

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2998 of 2019

Arising Out of PS. Case No.-143 Year-2019 Thana- GIRIYAK District- Nalanda

1. NITISH KUMAR @ NITISH KUMAR YADAV Son of Gorelal Yadav
Resident of Village - Sataua, P.S.- Giriyak, District- Nalanda (Bihar)
2. Madhu Yadav Son of Rajendra Yadav @ Rajendra Prasad Resident of
Village - Sataua, P.S.- Giriyak, District- Nalanda (Bihar)

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s : Mr.Raj Kishor Prasad

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 16-11-2019 An order, dated 21.06.2019 passed by the learned 1st

Additional Sessions Judge, Nalanda at Biharsharif, in A.B.P. No. 1410 of 2019, is under challenge in the present appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Giriyak P.S. Case No. 143 of 2019 registered for the offence punishable under Sections 341, 323, 325, 307, 379, 354B, 504 and 506/34 of the Indian Penal Code and Section 3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

Case diary was called for by this Court, which is available.



It appears from the First Information Report that allegedly the accused persons were objecting to the informant and her family members ploughing a piece of land. The persons named in the First Information Report are said to have abused the informant and his family members by taking their caste name. They are said to have assaulted the informant and others and torn their clothes.

Learned counsel appearing on behalf of the appellants has submitted that it is because of the dispute in respect of the title over the land in question that the occurrence appears to have taken place and what has been alleged in the First Information Report is exaggerated statement of what had occurred. He contends that allegation, constituting offence under the provisions of the Act, have been made only to implicate the persons named in the First Information Report because of the stringent provisions under the Act.

I have perused the case diary. It appears that eyewitnesses were examined by the police under Section 161 of the Code of Criminal Procedure. Most of the witnesses have supported the occurrence, which had taken place on the alleged date, but none of them, other than the informant herself, has supported the allegation constituting the offence under the Act.



The Court below has refused to entertain the application of these appellants for grant of anticipatory bail on the ground of non-maintainability in view of bar under Section 18 of the Act. Though there is no material in the case diary except the statement of the informant, which can be said to be constituting offence under the provisions of the Act, it is difficult for this Court to record that no offence under the provisions of the Act is made out and, therefore, bar under Section 18 of the Act shall have no application.

However, considering the nature of accusation and the materials available in the case diary, this appeal is disposed of with an observation that if the appellants surrender before the court below and seek regular bail within one month from today, their application shall be considered and disposed of on the same day.

(Chakradhari Sharan Singh, J)

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