

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3855 of 2024

Arising Out of PS. Case No.-77 Year-2022 Thana- COMPLAINT CASE District- Supaul

1. Surya Narayan Sharma @ Surya Narayan Mistri Son of Late Nandiyat Mistri R/O Vill.- Laudh, Ward no. 4, Dih Tola, P.S.- Supaul, Dist.- Supaul.
2. Kislay Kumar @ Pappu Sharma @ Kislay Kumar Kaushal Son of Surya Narayan Sharma @ Surya Narayan Mistri R/O Vill.- Laudh, Ward no. 4, Dih Tola, P.S.- Supaul, Dist.- Supaul.
3. Gautam Kumar @ Gautam Kumar Sachidev Son of Surya Narayan Sharma @ Surya Narayan Mistri R/O Vill.- Laudh, Ward no. 4, Dih Tola, P.S.- Supaul, Dist.- Supaul.

... .. Appellant/s

Versus

1. The State of Bihar
2. Parmeshwar Paswan Son of Late Mani Paswan R/O Vill.- Laudh, Ward no. , Tola Lawahi, P.S.- Supaul, Dist.- Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Nafisu Zzoha, Advocate
For the Respondent/s : Mr.Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 28-01-2025 Heard Mr. Nafisu Zzoha, learned counsel for the appellant and Mr. Binay Krishna, learned APP for the State.

I.A. No. 01 of 2024:

2. The aforesaid Interlocutory Application has been preferred for condoning the delay of 51 days in filing of the appeal.

3. Considering the statement made in paragraphs 6 to 8 of the petition, there is no opposition from the other side, the delay in filing of the appeal stands condoned. The IA. No. 01 of



2024 is allowed.

I.A. No. 02 of 2024:

4. The aforesaid Interlocutory Application has been preferred for early hearing of the petition as the appellant no. 1 is suffering from 'Cancer'.

5. The I.A. No. 02 of 2024 is allowed.

Cr. Appeal No. 3855 of 2024:

6. The present appeal has been preferred for quashing of the cognizance order dated 18.03.2024 passed by the learned A.D.J.-1st, Supaul, in Complaint (SC/ST) Case No. 77c/2022 dated 20.09.2022 by which cognizance has been taken under sections 341, 323, 379, 427, 504 of the Indian Penal Code and section 3(i) (x) SC/ST Act.

7. As per the prosecution story, the complainant alleged that the appellants armed variously and on the order of appellant no.1 to dismantle the house, the other accused persons started doing so. On protest, allegation is that they were slapped, caste name taken and the modesty of the female members outraged. They were taken to Sadar Hospital, Supaul for treatment whereafter went to the Police Station. Upon refusal of lodging of the FIR, the complaint.

8. The Court took up the matter and *prima facie* found



the same to be true, took cognizance which has been challenged by the three appellants.

9. It is the case of the appellants that there is delay in filing of the complaint which has not been explained. It is the complainant who is the aggressor having forcefully constructed the hut, to pressurize the appellants' side so that he is not disturbed in the said land dispute, the present case.

10. Learned APP on the other hand opposes the prayer submitting that whether it is the land dispute or the complainant has constructed the hut over the other persons' land, that is not to be seen in the present case. The allegation is that the accused persons armed variously came, assaulted and outraged the modesty of the female members of the family. In that background, the Court has rightly taken cognizance.

11. Having heard the parties and the materials on record, this Court is in full conformity with the submission of the learned APP. The allegation is there against all the three appellants and role has also been assigned. Merely because in the subsequent statement, others have been dragged in (who are not before this Court), that cannot be a ground to disbelieve the present case.

12. Having agreed with the order of cognizance dated



18.03.2024 passed by the Court concerned, this Court does not find any merit in the petition.

13. Accordingly, the same is dismissed.

(Rajiv Roy, J)

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