

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3487 of 2019

Arising Out of PS. Case No.-20 Year-2019 Thana- SC/ST District- Gaya

-
-
1. Ratneshwar Chakma, aged about 35 years, Gender-Male, Son of Sri Santi Kumar Chakma Resident of Buddhist Thai Bharat Society, Village - Mastipur, South of Main Temple, P.S.- Bodh Gaya, District- Gaya
 2. A.C. Lama @ Acharya Chodub Lama, aged about 68 years, Gender-Male, Son of Late Daba Lama Resident of Buddhist Thai Bharat Society, Village - Mastipur, South of Main Temple, P.S.- Bodh Gaya, District- Gaya

... .. Appellants

Versus

1. The State of Bihar
2. Rina Devi Wife of Ravi Kumar Resident of Mohalla - Bairagi, P.S. - Delha, District- Gaya

... .. Respondents

Appearance :

For the Appellants	:	Mr. Rahul Bhandari, Advocate
	:	Mr. Nishant Kumar Jha, Advocate
	:	Mr. Vivek Anand Amritesh, Advocate
For the Respondents	:	Mr. Sadanand Paswan, Special PP, SC/ST(POA) Act

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

7 28-11-2019 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail by order dated 28.05.2019 in A.B.P.No.99 of 2019 by the learned Special Judge, SC/ST, Act, Gaya in connection with SC/ST P.S.Case No.20 of 2019 under Sections 341, 323, 506/34, 377, 376 and 511 of the Indian Penal Code and Sections 3(1)(r)(s)(w)(i), 376(A-B), 376(DB) and 3(2)(V) of SC/ST Act.

According to complaint case, the appellants were



Buddhist priests engaged in a Thai temple. The informant was in service of the temple as cleaner. Her minor daughter aged about six years used to accompany her to the temple for the purpose of worship since January, 2014. The appellants were allegedly in the habit of taking the minor to their individual respective rooms and allegedly committed act which comes under definition of rape under Section 376 of the Indian Penal Code. The victim girl has supported the allegation in her statement under Section 164 of the Cr.P.C.

Submission of learned counsel for the appellants is that due to local politics arising out of dispute for the management, the informant has been set up in this case by the opponents of the appellants. In fact, the alleged conduct of the appellants was never reported to any authority in the past including to the husband of the informant which would be evident from the statement of the husband of the informant as recorded by the police.

The contention is that there is non-compliance of the mandates of law as stated by the Hon'ble Supreme Court in ***Priyanka Srivastava & Another v. State of Uttar Pradesh & Others (2015) 6 SCC 287*** in the matter of registration of a police on the basis of complaint case filed without affidavit.



Learned counsel for the appellants submits that the medical report does not corroborate the allegation of sexual assault as alleged. The further contention is that the appellants are also members of SC and ST community as offence under SC/ST is not applicable.

Learned counsel for the State opposed the prayer for bail on the ground of nature of allegation against the appellants.

I have gone through the allegation as well as the statement of the victim under Section 164 of the Cr.P.C. wherein she has alleged that the appellants used to put fingers in her private part, and also used to put their penis in the mouth of the victim. The act aforesaid need no corroboration by medical evidence. Both the acts constitute offence of rape individually..

Since there is material and serious allegation of commission of rape against a minor girl, I am not inclined to enlarge the appellants on anticipatory bail, hence, the prayer for anticipatory bail is declined. The appellants are directed to surrender in the court below within a fortnight and pray for regular bail.

(Birendra Kumar, J)

B.Kr./-

U			
---	--	--	--

