

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.170 of 2020

Arising Out of PS. Case No.-264 Year-2016 Thana- SIKARPUR District- West Champaran

1. Virendra Tiwari, aged about 49 years, Male, Son of Late Bachchu Tiwari, Resident of Village-Bhasurari, P.S.- Shikarpur, District-West Champaran.
2. Ravindra Tiwari @ Ravindranath Tiwari, aged about 64 years, Male, Son of Late Bachchu Tiwari, Resident of Village-Bhasurari, P.S.- Shikarpur, District - West Champaran.
3. Upendra Tiwari, aged about 44 years, Male, Son of Late Bachchu Tiwari, Resident of Village-Bhasurari, P.S.- Shikarpur, District-West Champaran.
4. Jhuna Tiwari, aged about 26 years, Male, Son of Virendra Tiwari, Resident of Village-Bhasurari, P.S.- Shikarpur, District - West Champaran.
5. Shishu Tiwari, aged about 29 years, Male, Son of Virendra Tiwari, Resident of Village-Bhasurari, P.S.- Shikarpur, District - West Champaran.
6. Mahant Yadav @ Mahanth, aged about 39 years, Male, Son of Late Chandar Yadav, Resident of Village-Bhasurari, P.S.- Shikarpur, District-West Champaran.
7. Vivek Tiwari, aged about 27 years, Male, Son of Upendra Tiwari, Resident of Village-Bhasurari, P.S.- Shikarpur, District- West Champaran.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr.Bimlesh Kumar Pandey, Advocate.
For the Respondent	:	Mrs.Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 18-12-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the parties.

The matter relates to grant of anticipatory bail to the



appellants in connection with Shikarpur P.S. Case No. 264 of 2016, registered for the offences under Sections 341, 323, 325, 452, 382 of the I.P.C. and 3 (1) (x) of the SC/ST Act in which cognizance has been taken under Sections 341, 323, 325, 504/34 of the I.P.C. and 3(1)(x) of SC/ST Act.

The prosecution case, in short, is that the complainant/informant was making *Tat* of Kanhaiya Lal, in the meanwhile, appellants and others came with arms in their hands, Upendra Tiwari (Appellant no. 3) came to the door of Kanhaiya Lal with *Gun* and *Katta* in his hand and started abusing the brother of the complainant/informant and objected for making *Tat* of Kanhaiya Lal. The complainant/informant and his associates replied that they are labourers and wherever they get job they have to do. After that Virendra Tiwari (appellant no. 1) ordered to other accused to assault the complainant/informant and his associates. Upon which, Mahanth Yadav (appellant no. 6) and others started assaulting the complainant/informant with *Lathi* and *Danda*, as a result of which, the complainant/informant and his brother sustained injuries. The informant and his brother entered into the house of Kanhaiya Lal to save their lives, accused persons also entered into the house of Kanhaiya Lal and looted household articles worth Rs.



70,000/- and Virendra Tiwari (appellant no. 1) took Rs. 13,000/-, Shishu Tiwari (appellant no. 5) took food grains from the house. Other accused took Cycle and utensils from the house. Anyhow, they saved their lives. The complainant/informant and others went to Shikarpur Police Station for lodging F.I.R. but the case was not registered hence, they filed complaint case which came to be registered as an F.I.R. under Section 156 (3) of Cr. P.C.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. The appellants have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against them. The present prosecution has been instituted under Section 156 (3) of Cr. P.C. The complaint was lodged after six days of the occurrence. There is case and counter case between the parties. Free fight is alleged to have taken place between the parties. Injury on the accused side has not been explained by the prosecution. The prosecution has not come with clean hands. In course of investigation, the police has found the case to be false against appellant nos. 2, 3 and 7. The court had differed with the police report and took cognizance against the appellants. The alleged occurrence has not taken place within public view.



Hence, no offence under SC/ST Act is made out.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 27.11.2019, passed by learned Additional Sessions Judge Ist-cum-Special Judge, West Champaran at Bettiah, in A.B.P. No. 2779 of 2019 in connection with Shikarpur P.S. Case No. 264/2016, is set aside. The criminal appeal is allowed.

Accordingly, the appellants, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge Ist-cum-Special Judge, West Champaran at Bettiah, in connection with Shikarpur P.S. Case No. 264/2016.

(Sudhir Singh, J)

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