

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51529 of 2017

Arising Out of PS. Case No.-169 Year-2017 Thana- AADAPUR District- East Champaran

Baliram Patel

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. DR. INDIWAR KUMARI

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-11-2017 Heard learned counsels for the petitioner, informant and learned APP.

The petitioner is apprehending arrest in a case registered for the offences punishable under sections 341,323,324,354,307,147,148,149,379 and 504 of the IPC. Subsequently, section 302 of the IPC was also added.

The prosecution case which got initiated with the written report submitted by Yugal Patel to the SHO, Adapur Police Station on 11.6.2017 at about 3 P.M., is to the effect that on 11.6.2017 at about 6 A.M. while the informant along with his wife was working in the field, co accused Suresh Prasad Shrivastav, Subhash Prasad Shrivastava, Bitu Kumar Shrivastava and Jwala Prasad Shrivastava came variously armed, started abusing and they threatened to kill. On hearing



alarm, the family members of the informant reached on the spot, in the meantime, co accused Suresh Prasad Shrivastava assaulted the son of the informant Ram Babu Patel with iron rod on his head which hit on the back side of the neck of the victim, as a result, he fell down and became unconscious. Co accused Subhash Prasad Shrivastava assaulted Nagendra Patel with farsa on his head causing cut injury, as a result, he also fell down and became unconscious. Thereafter Bittu Prasad Shrivastava assaulted Kanhai Patel and Rameshwar Patel with lathi. They also fell down and became unconscious. Thereafter, the accused persons started insulting the female members of the family. Clothes of Rama Devi, Pashupatia Devi and Alka Devi were torn, rendering them semi-nude. Subsequently, Rambabu Patel, the son of the informant, succumbed to the injury. The occurrence took place in the background of serious land dispute.

It is submitted by learned counsel for the petitioner that for the occurrence of 11.6.2017 at 6 A.M., after due deliberation, the written report was submitted on the same day at 3 P.M. The petitioner was not named, but his name subsequently sprang up in the fardbeyan of Kaushalya Devi, wife of the victim. It is further submitted that on suspicion the FIR was lodged but the petitioner was not named. His name came after the death of



Rambabu Yadav when the statement of the wife of victim was recorded at SKMCH, Muzaffarpur. There she named this petitioner with omnibus and general accusation that the petitioner along with nine other persons also assaulted the informant's family, but in the Fardbeyan, Kaushalya Devi has made specific accusation of assault upon her husband by Suresh Prasad Shrivastava with iron rod. Hence, subsequently the petitioner has been sought to be maliciously roped in the present case. Statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

It is submitted by learned counsel for the informant that Kaushalya Devi has specifically alleged against the petitioner that he also made assault which has also been supported by other witnesses during investigation.

Learned APP submits that subsequently the name of the petitioner also sprang up in the fardbeyan of Kaushalya Devi though in pursuance to the fardbeyan of Kaushalya Devi, no FIR has been registered.

Keeping in view the fact that the occurrence took place on 11.6.2017 at 6 AM when the written report was submitted on the same day at 3 P.M. by Yugal Raut after due deliberation, with specific accusation of who assaulted whom, but the petitioner



was not named. Moreover, considering the fact that both written report of Yugal Raut and the fardbeyan of Kaushalya Devi suggest that the victim Rambabu Patel was assaulted by co accused Suresh Prasad Shrivastava and others, coupled with the fact that statement has been made in paragraph 3 of the petition that the petitioner is having no criminal antecedent, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Raxaul, East Champaran, Motihari in connection with Adapur P.S. Case No. 169 of 2017.

(Dinesh Kumar Singh, J)

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