

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4011 of 2024

Arising Out of PS. Case No.-28 Year-2019 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. Mahanth Ram Prakash Das Son Of Late Mahanth Dev Narayan Das Resident Of Village- Ward No.7,Shyampatti, Post-Thahar, Sarabe, P.S- Khajauli, District- Madhubani
 2. Krishnanand Chaubey @ Narayan Jee Chaube Son of Ram Prakash Das Resident Of Village- Ward No.7,Shyampatti, Post-Thahar, Sarabe, P.S- Khajauli, District- Madhubani

... .. Appellant/s

Versus

1. The State Of Bihar
2. Ram Awatar Paswan Son of Bhuneshwar Paswan Resident Of Village- Sarabe, P.S- Khajauli, District- Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shankar Kumar Thakur, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 16-01-2025 Heard Mr. Shankar Kumar Thakur, learned counsel
for the Appellants and the State.

2. The present appeal has been preferred against the order dated 16.05.2024 passed in Complaint Case No. 28/2019 filed under sections 147, 148, 149, 341, 323, 504, 506, 307, 448 and 379 of the Indian Penal Code and under sections 3 (i)(iv) (v) (xv) of SC/ST Act corresponding to T.R. No. 1176/2022 by the learned Additional Session Judge I-Cum-Special Judge, Madhubani whereby and where- under the petition filed by the appellants for discharge has been rejected.



3. As per the story, the allegation is that the respondent No. 2 previously obtained the land on the basis of “*Parcha*” and is continuing on it since then. On 08.04.2019, as he was cutting the soil to make it cultivable, the allegation is that the appellants came on the land and wanted to vacate it. Upon objection, allegation is that assault took place which caused injuries. Further allegation is of taking away the amount/ornaments which led to the FIR on different sections of the IPC beside sections 3 (i)(iv)(v)(xv) of the SC/ST Act.

4. The complaint case was taken up by a concerned Court and vide an order dated 16.05.2024 having taken note of the fact that there is case and counter-case in the matter which clearly shows that occurrence took place and in that background and prima facie case having found to be true, the petition filed under Section 227 of the Cr.P.C. was rejected.

5. Learned counsel for the appellants submit that civil litigation was going on, they are the original owner, the respondent has no role to play in it and only to put pressure, the present case has been filed in which wrongly cognizance was taken. He submits that there is delay in the filing of the complaint and his complaint being an earlier one.

6. On query, in view of the fact that both the parties



have preferred complaint, the observation of the concerned Court that an occurrence took place is correct or not, the learned counsel for the appellants has chosen not to answer the same.

7. He instead has taken this Court to a judgment of learned Single Judge in a case of ***Shambhu Prasad Singh and Ors. vs The State of Bihar (2024) 4 BLJ 881*** pointing out to paragraph 5, according to which, when the entire allegation appears to be raised in the background of the land dispute, which is civil in nature, interference has to be made.

8. In that case, the complainant has alleged that he got the ancestral house mutated in the name of the mother and for the Government aid approached Shambhu Prasad Singh for getting the same mutated so she could get Government aid. However, taking advantage of that, thumb impression was taken on different papers which was later used to sell the house/land.

9. In that background, the learned Single Judge took note of the fact that when the nature shows the same to be civil, no criminal case is made out.

10. Here, the case is entirely different, there is allegation of assault on the appellant as also taking caste name for which cognizance has been taken and the petition under Section 227 of the Cr.P.C. has been rejected.



11. The case cited by the appellant under no circumstance come within the purview of the present case, the facts, as narrated above, is entirely different.

12. Learned Spl.P.P., Mr. Sadanand Paswan submits that the order passed by the learned Court rejecting the petition under Section 227 of the Cr.P.C. is absolutely correct in view of the allegation that has come in the complaint.

13. This Court has recorded the entire facts, there is case and counter-case, an occurrence took place which is confirmed, in that background, the learned Court rightly observed that when occurrence has taken place, prima facie case is made out against these petitioners.

14. No case of interference is made out.

15. The present appeal stands dismissed.

(Rajiv Roy, J)

Adnan/-

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