
(2024) 10 JH CK 0070

Jharkhand High Court

Case No: Criminal Appeal (SJ) No. 296 Of 2024

Rajeev Sah @ Rajeev Kumar

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Oct. 15, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 323, 354, 341, 448, 427, 452
- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3, 4, 14A(3)

Hon'ble Judges: Sanjay Kumar Dwivedi, J

Bench: Single Bench

Advocate: Mridula Thakur, Manoj Kumar Mishra

Final Decision: Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Learned counsel for the appellants submits that there is delay of 195 days in filing the present criminal appeal and for condoning the delay, I.A.

No.6233 of 2024 has been filed. She further submits that notices were issued upon respondent no.2 in the main appeal as well as limitation matter and

notices have been effected, however, respondent no.2 has not appeared.

2. Office note suggests that respondent no.2 has received the notices personally, however, she has not appeared and in view of that, this appeal is

being heard on merit in absence of respondent no.2.

3. Heard Mrs. Mridula Thakur, learned counsel appearing for the appellants and Mr. Manoj Kumar Mishra, learned counsel appearing for the State.

4. Learned counsel appearing for the appellants submits that this appeal is preferred against the order dated 27.07.2023 passed by the learned

Additional Sessions Judge-I, Godda in A.B.P. No.534 of 2023 in connection with Thakurgangti P.S. Case No.22 of 2023 for the offence under

Sections 341, 448, 323, 452, 354, 427 of the Indian Penal Code and under Section 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, which was instituted on the basis of the Complaint Case No.09 of 2023 filed by respondent no.2, pending in the Court of the learned

District and Sessions Judge 1st cum Special Judge, Godda. She further submits that so far as Section 14-A (3) of the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989 is concerned, that has already been struck down by the Hon'ble Allahabad High Court in the case of

Ghulam Rasool Khan and others v. State of U.P. and others, reported in 2022 SCC OnLine All 975. She further submits that co-accused, namely,

Jaya Devi and Manisha Devi have been granted anticipatory bail in Cr. Appeal (SJ) No.662 of 2023 vide order dated 30.04.2024.

5. Learned counsel for the State opposed the prayer.

6. In view of the above striking down of the second proviso of Section 14-A (3) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 shall have effects throughout the territory of India to which the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 is applicable including the State of Jharkhand in light of the judgment passed by the Full Bench of the Hon'ble Allahabad High

Court, the Court finds that sufficient ground is made out for condoning the delay and, as such, the delay of 195 days in filing the present criminal

appeal is, hereby, condoned.

7. Accordingly, I.A. No.6233 of 2024 is disposed of.

8. The Court finds that the co-accused, namely, Jaya Devi and Manisha Devi, in identical situation have been granted anticipatory bail in Cr. Appeal

(SJ) No.662 of 2023 and, as such, the order dated 27.07.2023 passed by the learned Additional Sessions Judge-I, Godda in A.B.P. No.534 of 2023 in

connection with Thakurgangti P.S. Case No.22 of 2023 is, hereby, set aside. Accordingly, the appellants, above named, are hereby directed to

surrender before the learned Court within three weeks from today, and in the event of their surrender/arrest, the appellants, above named, shall be

released on bail, on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each, with two sureties of the like amount each, to the

satisfaction of learned District and Sessions Judge 1st cum Special Judge, Godda in connection with Thakurgangti P.S. Case No.22 of 2023, subject to

the following conditions:

(i) The appellants shall not, directly or indirectly, make any inducement, threat undue influence to the prosecution witnesses; and

(ii) The appellants shall appear before the trial court on each and every date given to them by the said Court till disposal of the trial.

9. This appeal is, therefore, allowed in above terms and disposed of.