

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4235 of 2019

Arising Out of PS. Case No.-385 Year-2015 Thana- FATEHPUR District- Gaya

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1. ASHISH YADAV S/O Kuldip Yadav Resident of Village- Mochrak, P.S.- Fatehpur, District- Gaya.
 2. Duleshar Yadav @ Duleshwar Kumar S/O Prasad Yadav Resident of Village- Mochrak, P.S.- Fatehpur, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vijay Anand

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

2 18-11-2019 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 03.08.2019 passed by learned Exclusive Special Judge (SC/ST Act), Gaya in connection with Fatehpur P.S. Case No. 385/2015 registered under Sections 341, 323, 354, 354(A)(1), 504, 506/34 of the Indian Penal Code, Section 8 of POCSO Act and Section 3(1) (x) (xi) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



While the informant had gone to forest for grazing her she goat appellant Ashish Yadav started dragging her holding her hand with bad intention. On hulla made by her, her brother Satyendra Manjhi arrived there in her rescue. The appellants slated them in the name of their caste and assaulted them by means of lathi.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. As a matter of fact Satyendra Manjhi was found in objectionable position with the informant in the forest while the appellant and others were passing through the forest they caught him and brought before the Panches and fine of Rs. 2500/- was imposed upon them. Later on the informant lodged this false and frivolous case against the appellants at the instance of Birendra Kumar who happens to be scribe of the written report as there is a land dispute between the appellants and said Birendra Kumar. The allegation levelled against the appellants is not specific rather general and omnibus in nature. None has sustained injury in the occurrence. Slating the informant and other in the name of caste is said to have been made at the forest and not in public view, hence no offence under SC/ST Act is made out against the appellants.



Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge (SC/ST Act), Gaya in connection with Fatehpur P.S. Case No. 385/2015, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Prakash Chandra Jaiswal, J)

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