

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1907 of 2020**

Arising Out of PS. Case No.-39 Year-2019 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Kishore Kumar Son of Bijay Kumar Mishra Resident of Village - Tulsinagar, Bank Colony, P.S. Tilkamanjhi, District- Bhagalpur.
 2. Ratan Kumar Mishra Son of Biajy Kumar Mishra Resident of Village - Tulsinagar, Bank Colony, P.S. Tilkamanjhi, District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mosomat Usha Devi Wife of Late Motilal Paswan Resident of Village - Jawaripur, P.S. - Tilkamanjhi, District - Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ranjan Kumar Jha
For the Respondent/s : Mrs.Usha Kumari

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 17-12-2020 Heard learned counsel for appellants and learned
Special P.P. for the State through video conferencing.

The present appeal has been filed against order dated 20-08-2020 passed by learned A.D.J.-III cum Special Judge, SC/ST Act, Bhagalpur in Complaint Case No. 39 of 2019 registered for the offence punishable under Sections 354(B), 307/34 of the Indian Penal Code and Section 3(i)(S)(R) of SC/ST Act, whereby the prayer for anticipatory bail of appellants was rejected.

As per the prosecution case, on 28-08-2019, the complainant got an information that these appellants have



assaulted her son and when she went to the house of appellants and asked the reason for the occurrence, she was abused and thereafter it is alleged that appellants pushed her and tried to outrage the modesty.

It is submitted on behalf of appellants that though allegation of assault, the complainant has also alleged regarding outraging of modesty, but the learned court below has taken cognizance of offence only under Section 307 of the I.P.C. and under the provision of SC/ST Act. It is further submitted that the alleged occurrence has taken place on 28th and 29th of August, 2019, but the complaint case has been filed on 9th September, 2019 i.e. after lapse of ten days and there is no explanation for delay. It is also submitted that from the complaint petition, it is apparent that so called abuse has taken place in the house, not in public place and as such, no case under the SC/ST Act is made out. The appellants have no criminal antecedent, as stated in paragraph – 3 of the memo of appeal.

Considering the aforesaid facts & circumstances as well as nature of allegation, the impugned order dated 20-08-2020 passed by learned A.D.J.-III cum Special Judge, SC/ST Act, Bhagalpur in Complaint Case No. 39 of 2019 is set aside and appeal is allowed.



Accordingly, let the appellants, above named, in the event of arrest or surrender within a period of eight weeks from the date of receipt/production of copy of this order, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned A.D.J.-III cum Special Judge, SC/ST Act, Bhagalpur in connection with Complaint Case No. 39 of 2019.

(Prabhat Kumar Singh, J.)

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