

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5511 of 2023

Arising Out of PS. Case No.-148 Year-2016 Thana- BITHAN District- Samastipur

1. SHANTI KUMARI @ SHANTI KUMARI VYAS WIFE OF PRAKASH KUMAR SAHNI RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR
2. POOJA KUMARI DAUGHTER OF PRAKASH KUMARE SAHNI RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR
3. BITTU KUMAR SON OF PRAKASH KUMAR SAHNI RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR
4. CHOTI KUMARI @ CHHOTI KUMARI DAUGHTER OF PRAKASH KUMAR SAHNI RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR
5. PRAKASH KUMAR @ PRAKASH KUMAR SAHNI SON OF LATE GYANCHANDRA SAHNI RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR
6. ANAMIKA DEVI @ KUMARI ANAMIKA WIFE OF RAJEEV KUMAR RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR
7. RAJEEV KUMAR SON OF LATE MAHENDRA NARAYAN MUKHIYA RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. PRIYANKA KUMARI WIFE OF SANJEEV KUMAR RESIDENT OF VILLAGE - PUSAHO, P.S. - BITHAN, DISTRICT - SAMASTIPUR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Ranjan, Adv.
For the Respondent/s : Mr. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

8 13-02-2025 Heard Mr. Arun, learned counsel for the appellant
and Mrs. Usha Kumari 1.

2. The present appeal has been filed:

against the order dated



26.11.2021 passed by the learned Special Judge, S.C./S.T. (POA) Act, Samastipur, in Bithan P.S. Case No. 148/2016 (Reg. No. 140/16), whereby the learned court below has taken cognizance of the offences under section 341, 323, 498(A), 504, 506/34 of the Indian Penal Code and section 3(1) (r) (s), 3(2), (va) of S.C./S.T. (Prevention of Atrocities) Act, 1989 and issued process against the appellants.

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

4. As per the prosecution story, the informant who belongs to SC category claims that she married Sanjiv Kumar and they reside in Ranchi. On 22.09.2016, when her father-in-law died, she came to the village to participate in the *Shradh Karm*. After the mortal remains were consigned to the flames, the accused persons who are step-in-laws abused, took caste name and humiliated a lot.

5. She claims that on 09.11.2016 also she was dragged on the road in the presence of unknown persons and when her husband came to the rescue, he too was assaulted. As she was



thrown out along with the husband and children outside the house, after wondering for some time, the case.

6. The police investigated the matter and submitted final form in favour of the appellants (Annexure-P/2 to the appeal).

7. The Court, however, differed and vide an order dated 26.11.2021 having found that the witnesses in paragraph nos. 5 to 8 have supported the prosecution story, chose not to accept the final form and instead took cognizance which belatedly and after lapse of two years has been challenged by the appellants.

8. It is the case of Mr. Arun that it is a pure dispute of the properties between the families and the husband has put the gun on the shoulder of his wife who belongs to lower strata to claim the property. It is his further submission that the police submitted the final form but differing with it, the Court took cognizance which needs interference. It is further the case of the appellant that though the appellants have given the date of assault as 09.11.2026, the case was lodged on 27.11.2016.

9. Mrs. Usha Kumari 1 representing the State has taken this Court to the final form submitted by the police and she submits that a bare perusal of it would show that the police



has not recorded a single line why they came to the conclusion that the case is untrue. She thereafter has taken this Court to the order of cognizance dated 26.11.2021 to show that four paragraphs have been quoted by the learned Court (paragraph nos. 5 to 8) and found sufficient materials to proceed against them and only thereafter, the cognizance was taken.

10. To the claim of the learned counsel for the appellants that a belated case has been lodged inasmuch as on 09.11.2016, the assault/abuse took place, on 27.11.2016, the case came to be lodged, it is the case of the State that the FIR itself shows that she along with her family wandered for some time after being thrown out of the house and when did not get any support whatsoever, was forced to lodge the FIR. Her submission is that the delay finds incorporated in the FIR itself.

11. Having gone through the facts of the case as also the submissions of the parties, this Court is in complete conformity with the learned State Counsel. A case was lodged by the lady in which the assault/abuse theory is there. The Police has only recorded the case to be untrue without putting a single line why it came to the said conclusion. The Police has lot to answer in this matter on submitting such a cryptic final form.

12. The Court concerned has taken note of the



different paragraphs of the case diary to come to the conclusion that the case is made out. In that background, no interference is made out.

13. Both the **Cr. Appeal (SJ) No. 5511 of 2023** as also the **I.A. No. 01 of 2024** stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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