

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30450 of 2014

Arising Out of PS.Case No. -37 Year- 2014 Thana -OBRA District- AURANGABAD

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1. Rajesh Kumar
 2. Shankar Singh
 3. Manish Kumar

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar

For the Opposite Party/s : Mr. Ambika Bhagat-(Spl.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

05 02-04-2015 Heard learned counsel for the petitioners as well as

learned Additional Public Prosecutor assisted by learned counsel

for the informant.

The root of instant dispute happens to be uprooting of shrubs of gram, however, got settled down at that very moment. Subsequently, as is evident while the prosecution party were taking nap after meal, it has been alleged that all the accused persons armed variously came, broken the door, gone inside the house, ransacked the same, fired indiscriminately to terrorize, assaulted with lathi, rod causing injury to different persons, so named and during course thereof, it has also been disclosed that they have uttered abusive language on account of being the prosecution party to be Scheduled Caste.

Learned counsel for the petitioners extraneously



argued that though petitioners are named in the F.I.R., they have been shown only armed with *Danda*. Furthermore, there happens to be no specific allegation attributed against them. Therefore, petitioners cannot be held responsible for terrorizing any of the witnesses. It has also been submitted that nature of injuries though some of which kept reserved up-till-now, also nullified application of Section 307 of the I.P.C., because of the fact that those injuries indicate that it was never caused with an intention to kill nor having knowledge that these injuries could culminate in death of the injured.

It has also been submitted that so far application of S.C./S.T. (Prevention of Atrocities) Act is concerned, that has got no legal identity in the background of the fact that according to prosecution version itself, the occurrence had taken place, the abusive language were used inside the house as it was not within the public gaze. Therefore, there happens to be non-application of Section 3(1)(X) of the S.C./S.T. (Prevention of Atrocities) Act and so instant petition for anticipatory bail is found maintainable, because of the fact that in the facts and circumstances of the case, the barrier imposed under Section 18 of the Act will not come into play. It has also been submitted that when Annexure-2 is gone through, it is apparent that the prosecution parties were the

aggressor and on account thereof, on the fard-beyan of Babloo Sharma, Obra P. S. Case no.36 of 2014 was registered.

On the other hand, learned Additional Public Prosecutor assisted by learned counsel for the informant submitted that manner whereunder occurrence has been committed, did not justify prayer for grant of anticipatory bail and on account thereof, it is fit case wherein prayer would be refused.

After having perusal of the case diary, more particularly Para-6 thereof, it is apparent that prosecution itself is confused with regard to actual place of occurrence, because of the fact that informant along with other witnesses who claimed themselves to be an injured have stated that after breaking open doors of their houses, the members of the unlawful assembly made house trespass and then assaulted and during course thereof, also used filthy language including that relating to their caste. From Para-6, it is apparent that Investigating Officer had not found door of house of any of the injured including the informant broken, contrary to it, had identified the place of occurrence to be road. Furthermore, from the statement of the witnesses, it is apparent that they have stated that members of the unlawful assembly broken the door made house trespass, but none of them specified any of the accused to have entered inside his house. That means to

say, at that front also there happens to be evasive evidence. In the aforesaid background the allegation of using the filthy language relating to their caste, also became doubtful.

Consequent thereupon, it looks better to direct the petitioners to surrender before the learned lower Court with a prayer for bail, which the learned lower Court will consider in the background of finding as recorded above favourably.

With the aforesaid observation, instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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