

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2803 of 2024

Arising Out of PS. Case No.-195 Year-2022 Thana- JAGDISHPUR District- Bhagalpur

DIJEL TANTI @ DIJAL TANTI SON OF LATE BUTKI TANTI VILLAGE
-BHAWANIPUR, POLICE STATION -JAGDISHPUR, DISTRICT
-BHAGALPUR

... .. Appellant/s

Versus

1. The State of Bihar
2. MANJULA DEVI W/O- NARESH DAS VILLAGE- BHAWANIPUR, P.S.- JAGDISPUR, DISTT.- BHAGALPUR

... .. Respondent/s

Appearance :

Appearances : Mr. Ajay Mukherjee, Adv.
For the Respondent/s : Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 28-01-2025 Heard Mr. Ajay Mukherjee, learned counsel for the
appellant and Mr. Sadanand Paswan, learned APP.

2. The present application has been filed for quashing of order dated 11.01.2024 passed by learned Additional District & Sessions Judge-III-Cum-Special Judge Under, (SC & ST Act), Bhagalpur in Spl. SC/ST Case No. 243 of 2022 (arising out of Jagdishpur P.S. Case No. 195 of 2022) whereby and where under cognizance has been taken against the above named appellant under section 302 of I.P.C. and sections 3(i) (r)/3(i) (s)/3(2) (v).

I.A. No. 01 of 2024

3. For the reasons assigned in paragraph nos. 3 and 4,
I.A. No. 01 of 2024 is allowed.

4. The delay in filing the appeal stands condoned.



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5. As per the prosecution story, the lady-informant alleged that all the named accused persons took away the nine years old child luring him of providing fruit and later inserted stick in his mouth and also assaulted him by bricks/rod. In precarious condition, the victim was shifted to the hospital where he succumbed to the injuries, two day later, which followed the delayed FIR.

6. It is the case of the appellant that the occurrence is of 16.05.2022 but the FIR was lodged on 20.05.2022 and the reason is not available in the FIR. Further, police after investigation though submitted charge sheet against other named accused, the appellant was exonerated of the charges.

7. Erroneously, the concerned Court has taken cognizance and aggrieved by that, the present petition.

8. It is his submission that the police thoroughly investigated the matter and exonerated the appellant and in that background, the decision taken by the concerned Court against the appellant has to be interfered.

9. Learned Spl. PP on the other hand has taken this Court to the FIR to show that they have given the reasons for the delayed FIR inasmuch as after the treatment/death/post-mortem/cremation, finally, the lady lodged the FIR. It clearly



shows that they were fully busy from the date the occurrence took place till the mortal remains were consigned to the flames. He as such, submits that the appellant being the named accused, removing him from the list of the charge-sheeted accused was an erroneous decision of the police which got corrected by the concerned Court.

10. Having gone through the facts of the case, materials on record and the submission of the parties, the delay has been fully explained by the lady in the FIR as incorporated above. So far as this appellant is concerned, he is the named accused. Unfortunate incident took place in which a nine years old child was taken for providing fruit, instead, a wooden rod was inserted in his mouth, allegation of beating is also there, without living his life, he left this world.

11. The appellant being the named accused, he cannot be singled out from the other accused, the allegations are against all of them. The cognizance taken against the appellant needs no interference.

12. Cr. Appeal (SJ) No. 2803 of 2024 stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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