

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4188 of 2022

Arising Out of PS. Case No.-44 Year-2017 Thana- BIBHUTIPUR District- Samastipur

1. Satyanarayan Rai @ Satyanarayan Mahto, Son of Late Bindeshwari Rai @ Bindeshwari Mahto, Resident of Village- Bajitpur Bombaiya, P.S.- Bibhutipur, District- Samastipur
2. Santosh Rai @ Santosh Kumar Rai, Son of Sri Satyanarayan Rai @ Satyanarayan Mahto, Resident of Village- Bajitpur Bombaiya, P.S.- Bibhutipur, District- Samastipur
3. Sanjay Rai @ Sanjay Kumar Rai, Son of Sri Satyanarayan Rai @ Satyanarayan Mahto, Resident of Village- Bajitpur Bombaiya, P.S.- Bibhutipur, District- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramshankar Rajak, Son of Lachhmi Rajak, Resident of Village- Bajitpur Bombaiya, P.S.- Bibhutipur, District- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Diwakar Prasad Singh, Adv. Mr. Om Prakash Singh, Adv. Mr. Amardeep Lokpriya, Adv.
For the State	:	Mr. Sadanand Paswan, SPP
For the Resp. No.2	:	Mr. Sonu Kumar Chaudhari, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 09-07-2026

Re : I.A. No. 1 of 2023

Learned counsel for the appellants presses I.A. No. 1 of 2023 seeking condonation of delay of 1697 days in preferring this appeal.

2. Learned counsel for the appellants submits that though cognizance was taken on 30.06.2018 but summons issued by the trial court was received by the appellants only on 20.09.2022. It is further submitted that the delay in filing of the



present appeal has occurred on account of lack of knowledge regarding the impugned order, the law of limitation, financial constraints, and the time consumed in obtaining the certified copies and other necessary documents for filing the appeal.

3. Having considered the above submissions made by learned counsel for the appellants, the delay having taken place in filing this appeal on the part of the appellants is hereby condoned.

4. In result, **I.A. No. 01 of 2023 stands allowed.**

Re : Cr. APP (SJ) No. 4188 of 2022

5. The present appeal is taken up for hearing.

6. The instant appeal has been filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short, 'SC/ST Act') against the order dated 30.06.2018 passed by the learned Additional Sessions Judge-III-cum Special Judge (SC/ST Act), Samastipur, in TR. No. 813 of 18/126 of 2017 & TR No. 777 of 2019 arising out of Bibhutipur P.S. Case No. 44 of 2017 registered for the offences punishable under sections 341, 323, 325 & 307/34 of the Indian Penal Code (in short, 'IPC') and section 3(1)(r)(s) of the SC/ST Act, whereby cognizance of the offences under sections 341, 323,



325 & 307/34 of the IPC and section 3(1)(r)(s) & 3(2)(va) of the SC/ST Act, has been taken against the appellants by the trial court.

7. Learned counsel for the appellants submits that the vide order impugned, the learned trial court has taken cognizance of the offences punishable under section 3(1)(r)(s) & 3(2)(va) of the SC/ST Act along with several offences of the IPC but the offence under section 3(1)(r)(s) of the SC/ST Act is completely not made out from the face of the allegation described in the FIR itself and to this extent, the trial court's approach while taking cognizance is completely remained mechanical.

8. Though learned counsel for the respondent No. 2 opposes this appeal but fairly accepts that there is no allegation pertaining to the offence punishable under section 3(1)(r)(s) of the SC/ST Act.

9. Considering the above submissions and having gone through the FIR and the impugned order, this Court finds substance in the above submissions made by appellants' counsel, hence, the order impugned is hereby set aside and the instant appeal stands allowed.

10. The trial court/cognizance taking court is



directed to pass a fresh order on the point of cognizance according to merit and as per the provision of law without being prejudiced with this order.

(Shailendra Singh, J)

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