

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3156 of 2017

Arising Out of PS.Case No. -39 Year- 2017 Thana -NAYAGAON District- BEGUSARAI

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1. Dasarath Rai
 2. Rajesh Rai Both 1 & 2 are S/o late Basudeo Rai
 3. Luxmi Devi W/o Dasrath Rai All 1 to 3 Resident of Village- Dariyapur,
P.S.Nayagaon, District Begusarai.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shubhesh Pandey

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 05-12-2017 The appellants have challenged the order dated 29.08.2017 passed by learned Special Judge, SC/ST (POA) Act, Begusarai in connection with Nayagaown P.S. Case No. 39 of 2017 instituted for the offences under Sections 366/34 of the Indian Penal Code and Section 3(x) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby their prayer for being released on anticipatory bail has been rejected.

It has been alleged in the F.I.R that the wife of the informant had gone to attend to the call of nature in the morning of 22.07.2017 but did not return. Later, through the villagers, he learnt that his wife had gone towards Begusarai



along with one Rahul Kumar. When the informant went to the house of Rahul Kumar to enquire about his wife, the appellants, who are the parents and the uncle of the aforesaid Rahul Kumar, are said to have abused him. In the F.I.R, it has also been alleged that aforesaid Rahul Kumar secretly keeps contact with his wife.

Learned counsel for the appellants, however, has stated that Rahul Kumar is a minor whose date of birth is 07.11.1999 and in support of the aforesaid assertion, the registration card of the Bihar School Examination Board of Rahul Kumar has been annexed as annexure-2 to the petition. It has also been submitted that Rahul Kumar has also not returned home for a very long time. In fact, an application also has been given by the appellant No. 1 to the local officer in-charge alleging that both Rahul Kumar and Jyoti Devi, wife of the informant are missing.

Considering the aforesaid facts, this Court is of the view that no offence under anyone of the said provision of the SC & ST (Prevention of Atrocities) Act can at all be said to have been made out. So far as the allegation under Section 366/34 of the Indian Penal Code is concerned, admittedly the appellants have not done anything for which their prosecution is warranted.

Regard being had to the aforesaid facts, this Court deems it appropriate to set aside the order dated 29.08.2017.



The appellants are directed to be released on bail in the event of their surrender before learned Court below within a period of four weeks from today and on their furnishing bail bonds of Rs. 10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Begusarai in connection with Nayagawon P.S. Case No. 39 of 2017.

(Ashutosh Kumar, J)

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