

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4175 of 2023**

Arising Out of PS. Case No.-428 Year-2022 Thana- MADHEPURA District- Madhepura

1. SHATRUGHAN BHAGAT S/o- LATE LAXMI BHAGAT Village- Laxmipur W.No-16, Ps Dist- Madhepura
2. Suman Bhagat @ Suman Kumar Bhagat son of Shatrughan Bhagat Village- Laxmipur W.No-16, Ps Dist- Madhepura
3. Shashi Bhagat son of Shatrughan Bhagat Village- Laxmipur W.No-16, Ps Dist- Madhepura
4. Raja Bhagat @ Raja Kumar son of Shatrughan Bhagat Village- Laxmipur W.No-16, Ps Dist- Madhepura
5. Dropati Devi wife of Shatrughan Bhagat Village- Laxmipur W.No-16, Ps Dist- Madhepura
6. Gudia Devi wife of SumanBhagat @ Suman Kumar Bhagat Village- Laxmipur W.No-16, Ps Dist- Madhepura
7. Ranjna Devi wife of Shashi Bhagat Village- Laxmipur W.No-16, Ps Dist- Madhepura

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Ranjan Devi wife of Kishan Razak Village- Laxmipur W.No-16, Ps Dist- Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shailendra Kumar Singh, Adv.
For the State : Mr.Binay Krishna, Spl.P. P.
For the respondent No.2 : Mr. Sanjay Singh, Adv.

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT**

Date : 15-04-2024

1. The instant appeal has been filed under section 14A(1) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act), 1989 against the order dated 31.05.2023 passed by the learned Additional Sessions Judge-I-cum- Special Judge SC/ST (POA) Act in SC/ST case No. 48/ 2022, arising out of



Madhepura P.S. case No. 428/ 2022, registered for the offences punishable under sections 448, 341, 323, 354A, 506, 427 read with section 34 of the IPC and under sections 3(i)(r)(s) and 3(ii)(v)(a) of SC/ST Act whereby the learned trial court has taken cognizance of the offences punishable under sections 341, 323, 379, 380, 427, 448, 354-A, 504, 506, 34 of the IPC and under sections 3(i)(r)(s) of the SC/ST Act against the appellants.

2. Mr. Shailendra Kumar Singh, learned counsel for the appellants submits that as a matter of fact the informant and her family members encroached the passage of the appellants' house and in this regard, several independent witnesses were examined during investigation who completely supported the said matter and on several occasions the appellants told the informant's side to remove the said encroachment and finally the appellant No.2 initiated an encroachment proceeding against the informant's father-in-law and then on 05.05.2022 under the supervision of Circle Officer, the police officials with armed force including lady Constables removed the said encroachment using JCB machine etc. It is further submitted that during the process of removing of the encroachment, Ranjan Devi (respondent No.2) sustained injuries and at that time, none of the appellants was present at the place of occurrence and after removal of the encroachment by the



officials of the District Administration, the respondent No.2 lodged Madhepura PS case No. 428 of 2022 which was investigated and the police submitted final form in favour of the appellants with a conclusion that the allegation made by the respondent No.2 was completely false. It is further submitted that in support of the proceeding of encroachment several documents relating to encroachment proceeding have been filed vide Annexures- P-3, P-4 and P-5. It is further submitted that respondent No.2 filed her case with *malafide* intention and the learned trial court took cognizance of the alleged offences in mechanical manner which is completely an abuse of the process of the Court. Learned counsel placed his reliance upon the judgement of this court passed in *Cr. Misc. No. 43748 of 2013 (Vinay Kumar vs. the State of Bihar & Anr.)*

3. On the contrary, Mr Sanjay Kumar Singh, learned counsel for the respondent No.2 vehemently opposed this appeal and submitted that there are sufficient materials against the appellants to proceed for the alleged offences and the mother-in-law of respondent No.2 was brutally assaulted by the appellants who died during the course of medical treatment and the I.O. intentionally withheld the post mortem report of the said deceased.



4. Heard both sides and perused the F.I.R., case diary and the order impugned.

5. Admittedly, the officials of District Administration removed the encroachment which is said to have been constructed by the family members of the respondent No.2 over the place of occurrence, and as per F.I.R., the alleged occurrence took place on the same day of the proceeding of removal of encroachment at 10 PM in which Leela Devi, mother-in-law of the informant sustained injuries, so if Leela Devi, who is said to be the main victim, sustained injuries in the alleged occurrence then she must have been treated at hospital concerned after the commission of the alleged occurrence but as per case diary, in which the injury report of the said victim is available, the victim Leela Devi was treated at 4.45 PM on 05.05.2022 which shows that she had sustained injuries before the commission of the alleged occurrence and the said fact itself is sufficient to falsify the allegation levelled by respondent No.2 in the F.I.R. Considering this aspect and also taking into account the above submissions, this court finds that the respondent No.2 lodged her case with *malafide* intention and if the appellants are put on trial on the allegations which have been made by the respondent No.2 it will be completely abuse of the process of the court. The learned trial court took cognizance of the alleged



offences differing with conclusion of the police, in mechanical manner without giving any reason so this court finds merit in this appeal. Accordingly, the order impugned is set aside and the instant appeal stands allowed.

(Shailendra Singh, J)

BKS/-

AFR/NAFR	AFR
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