

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5011 of 2019

Arising Out of PS. Case No.-198 Year-2016 Thana- BAHADURGANJ District- Kishanganj

1. Rakesh Singh @ Pappu Son of Subodh Prasad Singh Resident of Village - Sarsi, P.S.- Sarsi, District- Purnea
2. Mukesh Kumar Srivastava @ Mukesh Son of Maheswar Prasad Resident of Village - Major Tola, P.S.- Bahadurganj, District- Kishanganj
3. Ibrahim @ Md. Ibrahim Son of Late Zalil Resident of Village - Phulwari Ward No. 2, P.S.- Bahadurganj, District- Kishanganj
4. Tanjim @ Tanjim Rahi Son of Md. Tasiuumddin Resident of Village - Birnia, P.S.- Bahadurganj, District- Kishanganj
5. Msabar @ Masabbar Son of Ibrahim Resident of Village - Phulwari Ward No. 2, P.S.- Bahadurganj, District- Kishanganj
6. Siplav Kumar Saha @ Suplu Son of Devilal Resident of Village - Satal Mazar Tola, P.S.- Bahadurganj, District- Kishanganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Rakesh Kumar Basak Son of Jai Kishan Prasad Basak Resident of Veni Ward No. 09, Chaupal Tola, P.S.- Bahaurganj, District- Kishanganj

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Radha Mohan Singh, Advocate
For the State	:	Mr.Sadanand Paswan, Spl. P.P.
For the respondent no. 2	:	Mr. Vinay Krishna Tripathy, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 07-01-2025 Heard learned counsel for the appellants and learned Special P.P. for the State and learned counsel for the respondent no. 2.

2. The present appeal has been filed for quashing of the order dated 03.05.2019 passed by the learned Additional District Judge, 1-Cum Special Judge, Kishanganj, in connection with Bahadurganj P.S Case No. 198 of 2016 by which the



learned Magistrate has taken cognizance against all the appellants and others for the offences punishable under sections 341, 323, 504, 506 & 34 of the Indian Penal Code and sections 3(i)(r)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

3. As per the prosecution case, the informant namely Rakesh Kumar Basak has submitted a written application to the S.H.O of Bahadurganj P.S stating therein that on 18.09.2016 at about 10.30A.M near the College Chowk, Bahadurganj 10-15 persons brutally assaulted him with iron rod, wood and bamboo stick and named 08 persons including the appellants.

4. On the basis of written complaint of the respondent no.2, the Bahadurganj P.S Case No. 198 of 2016 was registered under sections 341, 323, 324, 325, 307 and 149 of the Indian Penal Code and vide order dated 07.06.2017 section 3(i) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been added in the instant case.

5. From perusal of the F.I.R, the Informant i.e., respondent no.2, has alleged general and omnibus allegation against all the accused persons including the appellants. The informant has not stated that which of the accused persons armed with which of the weapon and on which part of his body



sustained injury. The informant has also not made any allegation which comes in the ambit of SC/ST Act.

6. It has further been submitted by the learned counsel for the appellants that the learned Court below has taken cognizance against the appellants and passed the impugned order which is under challenge in the present application.

7. It has been submitted further by learned counsel for the appellants that no offence under the SC/ST Act is made out.

8. Learned Special P.P. and learned counsel for the respondent no. 2 have submitted that the offences under the SC/ST Act are also made out.

9. From the reading of the FIR, it does not appear that the offences have been committed with the intention that the victim belongs to Scheduled Caste category and the occurrence has taken place because of land dispute.

10. In these circumstances, I am of the view that the appellants cannot be prosecuted under SC/ST Act. Therefore, the prosecution of the appellants under Sections 3(1)(r)(s) of the SC/ST Act is held to be not maintainable and the same is hereby quashed.

11. Accordingly, the impugned order dated 03.05.2019 passed by the learned Additional District Judge, 1-



Cum Special Judge, Kishanganj, in connection with Bahadurganj P.S Case No. 198 of 2016, is hereby quashed only to the extent of taking cognizance against the appellants under Sections 3(1)(r)(s) of the SC/ST Act.

12. The prosecution of the appellants under the provisions of the Indian Penal Code shall continue in accordance with law.

13. Accordingly, the application is partly allowed.

(Sandeep Kumar, J)

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