

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1668 of 2020

Arising Out of PS. Case No.-14 Year-2020 Thana- DHANGAI District- Gaya

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1. Bhagirath Yadav @ Randhir Yadav Son of Dhana Yadav Resident of Village- Rebda, P.S.- Dhangai and District- Gaya.
 2. Surendra Yadav Son of Jagdish Yadav Resident of Village- Rebda, P.S.- Dhangai and District- Gaya.
 3. Pradeep Yadav @ Pradip Kumar Son of Shivnandan Yadav Resident of Village- Rebda, P.S.- Dhangai and District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Avinash Kumar Singh, Adv

For the Respondent/s : Mrs. Usha Kumari no.1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

3 07-12-2020 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State, through video conferencing.

The instant appeal has been filed by the appellants against the order dated 1.6.2020 passed by the learned Exclusive Special Judge, SC & ST Act, Gaya whereby the prayer for bail of the appellants in connection with Dhangai P.S. Case No. 14 of 2020 registered under sections 307, 147, 148, 149, 342, 448, 452, 323, 325, 354, 504, 506, 427 and 379 of the Indian Penal Code and sections 3(1)(r)(s), 3(2)(va) and 3(2)(v) of the SC & ST Prevention and Atrocities Act, was rejected.

As per allegation in the FIR, it is stated by the informant that one Mahadev Yadav fell down from the terrace of his house and died in course of treatment. It is stated by him that



the relatives of Mahadev Yadav started alleging against the appellants that it was as a result of poisoned liquor supplied by them that had resulted in the death of Mahadev Yadav. It is stated that 21 named accused persons including the three appellants herein and 70-80 unknown persons came variously armed, destroyed the goods etc. of the informant and took away Rs. 1.5 lakh. It is further stated that the appellant no. 2 assaulted Sushila Devi injuring her knee while the other accused persons including the appellant no.1 have also assaulted others.

It is submitted by learned counsel for the appellants that the allegations as levelled in the FIR are false and concocted. The same has been made for the sole reason of the informant building up a defence in the case/allegations made against him for the death of Mahadev Yadav. It is stated that no offence under section 307 of the Indian Penal Code is made out as the allegations in the FIR of assault by more than 80 persons are not supported by the injury report. With respect to the allegation of the appellant no. 2 having assaulted Sushila Devi, it is submitted that although the allegations are false, nevertheless, it is admittedly on a non-vital part of the body and there is no allegation of repetition of blow. The appellant nos. 1 and 2 are in custody since 25.4.2020 and the appellant no. 3 is in custody since 17.4.2020. They have no criminal antecedent.



The appeal is opposed by learned Spl. P.P. for the State who submits that not only the three appellants are named in the FIR but there is specific allegation against the appellant no. 2 of having assaulted Sushila Devi and causing grievous injury.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the submissions made on behalf of the appellants together with the appellants being in custody since April, 2020 and having no criminal antecedent, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 1.6.2020 passed by the learned Exclusive Special Judge SC/ST Act, Gaya is set aside.

The three appellants are directed to be enlarged on bail in connection with Dhangai P.S. Case No. 14 of 2020 on furnishing bail bond of Rs. 10,000/ (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC & ST Act, Gaya.

(Partha Sarthy, J)

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