

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.866 of 2016**

Arising Out of PS. Case No.-8 Year-2010 Thana- SC/ST District- Gaya

1. Binni Singh, Son of Rajo Singh
2. Manoj Singh, Son of Rajo Singh
3. Ashok Singh, Son of Deo Kumar Singh.
4. Deo Kumar Singh Son of Late Bishun Singh.
5. Sudeep Singh, Son of Deo Kumar Singh.
6. Pancham Singh, Son of Rajo Singh. All resident of Village Garh Sherghati, P.S. Sherghati, District- Gaya.

... .. Appellant/s

Versus

The State Of Bihar & Anr.

... .. Respondent/s

Appearance :

For the Appellants : Mr. Anil Kumar Saxena, Advocate
For the State : Mr. Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 06-05-2026

Heard learned counsel appearing for the appellants and learned Additional Public Prosecutors appearing for the State.

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

3. This appeal has been filed challenging the judgment of conviction and order of sentence dated 07.09.2016 passed by the learned Exclusive Special Court, Special Judge (S.C./S.T. (POA) Act), Gaya in connection with Sessions Trial No. 208 of 2015 arising out of S.C./S.T. P.S. Case No. 08 of



2010 whereby and whereunder these six appellants have been convicted for committing offence under Section 427 of the Indian Penal Code and Section 3(1)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and have been sentenced to undergo simple imprisonment for one year under Section 427 of the Indian Penal Code and to undergo simple imprisonment for three years with a fine of Rs. 10,000/- each under Section 3(1)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and in case of default of payment of fine, to further undergo simple imprisonment for six months.

4. The prosecution story, in brief, is that on 01.03.2010 at about 5 PM, when the informant was at her residence, in the meantime, Appellant Nos. 2 and 3, namely Manoj Singh and Ashok Singh, tried to enter into her house and on protest, they abused her with caste based slurs and thereafter, all these accused-appellants, armed with *lathi* and *danda*, destroyed the roof of house of informant, abused informant and her family members with caste based slurs and assaulted informant and her daughter-in-law.

5. In this case, in order to bring home guilt of these accused-appellants, the prosecution has examined altogether



four witnesses. P.W. 1, namely Gaya Chaudhary, who is husband of the informant and his deposition is general and omnibus in nature without any specific attribution of overt acts. P.W. 2, namely Sikandar Chaudhary, who happens to be brother of P.W. 1 and brother-in-law (*Dewar*) of the informant and his testimony suffers from exaggeration and material improvements over the F.I.R. version. P.W. 3, namely Kiran Devi, who happens to be daughter-in-law of the informant and claims to be injured in the occurrence but her testimony reveals improvements regarding weapons allegedly carried by the accused persons. P.W. 4, namely Munki Devi, who is informant of the present case and supports the prosecution case.

6. On the other hand, the defence has also examined two witnesses i.e. D.W. 1, namely Kalawati Devi and D.W. 2, namely Rajan Chaudhary.

7. After hearing the parties, the learned trial court convicted these appellants and sentenced them, as indicated in the opening paragraph of this order.

8. Learned counsel appearing for the appellants assails the order of conviction and sentence on multiple grounds. He contends that in this case, neither the Investigating Officer nor doctor has not been examined. Non-examination of the



Investigating Officer has caused great prejudice to the defence of these appellants as they were not able to contradict the evidence of the witnesses and the place and manner of occurrence could not be proved. In absence of examination of the doctor and injury report, the allegations of assault levelled in the F.I.R. cannot be substantiated. It is further contended that in this case, all the prosecution witnesses are family members of the informant and are highly interested witnesses and hence, their testimony cannot be relied upon. Moreover, their testimony suffers from exaggeration and material improvements, which makes their testimony unreliable, doubtful and untrustworthy. Moreover, the present case has been lodged after inordinate delay of seven days and there is no explanation for the same. It is further contended that in this case, no independent witness was produced on behalf of the prosecution. As per F.I.R., the alleged incident took place inside the house of informant and thus, the prosecution has failed to prove that the intentional insult was made within the public view and the essential ingredients of Section 3(1)(x)(xi) of the S.C./S.T. (POA) Act are not established. Therefore, the prosecution has failed to prove the case beyond reasonable doubts and the trial court has wrongfully convicted these appellants ignoring material



contradictions and hence, the appellants are fit to be acquitted.

9. *Per contra*, learned Additional Public Prosecutor for the State submits that the evidence on record unmistakably points to the guilt of the appellants. The prosecution could prove that it was these appellants committed the occurrence. Charges against the appellants was proved by the prosecution witnesses beyond all reasonable doubt and, therefore, the learned Trial Court was fully justified in convicting the appellants under Section 427 of the Indian Penal Code and Section 3(1)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

10. On going through the rival submissions, evidences and upon perusal of the records, this Court finds that in this case, all prosecution witnesses are close relative of the informant and are highly interested witnesses. Moreover, their testimony appears to be suffering from material improvements over the F.I.R. version and renders it unreliable, doubtful and untrustworthy. As per allegation, the alleged incident took place at 5 PM during festival season, however, there is no independent eye witness to the occurrence to show that the same occurred within the public view and hence, the essential ingredients to convict an accused under the Scheduled Castes and Scheduled



Tribes (Prevention of Atrocities) Act is missing. In this case, the Investigating Officer has not been examined, which has caused great prejudice to the defence as the defence could not get documentary evidence, explain the material discrepancies and contradict the witnesses under Section 145 of the Evidence Act. Further, neither the doctor has been examined nor any injury report has been brought on record to substantiate the allegation of assault. Evidence also reveals admitted prior enmity and land dispute between the parties, thereby rendering possibility of false implication.

11. It is settled law that in criminal cases, since life and liberty of the accused are involved, a strict standard of proof is required as to prove the guilt of the accused. It is not the preponderance of the probabilities that establishes the guilt of the accused. It is necessary that the evidence on record must prove it beyond reasonable doubt. A conviction cannot be based on the consideration that the prosecution story may be true. The accused can only be convicted if the court reaches the conclusion that the prosecution story must be proved. The burden of proving the guilt of the accused is upon the prosecution. In this case, the prosecution has miserably failed to prove the guilt of these appellants beyond reasonable doubt and



thus, the appellants are entitled to be given the benefit of doubt.

12. Accordingly, the impugned judgment of conviction and order of sentence dated 07.09.2016 passed by the learned Exclusive Special Court, Special Judge (S.C./S.T. (POA) Act), Gaya in connection with Sessions Trial No. 208 of 2015 arising out of S.C./S.T. P.S. Case No. 08 of 2010 are hereby set aside with respect to these appellants only.

13. In that view of the matter, appellants, above named, are discharged from the liability of their bail bonds in connection with this case.

14. Accordingly, this appeal stands allowed.

15. Interlocutory application/s, if any, also stands disposed off.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
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