

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2702 of 2019

Arising Out of PS. Case No.-68 Year-2016 Thana- SC/ST District- Araria

1. Md. Farid @ Farid Ahmad @ Md. Farid Ahmad S/O Late Ibrahim Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.
2. Md. Shabir @ Shabir S/O- Late Ibrahim Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.
3. Md. Zahid @ Mujahid @ Zabir S/O- Late Ishmail Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.
4. Md. Fakruddin @ Fakruddin S/O- Ishmail Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.
5. Md. Farooque S/O- Late Ishmail Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.
6. Sadruluddidn @ Sadruddin @ Sadruluddin S/O- Late Ishmail Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.
7. Md. Murshid @ Murshid S/O- Md. Farooque Resident of Village- Chandbhag Madanpur, Ward No. 5, P.S. Araria (O.P. Madanpur), District- Araria.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants : Mr.Manish Kumar, Advocate

For the Respondent-State: Mr.Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 20-11-2019

Heard learned counsel for the appellants and
learned Special Public Prosecutor for the State.



2. This appeal under Section 14-A(2) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') has been filed by the appellants challenging the order dated 08.04.2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in ABP No. 707 of 2019 arising out of Araria SC/ST Case No. 68 of 2016 registered for the offences punishable under Sections 323, 325, 447, 504 and 506 read with 34 of the Indian Penal Code and Section 3(1)(r)(f) of the Act.

3. It is contended by the learned counsel for the appellants that there is admitted land dispute between the parties. Both sides sustained injuries. The injuries sustained by the members of the prosecution party are all simple and superficial in nature. The allegations made in the FIR are omnibus and general against altogether 10 accused persons, out of whom, the application for grant of pre-arrest bail of three accused persons, namely, Md. Mastur Alam, Md. Mansoor Alam and Md. Anwar Alam was rejected by the court below against which they filed an appeal before this Court vide Cr. Appeal (SJ) No. 4208 of 2018, which was allowed and the order passed by the learned 1st Additional



Sessions Judge, Araria rejecting the application for grant of pre-arrest bail of those appellants was set aside. The contention is that the case of the appellants is identical in nature.

4. Advancing the argument further, learned counsel for the appellants submitted that the provisions of the Act would not be applicable to the facts and circumstances of the instant case as there is no allegation that the appellants intentionally insulted or intimidated with intent to humiliate the members of the scheduled castes or the scheduled tribes. Further, the informant did not mention in the FIR that the appellants cultivated any land owned by, or in possession of, or allotted to, or notified by any competent authority to be allowed to, the members of the prosecution party. He contended that the cultivation made by the appellants was over the land owned or possessed by them for which a false and frivolous case has been instituted by the informant.

5. Contesting the submissions made on behalf of the appellants, learned counsel for the State submitted that though the allegations made in the FIR are omnibus and general, there is specific case of the informant that the appellants collectively humiliated and assaulted the



members of the prosecution party. However, he concedes that the case of the appellants is identical to that of Md. Mastur Alam, Md. Mansoor Alam and Md. Anwar Alam.

6. Regard being had to the submissions made on behalf of the parties, the impugned order dated 08.04.2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in ABP No. 707 of 2019 is set aside.

7. In the event of arrest or surrender before the court below, the appellants above-named are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Special (SC/ST) Case No.75 of 2017 arising out of Araria SC/ST Case No. 68 of 2016.

8. The appeal stands allowed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.11.2019
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