

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3190 of 2017

Arising Out of PS.Case No. -46 Year- 2017 Thana -PHENHARA District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Subhash Kumar Kushwaha @ Subhash Mahto, Son of Late Rameshwar Mahto,
 2. Jagarnath Mahto, Son of Late Rameshwar Mahto, Both Resident of Village- Madhubani, P.S.- Phenhara, District- East Champaran.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar

For the Respondent/s : Mr. Sri Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 05-12-2017

The appellants have challenged the order dated 18.10.2017 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Phenhara P.S. Case No. 46 of 2017 dated 29.06.2017 instituted for the offences under Sections 341, 323, 326, 354(B), 379, 504, 34 of the Indian Penal Code and Section 3(1)(r) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby their prayer for being released on anticipatory bail has been rejected.

The informant has alleged in the F.I.R that his wife informed him after his arrival at his home that his children have been assaulted by the accused persons and when the wife of



the informant went to the rescue of the children, Subhash Mehto (appellant No. 1) abused and assaulted her and also tore her blouse.

Learned counsel for the appellants has stated that an absolutely false case has been instituted. In fact, a complaint was lodged against the informant and others by Jagarnath Mehto (appellant No. 2) which is pending enquiry. A proceeding under Section 144 Cr. PC has also been initiated between the parties because of the land dispute.

From the circumstances, it appears that the dispute lies somewhere else and the provisions of the SC & ST (Prevention of Atrocities) Act have only been added in order to give serious color to the case.

For the facts stated above, the order dated 18.10.2017 is set aside. While saying so, this Court has taken notice of the fact that neither informant is an eye witness to the occurrence nor the case has been lodged on the day of the occurrence.

The appellants are directed to be released on bail in the event of their surrender before learned Court below within a period of three weeks from today and on their furnishing bail bonds of Rs. 10,000/-(ten thousand) each with two sureties of



the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Phenhara P.S. Case No. 46 of 2017.

(Ashutosh Kumar, J)

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