

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.815 of 2017

Arising Out of PS.Case No. -1 Year- 2016 Thana -SC/ST District- GAYA

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Surendra Mahto, son of Naresh Mahto, resident of Village- Sukhabigha,
P.S. Wazirganj, District Gaya.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Sinha -Advocate

For the Respondent/s : Mr. Sadanand Paswan-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 21-04-2017

Heard learned counsel for the appellant as well as

learned Special Public Prosecutor.

On account of refusal of prayer for anticipatory bail by the Exclusive Special Court, S.C./S.T. Gaya vide order dated 12.08.2016 in connection with S.C./S.T. (Gaya) P. S. Case No.01 of 2016, appellant's prayer under instant appeal in terms of Section 14A(2) of the S.C./S.T. (Prevention of Atrocities) Act.

In the background of grazing of crop by a cow belonging to the informant, it has been alleged that on the alleged date and time of occurrence, appellant along with others came at the place of informant and began to beat the cow, simultaneously, was abusing the prosecution party by calling caste name and further, complained that on account of crop having been damaged, they will have to face. When informant's daughter Sona Devi



protested, she was assaulted by Dipu Mahto by stick and further, was abused by her caste name. Even the informant when protested, was also assaulted by the aforesaid Dipu Mahto. On hue and cry, when husband of informant along with villagers came in rescue, then in that event, all the accused persons ran away abusing by caste name.

It has been submitted on behalf of appellant that there happens to be no specific allegation attributed against him. Assailant happens to be Dipu Mahto and so, in the aforesaid facts and circumstances of the case, no case under S.C./S.T. (Prevention of Atrocities) Act is made out against the appellant. Consequent thereupon, appellant is entitled for anticipatory bail.

On the other hand, learned Special Public Prosecutor opposed the prayer and submitted that apart from having specific allegation that all the accused ran away from the *Darwaza* of the informant seeing arrival of husband and villagers and during course thereof, they had abused the prosecution party by calling her caste name. On account thereof, there happens to be application of S.C./S.T. (Prevention of Atrocities) Act, even against appellant apart from application of Section 6 of the Act. Consequent thereupon, instant prayer for anticipatory bail would not be entertainable.

Section 3 of the S.C./S.T. (Prevention of Atrocities)



Act is bifurcated in two parts. Sub-section-I speaks with regard to direct involvement of an accused in contravention of the ingredients so prescribed therein while Sub-section-2 speaks with regard to direct involvement of an accused relating to an offence other than S.C./S.T. (Prevention of Atrocities) Act, whereunder Sub-section-2(Va) speaks with regard to categorization of different kinds of offences prescribing sentence upto 10 years whereunder, the offence of assault upon the person of a Member of Scheduled Castes/ Scheduled Tribes will certainly fall. Apart from this, another Section 6 of the Act is found there whereunder complicity of others is to be notified in the same manner as in case of Section 34, 149 of other relevant headings of the Indian Penal Code. Once identification of an accused is perceived in terms of Section 6 of the Act, then in that event, his presence could be recognized according to the S.C./S.T. (Prevention of Atrocities) Act and that being so, Section 18 of the Act would come into play ceasing the prayer of the appellant to be released on an anticipatory bail.

That being so, instant appeal sans merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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