

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2542 of 2019

Arising Out of PS. Case No.-54 Year-2017 Thana- SC/ST District- Supaul

1. GOLU KUMAR @ RAJNISH KUMAR Son of Santlal Yadav @ Dinesh Kumar Yadav Resident of Village- Kajara P.S.- and District- Supaul.
2. Vakil Kumar @ Brajesh Kumar Son of jaiprakash Yadav @ Bhushan Yadav Resident of Village- Kajara P.S. and District- Supaul.
3. Jyotish Kumar @ Jyoti Prakash Son of Jaiprakash Yadav @ Bhushan Yadav Resident of Village- Kajara P.S. and District- Supaul.
4. Ashish Kumar @ Ashish Kumar Yadav Son of Sitab Yadav @ Dilip Kumar Pankaj Resident of Village- Kajara P.S. and District- Supaul.
5. Nitish Kumar Son of Sant Lal Yadav @ Dinesh Kumar Yadav Resident of Village- Kajara P.S. and District- Supaul.
6. Chanchal Kumar Son of Anant Lal Yadav Resident of Village- Kajara P.S. and District- Supaul.
7. Asha Archana @ Asha Archana Devi Wife of Anant Lal Yadav Resident of Village- Kajara P.S. and District- Supaul.
8. Rekha Devi Wife of Sant Lal Yadav @ Dinesh Kumar Yadav Resident of Village- Kajara P.S. and District- Supaul.
9. Mamta Devi @ Mamta Kumari Wife of Sitab Yadav @ Dilip Kumar Pankaj Resident of Village- Kajara P.S. and District- Supaul.
10. Ratnesh Kumar Son of Anant Lal Yadav Resident of Village- Kajara P.S. and District- Supaul.
11. Anant Lal Yadav Son of Pulkit Yadav Resident of Village- Kajara P.S. and District- Supaul.
12. Sant Lal yadav @ Dinesh Kumar Yadav Son of Pulkit Yadav Resident of Village- Kajara P.S. and District- Supaul.
13. Jai Prakash Yadav @ Bhushan Yadav Son of Pulkit Yadav Resident of Village- Kajara P.S. and District- Supaul.
14. Sitab Yadav @ Dilip Kumar Pankaj Son of Pulkit Yadav Resident of Village- Kajara P.S. and District- Supaul.
15. Naresh Kumar Singh Son of Bal Govind Singh Resident of Village- Kajara P.S. and District- Supaul.
16. Sarvesh Kumar Singh @ Chunnu Singh Son of Bal Govind Singh Resident of Village- Kajara P.S. and District- Supaul.
17. Parvesh Kumar Singh Son of Bal Govind Singh Resident of Village- Kajara P.S. and District- Supaul.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Jagiya Devi Wife of Dashrath Tanti Resident of Village-Mohaniyan, P.S- Supaul, (Lokaha O.P.), District-Supaul.



... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rakesh Kumar Jha
For the Respondent/s : Mr.Binay Krishna

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

ORAL ORDER

10 23-07-2025 Heard the learned counsel for the appellants as well
as the learned APP for the State.

2. The present appeal has been preferred against the order dated 11.04.2019 passed by the learned Additional Sessions Judge-1, Supaul, in S.C./ST. Case No. 298 of 2017/125 of 2017 arising out of Supaul SC/ST P.S. Case No. 54/2017, by which cognizance of offences under Sections 147, 148, 341, 323, 504, 506 of the Indian Penal Code and Sections 3(1)(r) & (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act has been taken against the appellants.

3. The informant, Jagiya Devi, wife of Dashrath Tanti, lodged an FIR alleging therein that her husband and brother-in-law (*bhaisur*) had purchased a piece of land from late Rajendra Singh after making payment of the consideration money. The land in dispute, according to the recitals of the FIR, has been in the possession of the informant for the last 50 years. The husband and the brother-in-law of the informant have planted



bamboo clamps thereon. It is alleged that 17 FIR-named accused persons started cutting the trees and bamboo clamps, and on protest, they abused the informant and her family members in filthy words by calling her caste name. They also assaulted the informant and her family members. Sant Lal Yadav @ Dinesh Kumar Yadav, appellant no. 12, assaulted her on the waist resulting into a fracture injury and Sunita Devi also suffered injuries. Sitab Yadav @ Dilip Kumar Pankaj assaulted Ganga Tati with an iron rod, who suffered injuries on his head. The accused persons also assaulted Anita Devi.

4. Learned counsel for the appellants has submitted that the informant belong to the *Tanti* caste which is not a Scheduled Caste. The resolution dated 02.07.2015, whereby the State of Bihar included 'Tanti' Caste into Scheduled Caste, was challenged before the *Hon'ble Supreme Court in the case of Dr. Bhim Rao Ambedkar Vichar Manch Bihar Vs. State of Bihar (Civil Appeal No. 18802 of 2017)*. The relevant portions of paragraph no. 39 is extracted hereinbelow:

“ 39. Now comes the question with regard to protecting those Members of "Tanti-Tantwa" community who were extended benefit of Scheduled Castes pursuant to the Resolution dated 01.07.2015 In the present case, the action of the State is found to be mala fide and de hors the constitutional



provisions. The State cannot be pardoned for the mischief done by it Depriving the members of the Scheduled Castes covered by the lists under Article 341 of the Constitution is a serious issue. Any person not deserving and not covered by such list if extended such benefit for deliberate and mischievous reasons by the State, cannot take away the benefit of the members of the Scheduled Castes. Such appointments would under law on the findings recorded would be liable to be set aside. However, as we have found fault with the conduct of the State and not of any individual member of the "Tanti- Tantwa" community, we do not wish to direct that their services may be terminated or that recovery may be made for illegal appointments or withdrawal of other benefits which may have been extended. We are of the view that all such posts of the Scheduled Castes reserved quota which have been extended to the members of the "Tanti-Tantwa" community appointed subsequent to the Resolution dated 01.07.2015 be returned to the Scheduled Castes Quota and all such members of the "Tanti-Tantwa" community, who have been extended such benefit may be accommodated under their original category of Extremely Backward Classes, for which the State may take appropriate measures. [...]"

5. The decision in *Dr. Bhim Rao Ambedkar (supra)*, was relied upon in the case of *Union of India & Ors. vs. Rohit Nandan*, (Civil Appeal No. 14394 of 2024), the Hon'ble Supreme Court has reiterated the same thing and the exclusion



of the Tanti caste from the list of Extremely Backward Castes was held illegal. So, these two decisions of the Hon'ble Supreme Court show that the Tati caste is not in the list of Scheduled Castes. As such, the provisions of the SC/ST Act are not attracted against the appellants.

6. Considering the materials collected during course of the investigation, the investigating authorities submitted final form against appellant nos. 1 to 6 and appellant no. 10. Appellant nos. 7 and 11 are teachers and they were in their respective schools at the time of occurrence, due to this reason, the investigating authorities submitted final form against them also. So far as appellant nos. 8 and 9 are concerned, they are the female members of the family. Their implication was merely a super addition. The investigating authority submitted final form against appellant nos. 8 and 9 also.

7. The learned counsel for the informant has submitted that the accused persons badly assaulted the informant and her family members. According to the submission of the learned counsel for the informant, there is no error in the order of the learned court below taking cognizance against all the appellants. So far as the plea of alibi taken by some of the appellants is concerned, that cannot be a ground for quashing



the cognizance order and that should be looked into during trial.

8. As mentioned above, the Tanti is not in the list of Scheduled Castes, as such, the provisions of the SC/ST Act are not attracted against any of the appellants. Accordingly, the cognizance under Sections 3(1)(r) and (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is concerned, the cognizance in respect of all the appellants is hereby quashed. So far as the other sections of the IPC are concerned, the cognizance in respect of appellant nos. 1 to 11 is quashed, there shall be no interference with rest portion of the impugned order.

9. Accordingly, the appeal is disposed of.

(Nawneet Kumar Pandey, J)

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