

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4394 of 2018**

Arising Out of PS. Case No.-201 Year-2016 Thana- BIHRA District- Saharsa

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Brahmdev Singh @ Brahma Dev Singh and Anr

... .. Appellant/s

Versus

The State Of Bihar & Anr

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

13 18-11-2025 Heard the learned counsel for the appellants and the

learned counsel for the State.

2. This appeal has been filed for setting aside the order of rejection dated 09.10.2018 whereby and where under prayer for discharge from accusation filed under section 227 of Cr. P. C. dated 06.08.2018 was rejected by Learned 1st Additional Sessions Judge-cum-Special Judge, Saharsa in connection with Case No. Special SC/ST- 30/2018 arising out of Bihra P.S. Case No.201 of 2016 under Sections 147, 148, 149, 341, 323, 324, 307, 302, 504 of I.P.C. and 3(i)(x), 3(2)(v) SC/ST (Prevention of Atrocities) Act.

3. As per the prosecution case, the appellants and others are accused of assaulting the informant and abusing the informant by taking caste name.



4. The learned counsel for the appellants has submitted that the impugned order is a non-speaking and a cryptic order and the materials available against the appellants have not been discussed in the impugned order rejecting the discharge application.

5. The learned counsel for the appellants relying on the judgment of the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. The State of Bihar*** reported in **2022 (9) SCC 577** has submitted that a speaking order should have been passed after considering the materials available on record.

6. The learned counsel for the State has opposed the contention of the learned counsel for the appellants and has submitted that the impugned order has rightly been passed after considering all the materials available on record.

7. I have heard and considered the submissions of the parties.

8. The impugned order/judgment is in the teeth of the law laid down by the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. The State of Bihar (Supra)***. The Special Judge cannot act a post office who will pass a cryptic order on a set format saying that offences are made out against the appellants rather the Special Judge is expected to consider the



application of discharge, consider the materials available on record, consider the submission of the parties and thereafter give a finding with regard to the case and pass a detailed order which is missing in the present case.

9. From the perusal of the case records, it appears that the present is a *mala fide* prosecution and an abuse of the process of the Court which cannot be allowed to continue in view of the law laid down by the Hon'ble Supreme Court in the case of ***Dashrath Sahu vs. State of Chhattisgarh*** reported in ***2024 SCC OnLine SC 72*** and ***State of Haryana & Ors. Vs Bhajan Lal & Ors.*** reported in ***1992 Supp(1) SCC 335***.

10. In view of the discussions made above, the appeal stands allowed and accordingly, the order dated 09.10.2018 passed in Case No. Special SC/ST-30 of 2018 arising out of Bihra P.S. Case No. 201 of 2016 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Saharsa and the consequent proceeding arising out of Bihra P.S. Case No. 201 of 2016 is hereby quashed.

(Sandeep Kumar, J)

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