

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5524 of 2019

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

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1. Rafikul Islam @ Safikul Rehman S/O Abdul Hakim R/o Patharbasti Mohiuddinpur, P.S. and District - Kishanganj.
 2. Ful Begum @ Fulara Begum @ Fulwa W/O Rafikul Islam @ Safikul Rehman R/o Patharbasti Mohiuddinpur, P.S. and District - Kishanganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subodh Kumar Barnwal
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 16-12-2019 The instant appeal under section 14A(2) of the SC/ST (Prevention of Atrocities) Act, 1989 has been preferred against the rejection of bail of the appellants vide order dated 30.09.2019 passed in SC/ST P.S. Case no. 5 of 2019 registered for the offence under sections 341,323,504,506,420,406,409, 427 and 34 of the Indian Penal Code, section 138 of the Negotiable Instrument Act and section 3(i) (e) (r) (s) of the SC/ST Act.

As per the allegation in the FIR, the informant had given a sum of Rs. 3,57,000/- to the appellant no. 1 on the promise of getting him an employment in the Madarsa Board. He had taken the said amount showing himself to be an employee of the Madarsa Board. Subsequently, he was not ready to return the same. However, in course of time he issued two cheques, one dated 26.06.2018 for Rs. 50,000/- and the other dated 30.06.2018. It is stated that the cheques bounced and



were returned by the Bank to the informant. It is further stated in the FIR that when the informant sent a legal notice dated 08.05.2019 to the appellants, the appellants called him on 08.06.2019 to his house. He reached there at 09.00 a.m. and asked for his money. The appellant no. 1 as also his wife who is the appellant no. 2 herein started to abuse him and pushed him towards road. Thereafter, it is further stated that in public view they abused him in the name of his caste and as such the FIR. After investigation, charge sheet bearing no. 19 of 2019 was submitted on 30.08.2019 under sections 420, 406, 409, 341, 323, 504,506 and 34 of the Indian Penal Code and sections 3(1) (r) (s) of the SC/ST Act was submitted. Subsequently on perusal of the records of the case including the case diary, the learned Spl. Judge by his order dated 30.09.2019 was pleased to take cognizance for the offence under sections 341,323,504,506,420,406,409 and 34 of the Indian Penal Code read with section 138 of the N.I. Act and section 3(1) (e) (r) (s) of the SC/ST Act.

It is submitted by learned counsel for the appellants that the matter relates to transaction of money and even from reading of the FIR and the materials that has transpired in the course of investigation, a case only under section 138 of the N.I. Act would be made out against the appellants and not other sections. It is further submitted that the learned court below had committed error in taking cognizance under various sections of the IPC and under the SC/ST (Prevention of Atrocities) Act.

The application for bail is opposed by learned Spl. PP for the State.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case



and on perusal of the FIR, I find that there is specific allegation against the appellants of having abused the informant in the name of his caste and as such the Court is not inclined to grant bail to the appellants.

The appeal stands dismissed.

(Partha Sarthy, J)

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