

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4887 of 2024

Arising Out of PS. Case No.-11 Year-2019 Thana- COMPLAINT CASE District- Lakhisarai

Sugo Devi Wife of Dinesh Pasawan Resident of Village - Dharmraichak, PS-
Lakhisarai, Dist.- Lakhisarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Tuntun Sao Son of Late Saryug Sao Resident of Village - Dharmraichak, PS-
Lakhisarai, Dist.- Lakhisarai.
3. Batoran Sao Son of Late Saryug Sao Resident of Village - Dharmraichak,
PS- Lakhisarai, Dist.- Lakhisarai.
4. Akash Sao Son of Tuntun Sao Resident of Village - Dharmraichak, PS-
Lakhisarai, Dist.- Lakhisarai.
5. Guddu Sao Son of Tuntun Sao Resident of Village - Dharmraichak, PS-
Lakhisarai, Dist.- Lakhisarai.
6. Vikky Sao Son of Tuntun Sao Resident of Village - Dharmraichak, PS-
Lakhisarai, Dist.- Lakhisarai.
7. Gautam Sao Son of Tuntun Sao Resident of Village - Dharmraichak, PS-
Lakhisarai, Dist.- Lakhisarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vijay Kumar, Adv.
For the Respondent/s : Mr.Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 11-02-2025 Learned counsel for the appellant undertakes to
remove the defects as pointed out by the office.

2. Heard Mr. Vijay Kumar, learned counsel for the
appellant and Mr. Binay Krishna, learned Special PP.

3. The appeal has been filed for the following relief:-

*“That this memo of appeal is directed
against the Judgement dated 31.07.2024 passed
by Mr. Pathak Alok Kaushik, Ld. Addl. Sessions*



Judge-1, Lakhisarai in Sessions Trial No.11 C of 2019 (arising out of Case No. 11 C of 2019) whereby and where under the Ld. Addl. Sessions Judge has acquitted the respondent No.2 to 7 as "the Court Doesn't find the accused persons guilty in the charged sections and the accused persons are ordered to be acquitted from the charge under Sections 323, 354(B), 504 of the I.P.C. and Sec.3(1)(r) of SC/ST Act."

4. As per the prosecution story the complainant alleged that as she was in her house, the accused persons (Respondent No. 2 to 7) came chasing her son, Vikram Kumar. They entered the house whereafter, the assault took place on his head by iron pipe with an intention to kill. They were taking caste name and wanted them to vacate the house. In between, the modesty of the appellant was also outraged, when this was protested by her husband, he was also assaulted. The last allegation is that they took away the brief case containing clothes and Rs. 5000/-. The son was treated by one Dr. Himkar and when the SHO of the Police Station did not lodge the case, the complaint.

5. This led to the cognizance of the case on



30.05.2019, charge framed on 16.12.2019 and thereafter, the trial. Finally, after the full fledged trial, the order came to be passed by the learned Trial Court passed on 31.07.2024 by which the respondents were acquitted of the charges under Sections 323, 354(B), 504 of the IPC and Sections 3(1)(r) of the SC/ST Act.

6. Aggrieved, the present appeal.

7. Learned counsel for the appellant submits that there was consistent deposition of all the witnesses about the story narrated by the lady appellant before the Trial Court, still the Court concerned chose to look the other way which resulted into the acquittal of the accused. It is his further submissions that the appellant's son was indeed medically treated by Dr. Himkar and it was at the later stage that in a case, he was sent to jail. In that background, an interference is required.

8. Learned Special PP, on the other hand, has taken this Court to the different paragraphs of the order of the Trial Court starting paragraph-11 to show that there is inconsistency in the statement of the witnesses. The Court has also recorded that the appellant's son was not treated by any Government Doctor in a Government Hospital rather the name of Dr. Himkar has come who has not been examined. He submits that in that



background, the court concerned was fully justified in passing the order.

9. Having heard the parties and going through the trial court record, this Court is in conformity with the submissions put forward by the learned Special PP. For brevity, this Court wants to incorporate paragraphs-11 onwards which read as follows:-

“11. PW I in para 16 says that Tuntun Sao had filed a case of assault with wife and in the same case Murari Kumar, Vikram Kumar and Dinesh Paswan were implicated. Hence the cause of action of filing of the instant case is also crystal clear and this case is out and out a counter blast of that case. It is strange that PW2 in para 3 described the whole incidence which was taken place inside the house and he is giving universal of the occurrence from their door steps. Truthfulness of PW2 becomes doubtful when he gives a very strange on that statement in para 8 that he secured 168% marks in matriculation examination.

12. In case Vikram Kumar was assaulted by the accused person he would have treated in the Government Hospital and FIR would have been lodged but in the instant case nothing has happened. Even the complainant Sugo Devi accepts in para 6 & 7 of her deposition that her son Vikram Kumar went to jail in Lakhisarai P.S.



Case No. 249/2011 and she admits that her husband Murari Sao were also on bail.

13. Very strangely PW6 in para 8 says that he saw the broken head of Tuntun Sao and his wife but subsequently and immediately he says that the head of Tuntun Sao and his wife was not broken. So there was instant contradiction in the statement of the witnesses. PW6 in para 13 says that there is a door at the main gate of Sugo Devi which is generally opened by pushing it by hard and therefore obviously inside view was barred by main door and it is really strange that the witnesses were watching all the incident from outside of the house from their door steps.

14. PW7 in para 14 says that Sugo Devi was standing in the court and he deposed as per the instruction of complainant Sugo Devi.

15. The defence has filed the cognizance order of Lakhisarai P.S. Case No. 249/19 therein Dinesh Paswan and Vikram Kumar were made accused. An FIR was also filed and charge-sheet was also filed and all were marked exhibited. From Exhibit- A to Exhibit-D respectively. Hence, this court comes to this conclusion that instant case was nothing but a counter blast to save their skin from the case filed by the accused persons of this case upon the complainant and kith and kins of the family.

16. After sincere perusal of entire set of evidence, the Court is of the considered opinion



that the prosecution has miserably failed to prove the case beyond all the shadow of reasonable doubts and sections as alleged have not been proved. Therefore, Therefore, the Court does not find the accused persons guilty in the charged sections and the accused persons are ordered to be acquitted from the charges u/ss 323, 354(B), 504 IPC and 3(1)(r) of SC/ST Act. All the bailors of the accused are hereby ordered to be discharged from the sureties and liabilities and all the pending applications in the instant case stands disposed of by virtue of this final order and judgment.

10. A perusal of the order would show firstly that there was a case earlier lodged which led to this counter version. The Court has also recorded that PW 2 gives a very strange statement that he got 168% marks in the matriculation examination which shows that how inconsistent he is in his deposition. The Court has also taken note of the fact that the complainant's son in case of injury should have been treated in a Government Hospital but nothing as such happened and the lady-appellant accepted in her deposition that he subsequently went to jail in Lakhisarai PS Case No. 249 of 2011. She also accepted her husband being an accused is now on bail.

11. Learned Court took note of PW-6 deposition that



firstly he said that he saw the broken head of the complainant's son but subsequently changed track and said that he has not seen the broken head. All these contractions led the Court to come to the conclusion that only to put pressure on the case lodged against him, this counter version has come by way of a complaint. This led to the acquittal.

12. The facts have been recorded, the submissions are also in the order, the reason assigned by the learned Trial Court stands incorporated, in that background, in the opinion of the Court, no interference is required.

13. The appeal stands dismissed.

(Rajiv Roy, J)

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