

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1161 of 2016

Arising Out of PS.Case No. -135 Year- 2016 Thana -MANJHI District- SARAN

- =====
1. MRITUNJAY KUMAR SHARMA @ MRITUNJAY PRAKASH SHARMA @ BABLOO SHARMA, SON OF KRISHNA KUMAR SHARMA.
 2. CHINTU KUMAR SHARMA, SON OF LADOO SHARMA.
 3. LAXMAN SHARMA @ LAXMAN KUMAR SHARMA, SON OF SHUBHNATH SHARMA.
 4. RAKESH SHARMA, SON OF JAGANNATH SHARMA.
 5. SANTOSH SHARMA @ SANTOSH KUMAR SHARMA, SON OF ANJANI SHARMA.
- RESIDENT OF VILLAGE-MANJHIKUNWAR TOIL, POLICE STATION-MANJHI, DISTRICT-SARAN, CHAPRA.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. S.N.P. Sinha, Sr. Adv.
Mr. Rashmi Sharma, Adv.

For the State : Mr. Sadanand Paswan, Spl.P.P.

For the Informant : Dr. Rajesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 04-02-2017 Heard learned counsel for the appellants as well as learned Special Public Prosecutor along with learned counsel for the informant.

A piece of *Gairmajarua* land lying in front of house of both the parties is the root cause of dispute and on account thereof, a *marpit* took place for which two separate cases have been instituted, one the present one bearing Manjhi P.S. Case No.135 of 2016 and the other at the instance of one of the appellant bearing Manjhi P.S. Case No.134 of 2016. On account of registration of this case under 3(i)(x) of SC/ST (POA) Act,



there happens to be change in appreciation of the matter and on account thereof, even though the learned lower court had perceived that “the occurrence is said to take place at the door of informant which does not come within the public place or in public view but the case has been registered under Section 3(i)(x) of SC/ST (POA) Act” and that being so, for the present the menace of SC/ST (POA) Act is found duly sterilized whereupon, the barrier so prescribed under Section 18 of the SC/ST (POA) Act is not at all found applicable.

Learned counsel for the informant has submitted that there happens to be abusive word used by the accused persons as well as assault was made and further, female folks were also subjected to assault, one of member of the female Bhabhi of informant got her blouse torn which, considering the finding as stated above made by the learned Special Judge attracts applicability of Section 354 IPC which should be also taken into consideration in the background of counter case wherein victim happens to be the female.

Accordingly, appellants **Mritunjay Kumar Sharma @ Mritunjay Prakash Sharma @ Babloo Sharma, Chintu Kumar Sharma, Laxman Sharma @ Laxman Kumar Sharma, Rakesh Sharma, Santosh Sharma @ Santosh Kumar Sharma**



each are directed to be released on bail on furnishing bail bonds of Rs.10,000/-(ten thousand) with two sureties of the like amount each, to the satisfaction of learned First Addl. Sessions Judge cum Special Judge, SC/ST, Saran at Chapra in connection with Manjhi P.S. Case No.135 of 2016, in the event of their arrest /surrender within four weeks from the date of receipt of the order after setting aside the order impugned passed by Special Judge, Saran at Chapra in connection with ABP No.2033/2016 arising out of Manjhi P.S. Case No.135 of 2016.

Consequent thereupon, this appeal is allowed.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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