

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4294 of 2024

Arising Out of PS. Case No.-151 Year-2024 Thana- MOTIHARI MUFASIL District- East
Champanan

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Dewa Tiwari @ Dewanand Tiwari Son of Late Prayag Tiwari Resident of
Village - Nandpur, P.S.- Muffassil, District - East Champanan

... .. Appellant/s

Versus

1. The State of Bihar
2. Satyavrat Ravidas Son of Not Known (A.S.I.), Resident of at present posted
at QRT, Sadar, Motihari, P.S.- Muffasil, District - East Champanan

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashank Shekhar, Advocate
For the Respondent/s : Mr. Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 18-03-2025 Heard Mr. Shashank Shekhar, learned counsel for

the appellant duly assisted by Ms. Puja Kumari and Mr. Binay

Krishna, learned Special PP.

2. The petition has been filed for:-

*“setting aside/quashing the order
dated 11.07.2024 passed by Learned Special
Court SC/ST Act, East Champanan, Motihari
in connection with Muffasil P.S. Case No. 151
of 2024 dated 30.03.2024 by which the
learned Special Court SC/ST, East
Champanan, Motihari has taken cognizance
against the appellant under section
147/149/341/323/332/333/353/327/224/225/5*



*04/506 of The IPC & section 3(1)(r)(8)/3(2)
(va) of the SC/ST ACT without being any
legal material.”*

3. As per the prosecution story, the informant alleged that on information that one Rockey Tiwari along with 20-25 persons are making illegal constructions near the house of one Shambhu Prasad who has already lodged an FIR, the officials went to the place. Though Rockey Tiwari managed to escape, one Radha Tiwari was apprehended who is also an accused in Mufassil PS Case No. 138 of 2024 lodged by Shambhu Prasad. However, thereafter the allegation is that the accused persons came and tried to get Radha Tiwari freed from the police custody. Again, Rockey Tiwari along with his associates came armed variously and attacked the police. He pelted stones which hit near the eyes of the informant, the police official and upon knowledge of the name of the same informant by his name plate, he was also abused by taking caste name. It was only after the timely intervention of the police force on the information given to higher officials that the situation could be managed and number of persons were rounded off. Later, the police also came to know about other accused persons who were present on the spot which led to the FIR.



4. The police investigated the matter and submitted charge-sheet on 10.07.2024 *vide* charge-sheet no. 241 of 2024 under different sections 147/ 149/ 341/ 323/ 332/ 333/ 353/ 327/ 224/ 225/ 504/ 506 of The IPC & section 3(1)(r)(8)/3(2)(va) of the SC/ST ACT.

5. This followed the cognizance order dated 11.07.2024 by the learned Court which has been challenged in the present appeal.

6. Heard the parties.

7. This is the case of the appellant that two sets of the accused persons have been named, one who were present on the occurrence and named earlier and later the police says that they got information through different sources which led to rounding off another set of accused, appellant being one of them. He submits that nothing is on record in the case diary to show as to what were the sources which led to the implication of the other set of persons including the appellant. In that background, interference is required so far as the appellant is concerned.

8. Learned Special P.P, Mr. Binay Krishna, opposes the prayer submitting that in course of investigation and cognizance order it is not necessary for the police officer to bring on record every information which led them to the



accused persons including the appellant herein. The stage will be there for the appellant to prove his innocence when the charges are framed. For the present, after a thorough investigation, the charge-sheet stands submitted which followed the cognizance order and it would be better that the appellant makes an appropriate petition at an appropriate stage.

9. Having gone through the facts of the case and the materials on record, it is clear that the accused persons had assembled illegally, a case was already there against them. The police only wanted a peaceful atmosphere, went there but were not only abused/assaulted, the informant was rushed to the hospital and it was only with the grace of God that his eyes were saved. The appellant has been found to be one of the accused in the said illegally unlawful assembly in which the injury/assault besides taking caste name. After thorough investigation, cognizance has been taken, it would be appropriate that the appellant avail the remedy available under the law before the concerned court. No relief can be extended.

10. Accordingly, the present Cr. Appeal (SJ) No. 4294 of 2024 stands dismissed.

11. The interim order passed on 24.09.2024 stands vacated.



12. Office to inform the concerned.

(Rajiv Roy, J)

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