

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5522 of 2019**

Arising Out of PS. Case No.-258 Year-2019 Thana- ATRI District- Gaya

1. Dinesh Sharma Son of Mahendra Thakur @ Mahendra Sharma Resident of Village-Naravat, P.S.-Atri, District-Gaya.
2. Nagendra Sharma @ Nagendra Thakur Son of Mahendra Thakur @ Mahendra Sharma Resident of Village-Naravat, P.S.-Atri, District-Gaya.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s	:	Mr.Arvind Kumar Singh, Advocate
For the Informant	:	Mr. Shailesh Kumar, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 16-12-2019 Heard learned counsel for the appellants and learned Spl.P.P. for the State.

Appellants, in the present appeal, are challenging the order dated 15.11.2019 passed in A.B.P. No. 275 of 2019 arising out of Atri P.S. Case No. 258 of 2019 registered under Sections 341, 323, 379, 354, 504 and 506/34 of the Indian Penal Code and Sections 3(i)(x) (s) (u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

By the impugned order the prayer for anticipatory bail of the appellants has been rejected by the learned Exclusive Special Judge, SC/ST, Gaya.

Learned counsel for the appellants submits that prior to lodgment of the present case being Atri P.S. Case No. 258 of 2019



the wife of appellant no. 1 has lodged Atri P.S. Case No. 257 of 2019 under various provisions of the Indian Penal Code against the husband of the informant and the other accused. The present case is, therefore, only a counterblast of the case lodged by the wife of appellant no. 1. It is further submitted that the wife of appellant no. 1 is Up-Mukhiya in the Gram Panchayat whereas the Gotini of the present informant is Mukhiya of the said Panchayat but is not discharging her duty because she is in custody in connection with a criminal case. It is his submission that out of this dispute that the wife of appellant no. 1 is discharging the duties of Mukhiya, the present FIR has been lodged. It is pointed out from the First Informant Report that the allegation against appellant no. 1 is that he had abused the informant by taking her caste name and further the appellant no. 2 had pulled up the Saree of the informant. So far as the allegation of assault is concerned, it is submitted that there is no allegation at all of causing assault against these appellants. The allegation of taking caste name and abuse is only superimposition for attracting the provisions of the SC/ST (POA) Act.

Learned counsel for the informant has opposed the prayer for anticipatory bail as according to him even if the allegation against appellant no. 1 is taken to be trivial in nature the appellant no. 1 must be made to surrender in the court below



because he had abused the informant by taking her caste name.

Learned Spl.P.P. for the State is present. However, in view of the submission already made on behalf of the informant the same has only been endorsed.

Considering the facts and circumstances of the case, wherein it is the submission of learned counsel for the appellants that because of some dispute between the two ladies who are holding the post of Mukhiya and Up-Mukhiya and further that prior to the present case the wife of appellant no. 1 has lodged the Atri P.S. Case No. 257 of 2019 in which she has alleged that the wife of this informant and others had entered her house lashed with lathi , danda and pistol and then assaulted her husband and the present case has been lodged thereafter, the nature of allegations being that the appellant no. 1 had abused in the caste name only and the appellant no. 2 pulled the Saree but the allegations have not been substantiated, at this stage the Court is willing to accept the submission of learned counsel for the appellants that it may be a case of superimposition of the allegation, this Court is inclined to set aside the impugned order. The impugned order dated 15.11.2019 passed in A.B.P. No. 275 of 2019 arising out of Atri P.S. Case No. 258 of 2019 by learned Exclusive Special Judge, SC/ST, Gaya is, thus, set aside. The appeal is allowed.



Let the appellants above named, in the event of their arrest or surrender within a period of four weeks from today be enlarged on bail on furnishing bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya in connection with Atri P.S. Case No. 258 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e. :

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

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