

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8897 of 2015

Arising Out of PS.Case No. -115 Year- 2014 Thana -PATNA CITY CHOWK District- PATNA

Bimal Rai @ Vimal Rai

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.9552 of 2015

Arising Out of PS.Case No. -115 Year- 2014 Thana -PATNA CITY CHOWK District- PATNA

Surendra Rai

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.8897 of 2015)

For the Petitioner/s : Mr. Raj Bansh Dubey, Adv.

For the Opposite Party/s : Mr. Ram Shankar Das(Spl.App)

(In Cr.Misc. No.9552 of 2015)

For the Petitioner/s : Mr. Ashok Kumar Jha, Adv.

For the Opposite Party/s : Mr. Sadanand Paswan (Spl. Pp)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-04-2015 Heard learned counsels for the petitioners, informant and the State.

The petitioners are apprehending arrest in a case registered for the offences punishable under Sections 341, 323 and 447/34 of the Indian Penal Code and Section 3 (I) (X) of the SC/ST (Prevention of Atrocities) Act.

It is alleged that the informant received information that on his ancestral land bearing Plot No. 24, Thana No. 18 area 320

decimals, near the Gurugovind Singh College, Patnacity, the accused persons are erecting hut, the informant went and made protest when he was abused by calling caste name and when the wife of the informant came to rescue, she was being dragged by catching her hair and she was stripped when co-accused Ajai Rai opened fire in the air.

It is submitted by learned counsel for the petitioners that in the background of bona fide land dispute, the accusation has been levelled. For the initial occurrence of 09.02.2014, the complaint was filed on 28.02.2014 by shifting the date of occurrence on 27.02.2014 which apparently appears from the correction made in the third column of the complaint stipulating the date of occurrence. The complaint case came to be registered as a police case on 01.08.2014. The informant himself admitted that with regard to land in question, 144 Cr.P.C. proceeding was initiated at earlier point of time. Statements have been made in para 3 of both the petitions that the petitioners have no criminal antecedent.

Considering the aforesaid facts, let the above named petitioners be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten

thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Patna City in connection with Chowk P.S. Case No. 115 of 2014, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The FIR was registered apart from the provisions of IPC under 'Section 3 (i) (f)(r) of the SC/ST (Prevention of Atrocities) Act', though, the complaint was filed under Section 3 (1) (x) of the SC/ST (Prevention of Atrocities) Act. There is no such provision in SC/ST (Prevention of Atrocities) Act. Let this fact be brought to the notice of Sr. S.P., Patna as well as learned Judicial Magistrate, Patnacity.

It is expected from the Sr. S.P., Patna not to allow such officer to register a case under such stringent Act who does not have the basic knowledge of provisions of Act.

It is expected from the concerned Judicial Magistrate that he should not behave as a post office when the FIRs are being received. The word 'seen' signifies that the Magistrate has applied his mind to the FIR received and then signed the same.

(Dinesh Kumar Singh, J)

Amrendra/-

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