

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5742 of 2019**

Arising Out of PS. Case No.-302 Year-2017 Thana- SAHEBPUR KAMAL District-
Begusarai

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RAM BILASH SAH Son of Late Saryug Sah Resident of Village - Kruha,
P.S.- S.Kamal, Dist.- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nitu Devi Daughter of Late Subodh Chudhary R/o vill.- Kurha, P.S.- S.
Kamal, Dist.- Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Shubhesh Pandey
For the O.P.	:	Mr. Anil Kumar Sinha
For the State	:	Mr. Jharkhandi Upadhyay

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

9 06-02-2025 Heard learned counsel for the appellant and learned
counsel appearing on behalf of the opposite party No. 2 as well
as learned Spl. P.P. for the State.

2. This appeal has been preferred for the quashing the
order dated 23.09.2019 passed by the Special Judge SC/ST
(POA) Act, Begusarai in a Sahebpur Kamal P.S. Case No.- 302
of 2017 registered for the alleged offence under section 493,496
and 315 of the Indian penal code and later on the chargesheet
has been filed also u/s 493, 496, 498(A), 494, 323, 504, 506/34
of the IPC, ³/₄ of the D.P. Act and also under Sections 3(i)(r)(s)
of SC/ST(POA) Act, the case is presently pending in the court
of Special Judge SC/ST (POA)Act, Begusarai.



3. The prosecution case in short as per the FIR is that one Nitu Devi gave a written application to the SHO of S. Kamal P.S. On 06.10.2017 alleging therein that her husband died in the year 2006 and after the death of her husband one co-villager Shudhir Kumar has made physical relation with her on assurance of marriage and for the last six months and when she told to marry, he refused, abused her and assaulted her and also threatened to left the house otherwise she will be killed. She further alleged that in year 2015, the appellant had caused miscarriage of the two months old pregnancy of the informant and thereafter when she pressurized him, he solemnized marriage on 18.04.2016. In this regard, she had annexed a certificate of marriage. Later on, she learnt that he has solemnized another marriage.

4. Learned counsel for the appellant submits that the appellant is quite innocent and has committed no offence as alleged in the FIR. He further submits that the informant has not named the appellant in the FIR and the thrust of accusation is only against the co-accused namely Sudhir Kumar, the implication of the appellant is based on the supervision note directly without collection of any material evidence as the appellant is the father of co-accused Sudhir Kumar.



5. It is submitted that the informant had filed a complaint case against the appellant and others bearing Complaint case No.- 1807 / 2016 on 02.09.2016 alleging the different story for offence u/s 498 (A) and other allied section but the court below has dismissed the complaint on 06.11.2017. Thereafter, the informant had managed to lodge another complainant vide complaint case No.- 87 / 2017 on 26.08.2017 again for the offences alleged u/s 498(A) and other alleged sections of the IPC but the court below has not taken cognizance against the appellant and has found the *prima facie* case only against the co- accused Sudhir Kumar.

6. Learned counsel appearing on behalf of the appellant has argued that the appellant is not at all liable for the alleged offence done by the co-accused as such the FIR even does not reveal that the appellant has committed any offence.

7. Learned counsel for the appellant further submits that after investigation, the supervising officer has filed charge sheet u/s 493,496,498(A), 323, 504,506,34 of the IPC, $\frac{3}{4}$ of the D.P. Act, and also u/s 3(1)(s) of the SC / ST (POA) Act that in the entire case records, there is nothing except the old dispute between the parties as after going through the FIR, it is quite apparent that the accused persons are none else rather they are



the members of the same family and agnates.

8. Learned counsel for the appellant further submits that the appellant has filed the application u/s 227 of the Cr.P.C. on 24.06.2019 detailing the situations and praying therein to discharge him, showing him innocent.

9. It is also argued that there is no public view even as per the FIR and that's why the case under sections of the SC/ST (POA) Act is not being made out against the appellant.

10. Learned Special P.P. opposed the application of the appellant.

11. I have gone through the contents of the case.

12. In the F.I.R., there is no allegation against the appellant who is the father of the main accused Sudhir Kumar. Opposite party No. 2 i.e. the informant has been filing case after cases against the parties and after having not succeeded in the complaint cases has been filed. The appellant being the father of the main accused Sudhir Kumar has been made accused in this case by the police without any material.

13. I am of the view that the prosecution of the appellant is nothing but a *malafide* prosecution and there is no material against the appellant for framing of charge.



14. The order dated 23.09.2019 passed by the Special Judge SC/ST (POA) Act, Begusarai in a Sahebpur Kamal P.S. Case No. 302 of 2017 so far it relates to the appellant is quashed.

15. This application is allowed.

16. The appellant shall be discharged from the liabilities of the bail bonds.

17. Interlocutory application, if any, is also disposed of accordingly.

(Sandeep Kumar, J)

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