

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.874 of 2017

Arising Out of PS.Case No. -53 Year- 2016 Thana -RATANPURA District- SUPAUL

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1. Santosh Mehta @ Santosh Kr. Mehta ,
 2. Devendra Mehta @ Devindra Kr. Mehta Both Sons of Ramesh Mehta,
 3. Paro Devi @ Parwati Devi, Wife of Ramesh Mehta , Resident of Village-
 Bhagwanpur, Police Station- Ratanpur, District- Supaul.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun-Advocate

For the Respondent/s : Mr. Binay Krishna-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 24-04-2017 Heard learned counsel for the appellants as well as
 learned Special Public Prosecutor.

There happens to be disclosure at the end of the informant that they were residing over government land lying by the side of village road. On 24.11.2016 at about 12.30 p.m., Ramesh Mehta, Santosh Mehta, Devendra Mehta, Paro Devi along with 4-5 unknown persons came and enquired about Shakhe Chaupal and further, directed to come out from his house. Thereafter, Devendra Mehta lit fire in the house. On hue and cry, brother and mother of informant came out of house whereupon, his brother was assaulted over head by Ramesh Mehta with spade while his mother was assaulted by Santosh Mehta, who also torn her Sari on



account of which, she became naked. Furthermore, they have also taken away Nokia mobile, golden chain.

It has been contended on behalf of appellants that prosecution party illegally wants to encroach upon the land which belonged to the appellants and for that, a Panchayati was convened at an earlier occasion wherein prosecution party undertook to abide with the same, but never acted, whereupon there was an altercation whereunder the prosecution party brutally assaulted the appellants' side and for that, Ratanpura P. S. Case No.54 of 2016 has been registered. Furthermore, it has also been submitted that prosecution party had wrongly and illegally advanced their plea that their cattle shed as well as house stood over government land rather the land of the appellants has been encroached by them forcibly as well as illegally. In the aforesaid situation as well as factual aspect, it could not be said that there would be an application of S.T./S.T. (Prevention of Atrocities) Act and that being so, appellants are entitled for an anticipatory bail.

On the other hand, learned Special Public Prosecutor opposed the prayer and submitted that as close scrutiny has been forbidden under *Bisheshwar Mishra and another vs. State of Bihar (2016) 4 P.L.J.R. 1058 (D.B.)*, on account thereof, submission having been made on behalf of appellants has got no leg to stand.



It has also been submitted that for the present, the Court is only entrusted to search out presence of prima facie case attracting S.T./S.T. (Prevention of Atrocities) Act, on mere perusal of written report/ fard-bayan/ complaint, which in the present case duly satisfy and that being so, the instant appeal should not be entertained.

In the background of the principle laid down by the Hon'ble Apex Court in *Vilas Pandurang Pawar vs. State of Maharashtra reported in A.I.R. 2012 SC 3316*, the Division Bench under *Bisheshwar Mishra Case (Supra)* has reiterated that though there happens to be some sort of embargo in entertaining an application in terms of Section 18 of the Act relating to anticipatory bail. However, judicial interference has been prescribed on a limited score to trace out whether on perusal of written report/ fard-bayan/ complaint, the prima facie case is made out or not and further, for that purpose, no roving inquiry has been permitted and that being so, the submission whatever been raised at the present moment, at the end of the appellants is non-entertainable in the background of the fact that for said purpose, meticulous examination of the materials is to be carried out and that will be in contravention of the settled principle of law. That being so, on mere perusal of the written report, it is apparent that



there happens to be an application of S.T./S.T. (Prevention of Atrocities) Act on account of allegation so attributed by the prosecution. Consequent thereupon, instant appeal is found non-maintainable and is accordingly, rejected.

(Aditya Kumar Trivedi, J)

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