

(2018) 12 PAT CK 0017

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 3901 of 2018

Lalbabu Prasad @ Lalbabu Bhagat

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 05-12-2018

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 307, 323, 324, 341, 504
Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(i)(x)

Citation : (2018) 12 PAT CK 0017

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Ashok Kumar, Usha Kumari

Final Decision : Dismissed

Judgement

Birendra Kumar, J.

Heard learned counsel for the parties.

By the impugned order dated 26.03.2018 passed in Sessions Trial No.43 of 2018, the learned Special Judge, Siwan has taken cognizance against the appellant and others for offences under Sections 147,148,149,341,323,324,307 and 504 of the Indian Penal Code as well as under Section 3(i)(x) of SC/ST Act.

According to FIR, the appellant and other accused person are co-villagers of the informant. The informant alleges that as soon as he alongwith his nephew Chandan Baitha reached near the house of the appellant by the side of the road, the named accused person started abuse by taking caste name and committed assault against the informant and others causing fracture of head of Chandan Baitha and other injuries.

The impugned order has been passed after considering the material in the case diary.

The challenge is on the ground that on the alleged date of occurrence, the appellant was not there rather he was on his duty, which has come during the investigation.

It is well settled that defence of alibi cannot be looked into at this stage.

Second ground is that there is case and counter case and in view of counter case, chances of malafide prosecution cannot be ruled out.

The existence of counter case cannot be a ground to disbelieve the FIR when the injury report is there in respect of the injured with allegation supported by other witnesses.

In view of the aforesaid conclusion, I am not inclined to interfere with the impugned order.

Accordingly, this appeal stands dismissed.