

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5310 of 2023

Arising Out of PS. Case No.-46 Year-2022 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. PRAMOD KUMAR SINGH S/O LATE SURESH SINGH R/O VILLAGE-DADHAPI, P.S- BANDEYA, DISTT.- AURANGABAD.
 2. RAMESH SINGH @ RAMESH KUMAR S/O PRAMOD KUMAR SINGH R/O VILLAGE- DADHAPI, P.S- BANDEYA, DISTT.- AURANGABAD.

... .. Appellant/s

Versus

1. The State of Bihar
2. INDRAPADI DEVI W/O AMRESNDRA RAJAK R/O VILLAGE-DADHAPI, P.S- BANDEYA, DISTT.- AURANGABAD.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ravindra Kumar, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. P.P.
For the informant	:	Mr. Shailesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 13-02-2025 Heard Mr. Ravindra Kumar, learned counsel for the appellants and Mr. Shailesh Kumar Singh representing the informant as also the learned Spl. P.P.

2. The present appeal has been preferred for quashing/setting aside the order dt. 28.03.2023 passed by the learned Special Judge (SC/ST) cum 1st Additional District and Sessions Judge, Aurangabad (Bihar), in connection with Complaint Case No. 46 of 2022 whereby the learned court below has taken cognizance of the offences under section 341 and 427 of the Indian



Penal Code and section 3(1)(r),3(2)(va)of SC/ST (POA), act 1989.

3. With the consent of the parties, the matter is being taken up for final hearing.

4. As per the prosecution story, the complainant alleged that on 11.05.2022, when she was conducting the election of the Ward Secretary of Ward No.09, Buxar Gram Panchayat in the Middle School, Dadhapi, she being the Ward Member. The allegation is that the accused persons arrived, used abusive words in the name of caste and pulled her from the chair and her mobile was thrown on the ground. She thereafter went to Bandeya Police Station for lodging FIR and followed it up by visiting the SC/ST Police Station. Though assurance was given, no FIR was lodged. This forced her to file complaint.

5. The Court thereafter, picked up the Complaint No. 46 of 2022 and having recorded the reason after the lady-complainant gave her version and produced four witnesses to support her case, vide an order dated 28.03.2023 took cognizance in the matter.

6. Aggrieved, the present appeal.

7. It is the case of the appellants that earlier on 11.05.2022 itself, a Daudnagar (Bandeya) P.S.Case No. 27 of



2022 was lodged against one Arvind Singh and on his propping, the present case has been lodged by the lady.

8. It is his further submission that there is inordinate delay in lodging of the complaint which clearly shows it to be an afterthought. He submits that occurrence happened on the voting day, the Presiding Officers are not the witnesses and as such interference is required in the appeal.

9. Learned counsel for the informant as also learned Special P.P. jointly submit that the occurrence took place in a public place, the lady has given reason for the delayed complaint, witnesses have been examined, as recorded by the learned Court before the cognizance order was passed by him. It is their further submission that had the Police lodged the FIR, he would have investigated the matter and have also taken the statements of the Presiding Officers. The lady cannot force those present to appear for her and if they chose not to volunteer, that cannot be a reason for interfering in the cognizance order.

10. Having gone through the facts of the case and the submissions of the parties, there is force in the submissions of learned Special P.P. as also the learned counsel for the informant. Merely because a case has been lodged by the appellant, that cannot be a ground to overlook the entire



complaint in which she has given the assault theory at a public place where the voting was taking place, she being the Ward Member present there. The appellants are/was the Ward Secretaries and according to her, they did not wanted fresh election as they wanted to continue on the post. The reason is there which resulted into the said occurrence, the Court in the background, has rightly taken cognizance in the matter.

11. Both the appeal as also the Interlocutory Application fails, are dismissed.

(Rajiv Roy, J)

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