

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3182 of 2019

Arising Out of PS. Case No.-5 Year-2019 Thana- SC/ST District- Sheikhpura

ABU SALIM Son of Md. Nazrul Islam @ Nazrul Islam Resident of Village - Hussainabad, P.S.- Ariyari, Distt - Sheikhpura, At present resides in Badruddin Lane, Kolkata, West Bengal, P.S.- Jorasank, Kolkata - 70073

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Hare Ram Paswan s/o-Rambriksha Paswan vill-Vidhapur P.S.-Ariyari District-Sheikhpura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Syed. Rizwanul Haque, Advocate
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 16-11-2019 Heard Mr. Syed Rizwanul Haque, learned advocate for the appellant, Mr. Md. Fazal Rahman for opposite party no. 2 who has been noticed by this Court. The counsel for the State has rendered assistance in this matter.

The appellant has challenged the order dated 25.06.2019 passed by the learned 1st Additional District and Sessions Judge, Sheikhpura in A.B.P. No. 261 of 2019 arising out of Sheikhpura SC/ST P.S. Case No. 05 of 2019, whereby the prayer made on behalf of the appellant for grant of anticipatory bail for the offences under Sections 341, 323, 504 and 420 of the Indian Penal Code and Sections 3(ii)(Va),3(R)(S) of the SC/ST



Act has been rejected.

The allegation against the appellant is of having agreed to sell a plot of land to opposite party no. 2/informant for a consideration amount of more than Rs. One Crore. Rs. 5 lakhs is said to have been deposited by the informant to the appellant but the land was not registered. Later, the informant detected that the said property was sold by the appellant to one Ashok Paswan and Rajesh Paswan for a consideration amount of Rs. 15 lakhs. When the informant/opposite party no. 2 confronted the appellant, he is said to have abused the informant by taking his caste name and also assaulted him.

Learned counsel appearing for the appellant has submitted that an absolutely false case has been lodged by the informant which does not attract the offence under anyone of the provisions of the SC/ST Act. Even with respect to the offences under various Sections of the Indian Penal Code, it has been submitted that same is not attracted because of the following reasons; (a) there is no averments in the FIR with respect to mode of payment of Rs. 5 lakhs as part of the agreement to purchase the said property belonging to the appellant; (b) if the consideration amount of the property was fixed at Rs. 1,12,00,000/- then it does not appear to be



reasonable or probable that the property would be sold to Ashok Paswan and Rajesh Paswan for a pittance i.e. for Rs. 15 lakhs; (c) that the appellant has himself lodged a Title suit for cancelling the aforesaid conveyance of property in favour of Ashok Paswan and Rajesh Paswan on the ground of same having been obtained by the aforesaid two beneficiaries by adopting fraudulent means; (d) a case also has been lodged by the appellant against the aforesaid two persons who are said to have purchased the property even when the agreement with the informant was subsisting.

Taking into account the aforesaid facts, it clearly appears that no offence under the provision of SC/ST prevention of atrocities Act is made out. In the absence of any specific accusation against the appellant and the story narrated in the FIR being absolutely improbable, this Court is inclined to allow the appeal.

The appeal stands allowed. The impugned order dated 25.06.2019 is set aside.

On the appellant surrendering before the court below within a period of three weeks, whereupon he shall be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge,



Sheikhpura in A.B.P. No. 261 of 2019 arising out of
Sheikhpura SC/ST P.S. Case No. 05 of 2019.

(Ashutosh Kumar, J)

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