

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3199 of 2019

Arising Out of PS. Case No.-22 Year-2017 Thana- KHODAWANDPUR District- Begusarai

1. Gulam Sarwar Son of Md. Hanif Resident of Village - Sirsi, P.S.- Khodawanpur, Dist.- Begusarai.
2. Qamar @ Md. Qamar @ Md. Amar Ali Son of Md. Alii Hasan Resident of Village - Sirsi, P.S.- Khodawanpur, Dist.- Begusarai.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Urmila Devi W/o Late Jagdish Ram Resident of Village - Sirsi, P.S.- Khodawandpur, Dist.- Begusarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sunil Prasad, Advocate
For the State : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 21-01-2025 Heard learned counsel for the appellants and learned
Special P.P. for the State.

2. None has appeared on behalf of opposite party no.
2 despite service of notice.

3. The present appeal is being filed for quashing the
order dated 13.05.2019 passed by learned Special Judge SC/ST
(POA), Begusarai in Khodawandpur P.S. Case No. 22/2017
whereby and where under the learned Special Judge has rejected
the discharge petition filed by the appellants under Section 227
of Cr.P.C.

4. The prosecution case in brief is that on 01.03.2017



at around 12:30 PM in the afternoon hours, the informant, one Urmila Devi was at her residence along, her two sons and their wives were also at home with the informant. It is alleged that Md. Ali Hasan along with laborers started constructing the boundary which was objected by the informant. It is alleged that while the informant protested against the construction, the informant also stated that as per the order of the Circle Officer, four feet of passage road was to be left. It is also alleged that when the informant tried to object to the construction, the accused started abusing and hurled caste-based remarks on the informant. It is also alleged that when the informant asked the accused Md. Ali Hassan to not hurl caste-based abuse, the accused Md. Ali Hassan called his family members with weapons and the accused Md. Ali Hassan ordered his family members to assault the informant. It is alleged by the informant that upon being ordered by the accused Md. Ali Hassan, the family members surrounded the informant and started to indiscriminately assault her with fists and slaps. The informant also alleged that accused Md. Shamim tried to outrage the modesty of the informant by tearing the blouse, *saya* and *sari* worn by the informant. The informant has also alleged that all the accused persons entered the house of the informant and the



accused Md. Anwar took away the motorcycle bearing registration no. BR-33S-6426, further accused Md. Sayeed has taken away a box containing cash rupees 1,200/- (Rupees Twelve Hundred) along with cloth and ornaments worth Rs. 5,000/-. The informant also alleged that accused Md. Bablu took away a suitcase (*Ataichi*) belonging to her elder daughter-in-law containing cloth and ornaments worth Rs. 5,000/- (Rupees Five Thousand) and the accused Nirja Khatoon snatched away gold earring worth Rs. 12,000/- (Rupees Twelve Thousand) that belonged to the younger daughter-in-law and resulted in blood oozing from the wound. It is also alleged that the grains about one quintal belonging to the informant were also taken away from the house of the informant by accused Ali Akbar along with other accused persons. It is lastly alleged that the accused Bahauddin attacked the son of the informant Pappu Ram with a stick which led to a fracture of the right hand.

5. The impugned order dated 13.05.2019 is a cryptic order by which the discharge application of the appellants has been rejected. The impugned order does not discuss the materials on the basis of which the trial Judge has come to a finding that charges are to be framed. He has mentioned some paragraphs which are not sufficient for framing of charge. For



dealing with the discharge application, the trial Judge must pass a reasoned order considering all the arguments of the appellants which is lacking in this case.

6. In view of the above, this appeal is allowed.

7. Accordingly, the order dated 13.05.2019 passed by learned Special Judge SC/ST (POA), Begusarai in Khodawandpur P.S. Case No. 22/2017 is hereby quashed. The matter is remitted back to the Special Judge SC/ST (POA), Begusarai who will pass a fresh order after hearing the parties in accordance with the law laid down by the Hon'ble Supreme Court in the case of **Kanchan Kumar Vs. State of Bihar reported in (2022) 9 SCC 577** within three months of receipt of a copy of this order.

(Sandeep Kumar, J)

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