

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1021 of 2016

Arising Out of PS.Case No. -183 Year- 2016 Thana -IMAMGANJ District- GAYA

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Amarendra Kumar Singh @ Mantu Singh Son of Sri Jai Ram Singh resident of Village- Gaderia, P.S. Imamganj, District- Gaya but in the first Information Report, it has been wrongly mentioned as Mantu Singh Son of Parshuram Singh resident of Village Raniganj, P.S. Imamganj, District - Gaya and therefore the Anticipatory bail petition in the court below was filed in the name of Mantu Singh.

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant : Mr. Ajay Kumar Thakur, Adv.
Mr. Amit Kumar, Adv.

For the Respondent : Mr. Binay Krishna, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 15-12-2016

1. Heard learned counsel for the appellant as well as learned Special Public Prosecutor for the State.

2. This criminal appeal filed under Section 14(A) (2) of S.C./S.T. (Prevention of Atrocities) Amendment Act is preferred against the impugned order dated 04.11.2016 passed by learned Special Judge, S.C./S.T., Gaya by which and whereunder he refused to grant the privilege of anticipatory bail to the appellant, who was made accused in Imamganj P.S. Case No. 183 of 2016 registered for the offences punishable under Sections 341, 323, 504, 379 of the Indian Penal Code and Section 3(1) (G) of S.C./S.T. (Prevention of



Atrocities) Act.

3. The prosecution case, in brief, is that the informant being a member of Scheduled Castes community claimed that appellant was taking away water through his field causing damage to his crop and when he forbade him to do so, the appellant not only assaulted him but also snatched his belongings.

4. Submission on behalf of the appellant is that no case under the provision of S.C./S.T. (Prevention of Atrocities) Act is made out and so far as the allegation of theft is concerned, the same is super addition. It is further submitted on behalf of the appellant that as a matter of fact, the land in question belongs to maternal uncle of the appellant and as a matter of fact, in the year 1988 the informant had exchanged his land with the land of maternal uncle of the appellant through a registered sale deed dated 04.07.1988. In course of argument, learned counsel for the appellant produced photostat copy of aforesaid deed. Let the photostat copy of aforesaid deed be kept with the record.

5. Learned Special Public Prosecutor appearing for the State submits that the appellant has prayed for grant of relief under Section 438 of the Cr.P.C. but Section 18 of S.C./S.T. (Prevention of Atrocities) Act clearly bars to entertain a petition filed under Section 438 of the Cr.P.C. and, therefore, learned court below rightly rejected



the petition filed on behalf of the appellant under Section 438 of the Cr.P.C.

6. Having heard the contentions of the parties, I went through the record. The written report of the informant goes to show that the alleged occurrence took place due to passing of water through the field of the informant and in the written report it has nowhere mentioned that any crop of the informant was damaged and, therefore, the aforesaid fact goes to show that the water was being taken by the informant for irrigation of his field. Section 3 (1) (G) of S.C./S.T. (Prevention of Atrocities) Act is applicable when any crop is damaged. Therefore, the written report of the informant, prima facie, does not disclose the offence punishable under the provisions of S.C./S.T. (Prevention of Atrocities) Act and it is well settled principle of law that if the written report does not disclose any offence of S.C./S.T. (Prevention of Atrocities) Act, Section 18 of S.C./S.T. (Prevention of Atrocities) Act does not come into play.

7. Considering the aforesaid submissions as well as facts and circumstances of the case, this criminal appeal is allowed and the impugned order dated 04.11.2016 passed by learned Special Judge, S.C./S.T., Gaya is set aside.

8. Accordingly, it is ordered that above named appellant, in the event of his arrest/ surrender within four weeks from the date of



receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, S.C./S.T. Exclusive Special Court, Gaya in Imamganj P.S. Case No. 183 of 2016 subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

SHAHZAD/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.12.2016
Transmission Date	21.12.2016

