

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4961 of 2019

Arising Out of PS. Case No.-31 Year-2019 Thana- RAMNAGAR District- West Champaran

1. Bhola Kurmi, aged about 78 years (Male), Son of Late Birja Kurmi, Resident of Village- Nauka Tola, P.S.- Ram Nagar and District- East Champaran.
2. Anil Kurmi, aged about 47 years (Male), Son of Bhola Kurmi, Resident of Village- Nauka Tola, P.S.- Ram Nagar and District- East Champaran.
3. Vibha Devi, aged about 40 years (Female), Wife of Anil Kurmi, Resident of Village- Nauka Tola, P.S.- Ram Nagar and District- East Champaran.
4. Kalawati Devi, aged about 72 years (Female), Wife of Bhola Kurmi, Resident of Village- Nauka Tola, P.S.- Ram Nagar and District- East Champaran.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr.Mohammed Abu Haidar, Advocate.
For the Respondent	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 25-11-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Re.: I.A. No. 01 of 2020:

The aforesaid Interlocutory Application has been filed for recalling/modifying of the part of the order dated 21.01.2020 passed by the then Co-ordinate Bench of this Court in the present appeal whereby His Lordship has been pleased to order that ‘No one appears on behalf of the appellants. Learned



counsel for the appellants is permitted to remove the defect (s) as pointed out by the Stamp Reporter by 20.02.2020”.

On the grounds mentioned in the Interlocutory Application, I.A. No. 01 of 2020 is allowed.

Accordingly, I.A. No. 01 of 2020 stands disposed of.

Re. : **Cr. Appeal (SJ) No. 4961 of 2019.**

Heard learned counsel for the parties.

The matter relates to grant of anticipatory bail to the appellants in connection with Ram Nagar P.S. Case No. 31 of 2019, registered for the offences under Sections 147, 148, 149, 341, 323, 379, 354, 447, 504, 506 of the I.P.C. and Sections 3(i) (g), 3(i) (r) and 3(i) (z) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, in short, is that on 26.02.2019 at about 11 hours, all accused persons including the appellants arrived with arms etc., and forcibly erected and constructed the house over the land of the informant when the informant and others restrained from illegal construction then all the accused persons abused with caste names and assaulted the informant and when the informant entered into her house for saving her life, then all the accused persons entered into her house and assaulted them with fists and slaps, Lathi, Danda and when the



daughter of the informant interfered with, then Bhola Kurmi (appellant no. 1) attempted with pistol and threatened for shooting her and thereafter accused Bhola Kurmi with all four sons arrived and with their associate caught her daughter and roped her hands and legs and after broken lock of her box get away of Rs. 20,000/- and destroyed all the house articles and took her *Payal* of 18 Bhar with 10 *Sarees* and abused with caste names and injured her. On 27.02.2019 in the morning, 6.00 hours, assaulted her and ousted from the house.

It has been submitted on behalf of the appellants that the appellant no. 2 has got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the appellants. General and omnibus allegation has been made against them. No specific overt act is alleged against them. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is made out in the present case. There is case and counter case between the parties. Injury on the accused side has not been explained by the prosecution. The prosecution has not come with clean hands. The appellant nos. 3 and 4 are ladies. The appellant no. 1 is 78 years of age.

On behalf of the State, it is submitted that the



appellants are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 24.09.2019, passed by learned Ist Additional District and Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran, in A.B.P. No. 2248 of 2019, arising out of Ram Nagar P.S. Case No. 31 of 2019, is set aside. The criminal appeal is allowed.

Accordingly, the appellants, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory 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 Ist Additional District and Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran, in connection with Ram Nagar P.S. Case No. 31 of 2019.

(Sudhir Singh, J)

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