

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Appeal (SJ) No.1094 of 2016**

Arising Out of PS.Case No. -48 Year- 2016 Thana -DHANSOI District- BUXAR

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1. Deomuni Kunwar, wife of Late Kedar Kamker
2. Maya Devi, wife of Shyam Narayan Kamker
Both are resident of Village Kathrai, P.O. Manikpur, P.S. Dhansoi, District- Buxar.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar Roy, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA**ORAL JUDGMENT****Date: 09-01-2017**

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

2. This criminal appeal filed under section 14 (2) A of the SC/ST (Prevention of Atrocities) Amendment Act has been preferred against the order dated 1.6.2016 passed by learned Addl. Sessions Judge I, Buxar in ABP no. 374/2016.

3. Appellants are named in the first information report with allegation that they along with several other accused instigated mob to assault the informant and others as the informant belongs to member of scheduled caste community but admittedly, some accused are also members of scheduled caste community and submission on behalf of the appellants is that alleged occurrence appears to have taken place on account of land dispute because the informant and other officials wanted to forcibly evict the appellants and several other persons from a disputed land and when protest was made, appellants lodged this false case with



exaggerated story. It is further submitted that no prudent person shall believe that a member of scheduled caste community would humiliate another member of scheduled caste community. It is further submitted that inclusion of member of scheduled caste community in the present case as co- accused goes to show that the alleged occurrence did not take place because the informant was a member of scheduled caste community rather the present occurrence did take place due to land dispute but the learned court below failed to take note of the aforesaid fact and came on a wrong conclusion that the provisions of SC/ST (Prevention of Atrocities) Act are applicable in the present case and hence, section 18 of the SC/ST Act comes in the way of grant of privilege of anticipatory bail. I do agree with the above stated submissions of learned counsel appearing for appellants and therefore, in my view, this criminal appeal is liable to be allowed and the impugned order dated 1.6.2016 passed by learned Addl. Sessions Judge I, Buxar in ABP no. 374/2016 is set aside.

4. Accordingly, it is ordered that in the event of arrest/ surrender within six weeks from the date of receipt of this order to the concerned court, let the appellants above named be released on bail on furnishing bail bonds of Rs 10,000/- each with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge I, Buxar in Dhansoi P.S. Case no. 48/2016 subject to condition as laid down under section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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