

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.366 of 2020

Arising Out of PS. Case No.-232 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. Rakesh Rai, aged about 42 years, Male, Son of Kapildeo Rai
 2. Jaleshwari Devi, aged about 60 years, Female, Wife of Kapildeo Rai
 3. Kapildeo Rai, aged about 52 years, Male, Son of Partilal Poddar
 4. Gita Devi, aged about 40 years, Female, Wife of Rajiv Rai
 5. Rajiv Rai @ Rajiv Kumar Rai, aged about 44 years, Male, Son of Kapildeo Rai, all resident of Village - Harpur Mahamada, P.S.- Pusa, District - Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Santoshi Devi (in SA it has been wrongly written as Santosh Devi), aged about 35 years, Female, Wife of Birju Mahto, Resident of Village - Harpur Mahmda, P.S.- Pusa, District - Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Jitendra Narain Sinha, Advocate
For the State	:	Mr.Binay Krishna, A.P.P.
For Respondent No.2	:	Mr. Surendra Kishore Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 15-12-2020 Heard the parties through the virtual court proceeding.

The appeal is against the order dated 12.12.2019 passed by learned 1st Additional Sessions Judge, Samastipur in A.B.P. No.3040 of 2019, whereby the Anticipatory Bail Petition of the appellants in connection with T.R. No.1236 of 2019 arising out of Complaint Case No.232 of 2019 for the offences punishable under Sections 147, 323, 341, 354B, 379, 504 of the Indian Penal Code and Sections 3 (1)(r)(s)(w) of SC/ST



(Prevention of Atrocities) Act, has been rejected.

The brief facts giving rise in this memo of appeal is that on 07.08.2019, the opposite party no.2 filed a Complaint alleging therein that when she was sitting at her Darwaja the accused persons are armed with deadly weapon and the appellant no.3 asked that she used to protest the accused persons upon which appellant no.5, Rajiv Rai abused and subsequently she was assaulted by the accused persons and the appellant no.1, Rakesh Rai pulled the Sari of the Complainant resultant the complainant became naked.

It is further alleged that on seeing the incident, Mala Kumari the daughter of the complainant came who was abused by the appellant no.2 Jaleshwari Devi as well as she was assaulted. The accused Kapildeo Poddar spit on the mouth of the complainant and the appellant no.4, Gita Devi taken away bucket worth Rs.300/-. By the act of the accused persons, the prestige of complainant lowered in society.

Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. He further submits that the occurrence took place on 05.08.2019 and the complaint was filed on 07.08.2019. He further submits that instant case has been filed on 07.08.2019



only with a view to put undue pressure and to make out a defence when she has learnt about the case vide Pusa P.S. Case No.08 of 2019 dated 13.01.2019 lodged against the prosecution party on the basis of letter no.08 of 2019 dated 12.01.2019 of the appellant no.2 namely Jaleshwari Devi, given to police in the capacity of Sarpanch that was lodged under Sections 323, 341, 353, 427, 504/34 of the I.P.C. He further submits that the prosecution party did not change their attitude and used to abuse and assault to Asha Devi for which Pusa P.S. Case No.14 of 2019 dated 14.03.2019 and Pusa P.S. Case No.36 of 2019 dated 18.08.2019 has been registered against the present complainant and her family member under various section of the I.P.C. including 307 and 354A of the I.P.C. Learned counsel for the appellants further submits that after taking bail in the aforesaid case, the instant case came in picture on 07.08.2019 for an occurrence dated 05.08.2019 on false and concocted allegation.

Learned A.P.P. has vehemently opposed the prayer for bail.

In the facts and circumstances of the case, let the above named appellants be released on bail, in the event of their arrest or surrender before the learned court below within a period of six weeks from today on furnishing bail bond of



Rs.25,000/- (twenty five thousand) each only with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Samastipur in connection with T.R. No.1236 of 2019 arising out of Complaint Case No.232 of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

Accordingly, the order dated 12.12.2019 is set aside and appeal is allowed.

(Anjani Kumar Sharan, J)

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