

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5354 of 2024

Arising Out of PS. Case No.-75 Year-2023 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. Lakshman Jha @ Lakshman Shastri Son of Late Bhola Nath Jha R/O-Village- Bhavam, P.S.- Rudrapur, Distt.- Madhubani
 2. Jagta Nand Jha Son of Lakshman Jha @ Lakshman Shastri R/O-Village- Bhavam, P.S.- Rudrapur, Distt.- Madhubani
 3. Lakshmi Jha wife of Dharamveer Kumar Mishra R/O-Village- Bhavam, P.S.- Rudrapur, Distt.- Madhubani
 4. Mahanand Jha Son of Lakshman Jha @ Lakshman shastri R/O-Village- Bhavam, P.S.- Rudrapur, Distt.- Madhubani
 5. Devanandan Jha Son of Lakshman Jha @ Lakshman Shastri R/O-Village- Bhavam, P.S.- Rudrapur, Distt.- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Shivsarjan Paswan Son of Late Lakhan Paswan R/O-Village- Rajatol, Ward No. 10, P.S.- Rahika, Distt.- Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manoj Kumar Pandey Mr.Kumari Pallavi
For the Respondent/s	:	Mr.Sadanand Paswan Mr.Subhash Kumar Jha Mr.Chaudhary Prem Kumar Thakur Mr.Deepak Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 30-04-2026 1. Heard the learned counsel for the appellants, the learned Special Public Prosecutor for the State and the learned counsel appearing on behalf of the informant.

2. The appellants have challenged the order dated 30.09.2024 passed by the learned A.D.J. 1st-cum- Special Judge, SC/ST Act, Madhubani in connection with ABP No.1882



of 2024 arising out of Complaint Case No.75 of 2023, instituted for the offences under Sections 341, 323, 307, 504, 506 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)C, 3(2)(ra) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, whereby their prayer for grant of anticipatory bail has been rejected.

3. The learned counsel appearing on behalf of the appellants submits that appellants have antecedent of one case but then after filing of the instant appeal another Complaint Case came to be instituted. It is next submitted that informant alleges that Laxman Jha met him near Chakdah crossing while he was carrying a lady passenger in his rickshaw and said that you have not returned the interest of Rs.30,000/- on the loan which you had taken in Delhi, on which the complainant replied that all money has been returned on which Laxman started abusing and Jagda Nand Jha started strangulating him by a towel and abused by taking caste name and thereafter Laxman also abused by taking caste name and said to kill on which Devanand and Mahanand assaulted and Laxmi Jha assaulted by sleeper.

4. The learned counsel for the appellants submits that appellants have been falsely implicated in the instant case by the



informant. It is next submitted that from perusal of the allegations as alleged in the FIR, it would manifest that on account of dispute relating to money the occurrence is alleged to have taken place. It is further submitted that informant had taken loan from Laxman Jha in Delhi with an assurance that interest would be paid on the same but since interest was not being paid, hence Laxman Jha asked the informant to pay the interest at least on which the instant false case came to be instituted implicating all his family members with peculiar kind of allegations. It is also submitted that informant is a witty litigant as such instituted a complaint case and not an FIR. It is next submitted that had an FIR been instituted the allegations would have been investigated but then by filing a complaint, it becomes easy for the complainant to bring two witnesses before the learned Magistrate based on which cognizance is taken as the learned Magistrate does not have any material apart from what is deposed by the complainant and witnesses at the time of taking cognizance. It is next submitted that it appears that appellants were even not aware that a complaint case has been instituted. It is further submitted that when police came knocking the door of the appellants then they came to know about the institution of the instant complaint in which process



under Section 82 Cr.P.C. also has been issued. It is further submitted that appellants never received summons, bailable warrants or non-bailable warrants nor there is any service report on record with regard to the same but then learned Court in mechanical manner issued the process. It is also submitted that though in the complaint case it has been pleaded that FIR of the complainant was not taken by the police, but then the complainant alleges that he had gone to get the FIR instituted on 27.06.2023, but then the instant complaint came to be instituted on 25.07.2023 i.e. after a delay of more than 28 days which amply demonstrates that no such occurrence ever took place or else if the police had not registered the FIR in that event the complaint case would have been instituted promptly.

5. The learned Special P.P. as well as the learned counsel appearing on behalf of the informant opposes the appeal. The learned counsel appearing on behalf of the informant submits that cognizance has been taken as such a prima facie offence is made out and also submits that process under Sections 82 and 83 Cr.P.C. has also been issued on which the learned counsel appearing on behalf of the appellants submits that they are not aware that process under Section 83 Cr.P.C. also has been issued as the same never got executed.



6. After hearing the learned counsel for the parties, the Court was inclined to grant the benefit of anticipatory bail to the appellants, but since cognizance has been taken as such the appeal is disposed off with a direction to the appellants to surrender before the learned trial Court on 11.05.2026, if the appellants surrender before the learned trial Court on 11.05.2026, in that event, the learned trial Court shall consider and disposed of the case on the same day keeping in mind the fact that from perusal of the allegations as alleged in the FIR, it appears that on account of dispute relating to money the occurrence is alleged to have taken place.

7. The appeal is disposed of.

(Satyavrat Verma, J)

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