

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1060 of 2017

Arising Out of PS.Case No. -124 Year- 2016 Thana -DANIYAWA District- PATNA

=====

1. Amrud Mahto @ Anurodh Kumar Son of Krishna Mahto
 2. Satish Mahto Son of Sheojee Mahto
 3. Sheojee Mahto Son of Parmeshwar Mahto
 4. Gulshan Mahto Son of Satish Mahto All residents of Village/Mohalla - Faridpur, P.S. Daniyawan, District - Patna.

.... Appellant/s

Versus

The State of Bihar.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Pramod Kumar-Advocate
 For the Respondent/s : Mr. Sadanand Paswan-S.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 12-05-2017

Heard learned counsel for the appellants as well as learned Special Public Prosecutor.

It has been submitted on behalf of appellants that on account of registration of instant case under Section 3(1)(R) of S.C./S.T. (Prevention of Atrocities) Act along with Section 341, 323, 504, 506, 34 of the I.P.C., the case could not be considered having proper application of S.C./S.T. (Prevention of Atrocities) Act, on account of the fact that due to absence of names of the witnesses in the written report, it is evident that the occurrence so alleged, was not at all committed within public view and so, S.C./S.T. (Prevention of Atrocities) Act, is not applicable. Other Sections are attracting I.P.C., bailable.

On the other hand, learned Special Public Prosecutor opposed the prayer.

There happens to be an allegation at the end of the informant



that after consuming toddy, when price was demanded, accused Amrud Mahto @ Anurodh Kumar, Satish Mahto and Gulshan Mahto abused by caste name and further, threatened to assault, whereupon informant rushed there from and sat over a culvert in front of shop of Pappu Mahto, where all the three joined by Shivji Mahto, came and brutally assaulted, during course thereof, they were also abusing by caste name.

Assault over the person of Member of Scheduled Caste or Scheduled Tribe, in case attracting punishment under the I.P.C. less than 10 years is governed by Section 3(2)(Va) and once attracted, prayer for anticipatory bail will be barred. Non-registration of case is immaterial, the material aspect is searching out prima facie case from the written report/ complaint petition/ fard-bayan in terms of Para-27 of ***Bisheshwar Mishra and another vs. State of Bihar reported in 2016(4) P.L.J.R. 1058 (D.B.)***, which is found duly substantiated, whereupon instant appeal sans merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

Vikash/-

U		T	
---	--	---	--

