

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.65 of 2025

Arising Out of PS. Case No.-99 Year-2023 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. Abdesb Kumar Yadav @ Abdesb Yadav @ Avdhesh Kumar Yadav Son of Saroj Yadav R/O- Village- Salempur, P.S.- Bisfi, District- Madhubani.
 2. Ashok Kumar Yadav @ Ashok Yadav Son of Saroj Yadav R/O- Village- Salempur, P.S.- Bisfi, District- Madhubani.
 3. Deepak Kumar Yadav @ Deepak Yadav son of Saroj Yadav R/O- Village- Salempur, P.S.- Bisfi, District- Madhubani.
 4. Saroj Kumar Yadav @ Saroj Yadav son of Late Mukunand Yadav R/O- Village- Salempur, P.S.- Bisfi, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Balbodh Malik son of Ram Briksh Malik R/O- Village- Kharoua, Ps- Rahika, Dist- Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Gagan Deo Yadav, Adv. Mr. Vinod Kumar, Adv.
For the Respondent/s	:	Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 18-02-2025 Heard Mr. Gagan Deo Yadav, learned counsel for the
appellants and learned Spl. P.P.

2. The present appeal has been filed:

against the order dated 30.09.2024

*passed in Complaint Case no. 99/2023 passed
by the learned Additional Session Judge 1st-
Cum-Special Judge Madhubani whereby and
where under learned Additional Sessions
Judge 1st- Cum Special Judge Madhubani*



took cognizance against the appellants u/s 323, 341, 379/34 of the IPC and 3(i)(x), 3(2) (va), SC/ST Act Arising out of Complain Case no. 99/2023 dated 14/09/2023 for alleged offence Registered u/s 323, 324, 325, 341,379, 429, 506/34 of the IPC 3(i) (x) and 3 (2) (va) SC/ST Act.

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

4. As per the prosecution story, the complainant alleged that he belongs to SC/ST category from a very poor family and earns his livelihood as a labourer. On the fateful day, he was visiting Salempur village to let the pigs graze. However, one of the pig which was pregnant and about to give birth to a piglet, she sat on the side of the appellant's house. Infuriated, the pig was beaten and given 'bhala' blow. When this was protested, the appellants not only abused, assaulted and further threatened that he will also be given *bhala* blow. Couple of days later, a Panchayati took place but the appellants chose to remain absent in the said Panchayati whereafter the complainant went to the Police Station/SC/ST Police Station and as he failed to lodge FIR, the present complaint.

5. The Court thereafter, took up the matter and prima facie being convinced that a case is made out, took cognizance in



the matter vide an order dated 30.09.2024 under Section 323, 341, 379/34 of the IPC and 3(i)(x), 3(2)(va) of the SC/ST Act.

6. Aggrieved, the present appeal.

7. It is the case of the appellants that there is 28 days delay in filing the complaint inasmuch as the occurrence took place on 16.08.2023 but the complaint came to be filed on 14.09.2023. The second contention is that it happened on the door of the appellant and as such, it cannot be a public place and since it cannot be considered a public place, SC/ST Act is not attracted. The third contention is that his own brother and nephew with whom he has enemical terms due to title suit pending between them, they are in the list of witnesses which clearly show that the appellants have been implicated.

8. Learned Spl. P.P. represent the State and according to him, the reason of delay is already in the complaint inasmuch as after the occurrence took place, the locals tried to do a Panchayati in which couple of days were lost. As the appellants chose to look the other way, the complainant went to the Police Station/SC/ST Police Station on 21.08.2023 itself but when they also chose not to lodge the FIR, in that background, he had to go to the Court concerned for filing complaint.

9. So far as the other contention is concerned, learned Spl. P.P. submits that it is not the case of the appellants that it



happened inside the house. The complaint clearly shows that when he went to the door of the appellants, he was abused and threatened how he came to their door, it is obviously a public place and as such, the SC/ST Act stands attracted. The last contention is that only because the brother and nephew have been made witness with whom he is fighting the title suit, that cannot be a ground to overlook the entire complaint story in which it has been recorded that both the pig as also the piglets which came in this world died as the pig was given '*bhala*' blow.

10. Having heard the parties and perusing the record, the learned Spl. P.P. has fully satisfied the Court. The delay has been explained, the place of occurrence is outside the house on the door which is a public place, family members of appellants being a witness, under no circumstance, can be a reason to reject the complaint where the materials are available against the appellants.

11. In that background, no relief can be extended, it would be appropriate that the appellants face the trial, accordingly, **Cr. Appeal (SJ) No. 65 of 2025** stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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