

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3292 of 2024

Arising Out of PS. Case No.-50 Year-2014 Thana- SC/ST District- Samastipur

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1. Tilak Raj Dargan Son of Baldeo Lal Dargan R/O Vill.- Mulchand Road Ward no.21, P.s.- Town, Dist.- Samastipur.
 2. Kako Raj Dargan @ Kishore Raj Dargan Son of Tilak Raj Dargan R/O Vill.- Mulchand Road Ward no.21, P.s.- Town, Dist.- Samastipur.
 3. Sexy Raj Dargan @ Bharat Dargan Son of Tilak Raj Dargan R/O Vill.- Mulchand Road Ward no.21, P.s.- Town, Dist.- Samastipur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Sunita Devi Wife of Manu Rajak R/O Mohalla- Mulchand Road Ward no.21, P.s.- Town, Dist.- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mukesh Kumar, Adv.
For the Respondent/s : Mr. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 12-02-2025 Heard Mr. Mukesh Kumar, learned counsel for the appellants, Mr. Virendra Kumar representing the informant as also the State.

2. The present appeal has been preferred for:

*(i) for quashing of order dated
27.01.2020 passed in CR. Rev. No.-250/2015
passed by the Ld. Session Judge Samastipur,
whereby and where under the Cri. Revision
has been dismissed and cognizance taking
order dated 13.04.2015 has been confirmed.*



(ii) For also quashing of cognizance taking order dated 13.04.2015 passed by Ld. S.D.J.M. Samastipur Passed in Samastipur SC/ST P.S. Case No.-50/2014 for the offences under sections 341,323,354,506/34 of the I.P.C. and also for the offences under sections 3(1)(X)(XI) of the SC/ST (POA) Act against the petitioners and than transferred to Ld. Special Judge SC/ST Act Samastipur.

(iii) During pendency of this case before this Hon'ble High Court, the further proceeding in the Ld. Court below may kindly be stayed.

I.A. No. 01 of 2024

3. The Interlocutory Application has been preferred for condonation of delay in filing the appeal after nine years and three months as the cognizance order is dated 13.04.2015.

4. Learned counsel for the informant submits that a perusal of the Interlocutory Application would show that the sole purpose of the appellants is/are to delay the conclusion of the trial. It is his submission that they belong to influential class,



the informant being from the labour class and time without number, without any provocation and at the drop of the hat, the informant's side is/are assaulted, caste name taken and in continuation of that once again Samastipur SC/ST P.S. Case No. 50 of 2014 has been lodged in the matter. He submits that both the appeal as also the Interlocutory Application be taken together so that the same is taken to its logical conclusion.

5. As consented by both the parties, the case is being taken up on merit.

Cr. Appeal (SJ) No. 3292 of 2024

6. As per the prosecution lodged on 18.07.2024, the informant alleged that the accused persons without any provocation entered their land along with labours and tried to change the iron sheet of the roof. When the informant's side objected to their trespassing, they resorted to assault as also outraged the modesty of the lady besides repeatedly taking caste name. This led to the lodging of the FIR.

7. The investigation took place whereafter cognizance was taken under Sections 341, 323, 354, 506/34 of the IPC and Sections 3(1)(X)(XI) of the SC/ST (POA) Act. Thereafter, the appellants started their belated legal journey which included filing of the anticipatory bail application seven years later by



way of **Cr. Appeal (SJ) 4280 of 2021** belatedly in which after being granted interim relief for some time, it finally came to be dismissed as withdrawn on **21.07.2023** by a Co-ordinate Bench and it was also incorporated that if they surrender by **11.08.2023**, it may be disposed of on the same day.

8. Learned counsel for the informant submits that to his knowledge, they chose not to surrender and can be safely clubbed in the list of absconders.

9. The case of the appellants as presented by Mr. Mukesh Kumar is that there is an admitted land dispute between them, a title suit is pending between them and this is the result of the said civil dispute. In that background, it has been repeatedly held by Hon'ble Apex Court that when there is a civil dispute, the parallel proceeding may not lie. Further submission is that the allegation is in two parts: on 07.04.2014 and 16.07.2024 but FIR came to be lodged on 18.07.2024. Also, after the Cr. Rev. No. 250 of 2015 was dismissed, the present appeal was filed.

10. Mr. Virendra Kumar representing the informant on the other hand submits that a perusal of the FIR would show that it has been lodged in the year 2014, prior to the title suit which came to be filed in the year 2015. The materials in the FIR



clearly shows that a prima facie case is made out a case which led to the cognizance order.

11. Having gone through the facts of the case, materials on record and the submissions of the parties, this Court has to go by the submissions put forward by learned counsel for the informant, in the opinion of the Court, the ingredients are clearly present in the FIR to show about the assault as also the abuse of the informant's side by taking caste name. The appellants of late started picking up the legal process to their convenience which reflects inasmuch as despite the lodging of the FIR in the year 2014, their anticipatory bail came to be filed in the year 2021 i.e. after seven years.

12. In between, in the year 2015 itself, the cognizance order was passed, it clearly shows that the appellants have least respect for the legal process. A Co-ordinate Bench of this Court while allowing the appellants to withdraw their anticipatory bail application, directed them to surrender by **10.08.2023** and if the contention of the informant is true, they are still at large without surrendering and/or taking bail.

13. The Sessions Judge in Cr. Rev. No. 250 of 2015 in the year 2020 refused to entertain the petition and rejected it. Four years later and as an afterthought, the present appeal. This



is clearly an abuse of the process of law, to say the least. In that background, the Court has only one option, to dismiss both the criminal appeal as also the Interlocutory Application.

14. Accordingly, ordered.

15. Both the **Cr. APP (SJ) No. 3292 of 2024** as also the **I.A. No. 01 of 2024** stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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