

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1059 of 2021

Arising Out of PS. Case No.-244 Year-2020 Thana- BHAGWANPUR District- Vaishali

1. RAGHUNATH MAHTO Son of Daroga Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.
2. Ram Janam mahto Son of Daroga Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.
3. Barelal Mahto Son of Ram Janam Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.
4. Rani Kumari D/o Jitendra Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.
5. Rita Devi Wife of Jitendra Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.
6. Munni Devi @ Muniya Devi Wife of Gopal Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.
7. Sunita Devi Wife of Chhotan Mahto Resident of Village- Barahroop, P.S.- Bhagwanpur, District- Vaishali.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Prakash Chandra Jha, Adv.
For the Respondent/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 29-10-2021 Heard learned counsel for the appellants through
video conferencing.

Learned counsel for the appellants is directed to
remove all the defects pointed out by the Stamp Reporter within
one month.

This appeal has been preferred on behalf of the
appellants under Section 14-A(2) of the Scheduled Castes and



Scheduled Tribes (Prevention of Atrocities) Act for setting aside the order dated 24.11.2020 passed by the learned 1st Additional District & Sessions Judge-cum-Spl. Judge, Vaishali at Hajipur in connection with Bhagwanpur P.S. Case No. 244 of 2020 registered for the offences punishable under Sections 341, 323, 354, 504, 506/34 of the Indian Penal Code & Section 3(1)(r)(s) and 3(2)(i)(a) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

Sanju Devi, wife of Ganesh Paswan, is the informant. She alleged that accused persons came to her door, abused her in filthy words and threatened to commit rape. Accused Raghunath Mahto (appellant No.1) caught her hair and Bare Lal Mahto (appellant No. 3) torn her clothes and the allegation against (appellant No. 5) Rita Devi is that she committed teeth bite to the informant and (appellant No. 7) Sunita Devi assaulted her children.

Learned counsel for the appellants has submitted that the entire allegation are false and frivolous. The real fact is that the husband of the informant Ganesh Paswan entered into the house of appellant No. 5, Rita Devi with an evil intention. He caught hold her and forcibly torn her clothes. Thereafter, Ganesh



Paswan, his wife Sanju Devi and Priti Kumari came to the house of the appellants and they badly assaulted the appellant No. 5 Rita Devi. Ganesh Paswan inflicted *Hasua* blow on her nose. In this respect, Rita Devi has lodged a case in Bhagwanpur Police Station on 16.9.2020. In order to save their skin from this case the informant has lodged false and concocted case after two days i.e. on 18.9.2020.

The xerox copy of the FIR and fardbeyan lodged by appellant Rita Devi is Annexure-2 at page-22 which shows that Rita Devi has lodged the case two days prior to the alleged occurrence. It appears that two days prior to this occurrence the informant's side had assaulted and misbehaved with the appellant No. 5. Rita Devi. As such, it cannot be assumed that the present case has been committed due to malicious feeling of caste. In my view, provisions of SC/ST (Prevention of Atrocities) Act are not attracted *prima facie* in this case.

Considering the facts and circumstances, the appeal is allowed and the impugned order dated 24.11.2020 passed by the learned 1st Additional District & Sessions Judge-cum-Spl. Judge, Vaishali at Hajipur is set aside.

Accordingly, in the event of arrest or surrender within four weeks from today, the appellants above-named, 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 1st Additional District and Sessions Judge-cum-Spl. Judge, Vaishali at Hajipur, in connection with Bhagwanpur P.S. Case No. 244 of 2020.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para-2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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