

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5668 of 2023

Arising Out of PS. Case No.-242 Year-2023 Thana- DUMARIAGHAT District- East
Champaran

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1. MD. IRSHAD @ MD. IRSHAD ALAM @ IRSHAD ALAM SON OF SALIM MIAN RESIDENT OF VILLAGE - RAMPURWA (RAMPUR KHAJURIA), P.S. - DUMARIAGHAT, DISTRICT - EAST CHAMPARAN
 2. MD. NAUSHAD @ MD. NAUSHAD ALAM SON OF SALIM MIAN RESIDENT OF VILLAGE - RAMPURWA (RAMPUR KHAJURIA), P.S. - DUMARIAGHAT, DISTRICT - EAST CHAMPARAN
 3. SALIM MIAN SON OF NAVAJI MIAN RESIDENT OF VILLAGE - RAMPURWA (RAMPUR KHAJURIA), P.S. - DUMARIAGHAT, DISTRICT - EAST CHAMPARAN
 4. MUSLIM MIAN SON OF KARIM MIAN RESIDENT OF VILLAGE - RAMPURWA (RAMPUR KHAJURIA), P.S. - DUMARIAGHAT, DISTRICT - EAST CHAMPARAN

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. SUNIL KUMAR SON OF MOTILAL BAITHA RESIDENT OF VILLAGE - HARPUR, P.O. AND P.S. - PIPRA KOTHI, DISTRICT - EAST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Asif Kalim, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP
For Respondent No. 2	:	N o n e

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 10-07-2025 Heard learned counsel appearing for the appellants
and learned Spl.P.P. appearing on behalf of the State.

2. Despite valid service of notice, no one appears on
behalf of the informant/Respondent No. 2.

3. At the outset, learned counsel appearing on behalf
of the appellants seeks permission to withdraw this appeal on



behalf of Appellant No. 1, namely Md. Irshad.

4. Permission, as prayed for, is accorded.

5. Accordingly, this appeal on behalf of Appellant No. 1 stands dismissed as withdrawn.

6. This appeal has been filed for setting aside order dated 09.11.2023 passed in a case registered for the offence punishable under Sections 323, 324, 341, 379, 385, 387, 504, 506 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of Appellant Nos. 2, 3 and 4 has been rejected.

7. The prosecution case, in brief, is that on 29.08.2023, while informant was at the construction site working as a clerk of the company, all the F.I.R. named accused persons, including these appellants, came there armed with pistol, abused the informant by caste name and demanded ransom money. It is further alleged that co-accused Md. Irshad fired from his pistol causing gun shot injury and thereafter, all the accused persons assaulted informant by means of *lathi* and took away Rs. 1,00,000/- from the informant.

8. It is submitted by learned counsel appearing on behalf of the appellants that appellants are quite innocent and



have committed no offence. As a matter of fact, from bare perusal of the F.I.R. it is apparent that specific accusation of causing fire arm injury is against co-accused Md. Irshad. So far as these appellants are concerned, there are general and omnibus nature of accusation. Rest of the allegations are super-addition and ornamental in order to make the case grieve. It is not the case of the prosecution that any member of public was present at the place of occurrence and as such, no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against these appellants. Appellants claim clean antecedents.

9. On the other hand, learned Spl.P.P. appearing on behalf of the State has vehemently opposed this appeal.

10. Considering the facts and circumstances of the case, general and omnibus nature of accusation and clean antecedents of the appellants, this appeal is allowed and the impugned order dated 09.11.2023 passed by the learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with A.B.P. No. 5230 of 2023 arising out of Dumariaghat P.S. Case No. 242 of 2023 is hereby set aside with respect to Appellant Nos. 2, 3 and 4 only.

11. Accordingly, let the Appellant Nos. 2, 3 and 4,



named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, East Champaran at Motihari in connection with Dumariyaghat P.S. Case No. 242 of 2023.

12. With the aforesaid directions, this application stands disposed of.

(Prabhat Kumar Singh, J)

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