

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.686 of 2020

Arising Out of PS. Case No.-21 Year-2019 Thana- SC/ST District- Patna

1. Surendra Prasad Son of Late Raj Nandan Prasad Resident of Gate No. 52 in front of Ram Janki Mandir, Rajapur Pul, Mainpura, P.S.- Patliputra, District - Patna.
2. Shankar Kumar Son of Surendra Prasad Resident of Gate No. 52 in front of Ram Janki Mandir, Rajapur Pul, Mainpura, P.S.- Patliputra, District - Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Dineshwar Prasad Singh
For the Respondent/s	:	Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2. 28-09-2020 The aforesaid appeal is taken-up through video conferencing.

At the outset, learned counsel for the appellants informs that during pendency of this appeal, appellant no. 2 namely Shankar Kumar has been arrested and as such, this appeal, so far as appellant no. 2 is concerned, has become infructuous.

Accordingly, the appeal, so far as appellant no. 2 namely Shankar Kumar is concerned, stands dismissed as same has become infructuous.

Heard counsel for the appellant, learned Special P.P. as well as learned counsel for the informant.



The present appeal has been filed for setting aside the order dated 24-12-2019 passed by learned A.D.J.-VIII cum Special Judge, SC/ST Act, Patna in A.B.P. No. 9859 of 2019 (arising out of Special Case No. 264 of 2019, corresponding to SC/ST P.S. Case No. 21 of 2019) registered for the offence punishable under Sections 341, 323, 379, 504, 506/34 of the Indian Penal Code and Sections 3(i)(s), 3(2)(va) of SC/ST Act, whereby the prayer for anticipatory bail of appellant Surendra Prasad and co-accused Shankar Kumar was rejected.

The prosecution case has been initiated on the basis of a complaint lodged by the complainant/informant stating therein that on 30-12-2018 at 8:30 AM, while he was working in his office, the appellant Surendra Prasad and co-accused Shankar Kumar abused and assaulted him by telling his caste name. It is further alleged that appellant Surendra Prasad also took away Rs. 1300/- (thirteen hundred) from his (complainant) pocket.

It is submitted on behalf of appellant that alleged occurrence took place on 30-12-2018, whereas complaint petition has been filed belatedly after more than six months on 07-06-2019 and there is no explanation for the same. It is further submitted that present case is nothing but a counter blast of a case filed by co-accused Shankar Kumar (appellant no. 2



earlier), vide Patliputra P.S. Case No. 593 of 2018, against brother of the complainant/informant. It is further submitted that a title suit is also going on between the parties, vide Title Suit No. 189 of 2019, and only to put pressure on appellant's side, present case has been filed. It is also submitted that no case under the SC/ST Act is made out against the appellant.

Learned Special P.P. as well as learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of appellant and submitted that the appellant, being a member of police force, always tries to put pressure on the complainant.

However, considering the aforesaid facts & circumstances as well as the fact that there is dispute between the parties and title suit is already going on between them, this appeal is allowed and the impugned order dated 24-12-2019 passed by learned A.D.J.-VIII cum Special Judge, SC/ST Act, Patna in A.B.P. No. 9859 of 2019 (arising out of Special Case No. 264 of 2019, corresponding to SC/ST P.S. Case No. 21 of 2019) is set aside.

Accordingly, in the event of arrest or surrender within a period of eight weeks from the date of receipt/production of copy of this order, let the appellant namely Surendra Prasad be



enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. VIII-cum-Special Judge, SC/ST Act, Patna in connection with Special Case No. 264 of 2019, arising out of SC/ST P.S. Case No. 21 of 2019, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Singh, J.)

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