

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2169 of 2025

Arising Out of PS. Case No.-53 Year-2022 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. Saroj Yadav S/o- Late Devraj Yadav Resident of Village- Chandel Bigha, P.S- Aurangabad Muffasil, Dist- Aurangabad.
 2. Babita Devi W/o- Saroj Yadav Resident of Village- Chandel Bigha, P.S- Aurangabad Muffasil, Dist- Aurangabad.

... .. Appellant/s

Versus

1. The State of Bihar
2. Yashoda Devi W/o- Bifan Ram Resident of Village- Chandel Bigha, P.S- Aurangabad Muffasil, Dist- Aurangabad.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Singh, Adv.

For the Respondent/s : Mrs. Usha Kumari I, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 14-11-2025

Heard the parties.

2. The present appeal has been directed against the judgment of conviction dated 07.05.2025 and order of sentence dated 14.05.2025 passed by learned District and Additional Sessions Judge-Ist- cum-Special Judge, (SC/ST, Children and NDPS Act), Aurangabad in Complaint Case (SC/ST) No. 53/2022 whereby and whereunder appellant no.1 has been convicted for the offence punishable under Sections 341/354/504/34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act and he has been sentenced to undergo simple imprisonment for one year and a fine of Rs. 5,00/- (five



hundred) each under Sections 341 and 354 of the Indian Penal Code and Section 3(1) (r) (s) of the SC/ST (POA) Act. Appellant no.1 has to pay fine of Rs.500/- (five hundred) under Section 504 of the Indian Penal Code and in default of payment of fine, appellant no.1 will have to undergo a further simple imprisonment of six months. Appellant no.2 has been convicted under Sections 341 and 504 read with 34 of the I.P.C. and Section 3(1) (r) (s) of the SC/ST (POA) Act and she has been sentenced to undergo simple imprisonment for one year and a fine of Rs. 5,00/- (five hundred) each under Section 341 of the Indian Penal Code and Section 3(1) (r) (s) of the SC/ST (POA) Act. Appellant no.1 has to pay fine of Rs.500/- (five hundred) under Section 504 of the Indian Penal Code and in default of payment of fine, appellant no.2 will have to undergo a further simple imprisonment of six months. All the sentences shall run simultaneously. The period undergone shall be set off as per rule.

3. As per prosecution case, on 11.06.2022 the complainant was washing the cloth and water spilled on the road. The accused persons Saroj Yadav, Babita Devi and Abhay Pandey were coming from the same way and they asked the complainant why she had poured water on the road to which the



complainant replied that on account of washing the cloth the remaining water had spilled on the road. It is alleged that the appellant no.1 started catching hold of the hands of complainant and she tried to release her hand upon which appellant no.1 attacked on the complainant with a knife. When she cried for help, the daughter-in-law of the complainant came to her rescue, whose left hand sustained injury in the occurrence. It is further alleged that all accused persons assaulted the complainant and her daughter-in-law by means of fists and slaps. Appellant no.2 snatched the *mangalsutra* of the complainant's daughter-in-law worth Rs.20,000/-. It is further alleged that all the accused persons started calling her caste name and threatened the informant to kill her.

4. On the basis of complaint petition, the Complaint Case No. 532/2022 was registered for the offence punishable under Sections 341/ 323/ 324/34 of the Indian Penal Code and Section 3(1)(r) (s) of the SC/ST Act and cognizance was also taken under aforesaid sections and the case committed to court of learned 1st A.D.J., Aurangabad-cum-Special SC/ST Act for trial and disposal. On 08.06.2023 charges were framed against the appellants under Sections 341/ 323/ 504/34 I.P.C. and Section 3 (1) (r) (s) of the SC/ST Act. Charges were read



over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

5. In order to bring home guilt of accused persons, prosecution has examined altogether three witnesses as P.W. 1- Yashoda Devi (complainant), P.W. 2- Soni Devi (daughter-in-law of the complainant) and P.W.3- Phula Devi (sister-in-law) of the complainant. Prosecution has produced one exhibit as Exhibit- P-1/PW-1 (signature of the complainant)

6. Defence has produced all together two witnesses namely Vikash Kumar Mishra/D.W.-1 and Suresh Kumar Mishra/ D.W.-2. Defence has also produced one documentary evidence (Invitation Card) which has been marked as Exhibit-D-1/DW-2. Defence of the appellants as gathered from the line of cross-examination of prosecution witnesses as well as from the statement under Section 313 of the Cr.P.C. is that of total denial.

7. After hearing the parties, the learned trial court convicted the appellants and to sentence them as indicated in the second paragraph of the judgment.

8. Learned counsel for the appellants submits that P.W.-1 is the complainant of the case and she has made allegation against appellant no.1 who is said to have made indecent behaviour with the complainant and appellants have



abused by her caste name on the issue of spillage of water on the road and the allegation is made by the complainant that the daughter-in-law of the complainant has also been assaulted with knife by appellant no.1. After perusal of the complaint petition, it is crystal clear that as to how the complainant has prepared a false story to implicate the appellants and the concerned court, while acquitting the accused Abhay Pandey on the ground of alibi and the concerned court, has taken into account the statements of D.W.s-1 and 2 and the concerned court recorded the reasoning as to why the prosecution has not proved the case beyond reasonable doubt against co-accused Abhay Pandey and he has been acquitted by the concerned court from the charges levelled against him. Similarly, the complainant, while giving her statement before the court in para-5 she has not pointed out the boundary of the place of occurrence but in para 10 she has pointed out the boundary of place of occurrence but the same is not corroborated by the version in the complaint petition. He further submits that the injury inflicted upon complainant's daughter-in-law was not proved. Not even a single chit of paper was produced to show that the complainant's daughter-in-law sustained injury by the knife as alleged in complaint petition. On the point of allegation that she has been abused by taking her



caste name, she has not specifically stated as to how the said act of the appellants comes under the purview of “public view”. She has not stated on the point of occurrence that how many people gathered and what is the time of gathering. The statement of P.W.-1 is totally silent on said fact. Even the statement of P.W.-2, who is daughter-in-law, has admitted the fact that whatever she has deposed before the court was on the instruction of the complainant and she has deposed in accordance with the advice given by the complainant. It has been pointed out by P.W.-2 that during course of cross-examination the complainant has taken advice from this witness prior to lodging the complaint case. P.W.-3 has stated in para 9 that she reached at the place of occurrence in one minute but she has specifically stated that when she reached, the occurrence came to an end but people were gathered. In this way, as per the statement of P.W.-3, she is not an eye witness of the alleged occurrence. Further, whatever the statement has been adduced by P.W.-2 is on the basis of instruction given by the complainant. In this way, the statements of P.Ws. do not carry authenticity and they are not sufficient to prove the guilt of the appellants and the concerned court, without taking into account material available on record, has reached to the wrong



conclusion and passed the judgment of conviction and awarded the sentence as mentioned above.

9. Learned counsel for the State has submitted that the judgment of conviction and order of sentence passed by the concerned court is on the basis of material available on record. He further that P.W.-1 complainant is a lady and she has supported the version of complaint during the adducing evidence before the court and her statement cannot be denied as she has supported the version of complaint petition. Some of the inconsistencies and discrepancies are found in the statement of P.W.s 1 and 3 but they are not of such nature that their evidences can be thrown away. In this way, the statement of P.W.-1 is corroborated by P.W.-2 during examination-in-chief and also by P.W.-3. In this way, the judgment of conviction and order of sentence passed by the concerned court is justified and legal and there is no room for interference.

10. The question which arises for consideration is:-

Whether the prosecution has proved the case beyond the shadow of reasonable doubt ?

11. I have perused the impugned judgment, order of trial court and trial court records. I have given my thoughtful consideration to the rival contention made on behalf of the



parties as noted above.

12. It is necessary to evaluate, analyze and screen out the evidences of witnesses adduced before the trial court in the light of the offence punishable under Sections 341/ 323/ 504/34 I.P.C. and Section 3 (1) (r) (s) of the SC/ST Act.

13. P.W.-1 Yashoda Devi is complainant. During examination-in-chief, she has stated that Mangalsutra of her daughter-in-law has been snatched by the appellants and other which is quite inconsistent with the initial version of prosecution story where the said Mangalsutra was alleged to be snatched by one appellant whose name is Babita Devi. She has further improvised her statement during examination-in-chief that the application of case was prepared by advocate Nagdeo Singh. Though in para 10 she has pointed out the boundary of place of occurrence and the same is not corroborated by the version in the complaint petition. Though there is allegation of inflicting knife blow and the same is not supported and corroborated by any chit of injury report. In this way, the manner of occurrence and place of occurrence have not been proved and the statement of P.W.-1 does not carry authenticity and there is reason to disbelieve the statement of P.W.-1 and the concerned Court, while acquitting one of the accused, has



recorded the reason that the prosecution has failed to prove the charge, though there was same allegation on the said person.

P.W.-2. Soni Kumari is the so-called injured witness and she has stated during cross-examination that prior to lodging the complaint, the complainant, who is her mother-in-law had taken her advice and she has further stated that she has deposed before the court according to the advice given by the complainant. She has not pointed out any statement regarding the place of occurrence and the statement regarding manner of occurrence. She has stated that her mother-in-law was dragged by appellants namely Saroj Yadav and Babita Devi but the said statement is quite inconsistent with the complainant as she has stated that she was dragged by only Saroj Yadav. The manner of occurrence as stated by P.W.-2 is that she suffered injury with a knife by appellant no.1, but the said version was also not supported and corroborated by any chit of paper relating to injury.

P.W.-3. Phula Devi, though during examination-in-chief has supported the version of complainant but in para 9 of her cross-examination she admitted that as soon as she reached at the place of occurrence, the dispute came to an end. In this way, she is not an eye witness of the alleged occurrence and she



had deposed before the court on the advice of complainant herself. In this way, her evidence has no meaning at all. In the light of fact that she is not an eye witness of the alleged occurrence, whatever deposition she delivered before the court is merely the articulation of the complainant herself.

14. It is necessary to analyze the Sections under which the appellants have been convicted. There was no specific averment even in examination-in-chief of any of the witnesses that the appellants have restrained the complainant or her daughter-in-law. In light of aforesaid facts, no offence is made out against the appellants under Section 341 of the I.P.C. So far as other sections, in which appellants have been convicted, are concerned, the version of complainant/P.W.-1 is quite divergent on the place of occurrence as well as manner of occurrence does not carry authenticity and the same is fit to be discarded. P.W.-2 and P.W.-3 have deposed on the advice of the complainant, so their evidentiary value is of no significance to prove the case of prosecution.

15. After analyzing the evidence of prosecution witnesses, it is crystal clear that the prosecution has miserably failed to prove its case and it can well be signified that how the complainant has prepared her plan to frame allegation against



the appellants and for preparing the plan, how she has involved other witnesses i.e. P.W.2 and P.W.-3 as they stated in their statements that they have deposed before the court on the advice of complainant herself.

16. In the result, in my view, prosecution case suffers from several infirmities, as noticed above, and it was not a fit case where conviction could have been recorded. The learned trial court fell in error of law as well as appreciation of facts of the case in view of settled criminal jurisprudence. Hence, the judgment of conviction and order of sentence are hereby set aside and this appeal stands allowed. The appellants are on bail, they are discharged from the liabilities of their bail bonds.

17. The interlocutory application, if any, also stands disposed of.

18. The records of this case be also returned to the concerned trial court forthwith.

(Alok Kumar Pandey, J)

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AFR/NAFR	AFR
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Transmission Date	N/A

