PS. Case No.-140 Year-2019 Thana- MUFFASIL District- West Champaran

1. Om Prakash Gupta @ Bitu Kumar S/o Suresh Prasad R/o Village-Piprahiya, P.S.-Nawalpur, District-West champaran
2. Subhash Prasad S/o Late Mishri Lal Prasad R/o Village-Piprahiya, P.S.- Nawalpur, District-West champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Shyam Narayan Ram S/o Bandur Ram R/o Village-Jhakhra, P.S.-Gopalpur, District-West champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Uday Chand Prasad, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 13-02-2025 Heard Mr. Uday Chand Prasad, learned counsel for the appellant and Mr. Sadanand Paswan, learned Special PP for the State.

2. The present appeal has been preferred:-

“against order dated 05.04.2023 passed by learned Additional Sessions Judge-Ist-cum-Special Judge, (SC & ST), Bettiah, West Champaran in Trial No. 50 of 2020/Net No. 57 of 2019 arising out of Bettiah Muffasil (Banuchhapar O.P) Police Station Case no. 140 of 2019 whereby petition dated 04.01.2021



under Section 227 of Code of Criminal Procedure filed by the appellants for discharging them from the charges leveled against appellants under Section 341, 323, 504/34 of Indian penal Code and 3(i)(r)(w)(ii)(va) of SC/ST Act has been rejected.”

3. With the consent of the parties, the Appeal is being taken up for final hearing.

4. As per the prosecution story, the informant alleged that he was serving as an employee in the company of the appellant no.1 with the Firm name M/S Jay Mata Di Trading & Milling Rice Mill for the last one year with the monthly salary of Rs.7,000/-. However, for the period December 2018 to February 2019, the salary was not paid.

5. On 09.03.2019, in the evening, when he met him and demanded the amount, appellant no.1 was annoyed, abused by taking caste name and assaulted him. In the meantime, the uncle of the appellant no.1 (appellant no.2, Subhash Prasad) also came and assaulted by slipper beside abusing him. As the locals arrived, the matter was pacified. This led to the F.I.R.

6. Learned counsel for the appellants submit that the occurrence took place on 09.03.2019 but the F.I.R. came to



instituted on 14.03.2019, but the reason has not been assigned. It is his further submission that the Police investigated the matter and submitted final form on 03.06.2019 but differing from it, on 10.12.2019, the court took cognizance under section 341, 323, 504/34 of the Indian Penal Code and section 3(i)(r)(w) (ii)(va) of the SC/ST Act.

7. The further submission is that after taking anticipatory bail, the appellants moved under section 227 of the Cr.P.C. for their discharge which came to be rejected on 05.04.2023 fixing the date for framing of the charges on 08.06.2023.

8. Aggrieved, the present appeal.

9. It is his submission that there is not a chit of paper to show that the informant was an employee of the Firm being run by the appellant no.1 and as such the story of dues as also demand goes. Further, beside the interested witnesses, no independent witness is there to support the prosecution story.

10. The court concerned too failed to look into this aspect as also the fact that the final form was submitted in favour of the appellant. He further submits that though the informant was noticed, he chose not to appear.

11. Learned Special PP on the other hand opposes the



prayer submitting that a perusal of the F.I.R. would show that in an open place, he was abused and assaulted both by the appellant no.1 as well as his uncle appellant no.2. He further submits that no reason is assigned in the final form submitted by the Police and in that background, the court concerned was fully justified in taking cognizance in the matter vide an order dated 10.12.2019.

12. He submits that the discharge petition having been dismissed on 05.04.2023 itself, belatedly and as an after thought the appeal was filed after the delay of 334 days i.e. after almost a year only to stall the proceeding. In that background, the appeal is fit to be dismissed. He further submits that considering that the respondent no.2 is a poor person and was demanding his salary, it may not have been economically practical for him to appear before this Court pursuant to the notice.

13. Having gone through the facts of the case and the submissions put forward by the parties, the points raised by the learned Special PP is/are worth consideration. Prima facie, the F.I.R. constitute a case against the appellant. The police has not assigned any reason why they found the case to be untrue. In that background, the learned court was fully justified in rejecting the decision recommendation of the Police and taking



cognizance. The appellants after long period filed a petition for their discharge which came to be dismissed which followed the present appeal. This Court does not see any reason to interfere with the order passed by the concerned court on 05.04.2023.

14. Accordingly, both the Interlocutory Application as also the Appeal stands dismissed.

(Rajiv Roy, J)

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