

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1498 of 2020**

Arising Out of PS. Case No.-242 Year-2020 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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1. Nitish Kumar Sharma, Male, aged about – 17 yrs., Son of Deepak Sharma
 2. Aruna Devi, Female, Aged about – 36 yrs., Wife of- Deepak Sharma
 3. Vishnu Sharma, Male, Aged about – 32 yrs., Son of - Mahesh Sharma
 4. Raj Kumar Sharma, Male – 33 yrs., Son of - Mahesh Sharma
All Resident of - Koyla ghat, Police Station - Jogsar, District - Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sagar Suman, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

2 25-09-2020 Heard Mr. Sagar Suman, learned counsel for the appellants and Mr. Binary Krishna, learned Spl. Public Prosecutor appearing for the State through video conferencing.

Learned counsel for the appellants at the very outset submits that during the pendency of this appeal appellant no. 4 – Raj Kumar Sharma has been arrested and this appeal against him has become infructuous.

Accordingly, learned counsel seeks permission to withdraw this appeal against appellant no. 4.

Permission is granted.

This appeal is dismissed as withdrawn insofar as



appellant no. 4 - Raj Kumar Sharma is concerned.

The present appeal is directed against the order dated 09.06.2020 passed by learned Addl. District & Sessions Judge – III – cum – Special Judge (S.C. / S.T. Act), Bhagalpur in A.B.P. No. 845 of 2020 arising out of Kotwali (Jogsar) P.S. Case No. 242 of 2020 under Section 341 , 323 , 504 , 34 of the I.P.C. and Section 3 (1) (r) (s) of the S.C. / S.T. Act whereby the prayer for anticipatory bail of the appellants has been rejected.

With regard to appellant nos. 1, 2 & 3, learned counsel for the appellants submits that prosecution story lodged by one Rani Devi in brief is that on 27.04.2020 the son of the informant was dusting blanket on the roof in the evening and during that process the dust was blowing towards the house of the appellants upon which appellant no. 1 allegedly abused the son of informant and thereafter son of the informant came down and told this to the informant and when the informant went to ask about the reason for abuse, it has been alleged that accused persons abused the informant and her family members and called them by caste name.

Learned counsel for the appellants submits that both the parties are close door neighbours and there was a free fight



between them on a trivial issue of blowing the dust. Learned counsel further submits that in fact for the occurrence which had taken place on the same date and time an FIR vide Kotwali (Jogsar) P.S. Case No. 240 of 2020 has been lodged by appellant no. 2 against the informant and others and the present case has been lodged in retaliation of the F.I.R. lodged by the appellant no. 2 which is prior in time. Learned counsel further submits that there was a land dispute between the parties also and Police Station Diary was also entered on the complaints of the appellants earlier (Annexure -5). Learned counsel further submits that the allegation of calling the informant and her family members by caste name is not in full public view in order to humiliate or insult them.

Having regard to the submissions made by the parties and taking into consideration the materials available on record , this appeal is allowed and the impugned order dated 09.06.2020 passed by learned Addl. District & Sessions Judge – III – cum – Special Judge (SC / ST Act, Bhagalpur) in A.B.P. No. 845 of 2020 arising out of Kotwali (Jogsar) P.S. Case No. 242 of 2020 is set aside.

Accordingly, in the event of arrest or surrender by the appellant nos. 1, 2 & 3 namely, Nitish Kumar Sharma, Aruna



Devi and Vishnu Sharma respectively before the court below within six weeks from today, they shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Addl. District and Sessions Judge – III cum Special Judge (SC / ST Act, Bhagalpur) / court concerned in connection with Kotwali (Jogsar) P.S. Case No. 242 of 2020, subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.

It is made clear that at the time of furnishing bail bond all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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