

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1255 of 2021

Arising Out of PS. Case No.-37 Year-2020 Thana- BHANGHA District- West Champaran

=====

1. RAVI SUBBA @ RAVI BAHADUR SUBBA, S/o Awadhesh Subba @ Awadhesh Prasad Resident of Rampur, Mishan, P.S.- Bhangaha, District- West Champaran.
2. Awadhesh Subba @ Awadhesh Prasad S/o Late Laxman Subba Resident of Rampur, Mishan, P.S.- Bhangaha, District- West Champaran.
3. Dilip Subba @ Dilip Kumar S/o Awadhesh Subba @ Awadhesh Prasad Resident of Rampur, Mishan, P.S.- Bhangaha, District- West Champaran.
4. Rajkumari Devi W/o Late Ganesh Subba Resident of Rampur, Mishan, P.S.- Bhangaha, District- West Champaran.
5. Umawati Devi W/o Awadhesh Subba @ Awadhesh Prasad Resident of Rampur, Mishan, P.S.- Bhangaha, District- West Champaran.
6. Simran Devi W/o Manoj Mahato Resident of Velsandi, P.S.- Gaunaha, District- West Champaran.
7. Manoj Mahato @ Manoj Kaji S/o Sheshkant Kaji Resident of Velsandi, P.S.- Gaunaha, District- West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 02-07-2021

Heard Mr. Bimlesh Kumar Pandey, learned



Advocate for the appellants and Mr. Binay Krishna, learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 26.11.2020, passed by the learned Additional District and Sessions Judge 1st cum Special Judge, Bettiah, West Champaran, in A.B.P. No. 1801 of 2020, arising out of SC/ST Bhangaha P. S. Case No. 37 of 2020, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences punishable under Sections 147, 148, 149, 341, 323, 427, 307, 354 and 504 of the Indian Penal Code and Section 3(i)(r)(s)(v) (a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

It has been alleged in the F.I.R. that the appellants came to the house of the informant and assaulted him and others.

It has been submitted on behalf of the appellants that from the narration in the F.I.R. itself, it would appear that there is a land dispute between the



parties which has been continuing since before.

So far as appellant nos. 3 to 7 are concerned, they are not stated to have assaulted or abused anyone of the members of the prosecution party. So far as the accusation against appellant nos. 1 and 2 are concerned, they are said to have pulled and assaulted the informant, respectively. However, the injury report of Lilawati Devi, who is one of the victims, shows that she has received simple injuries caused by hard and blunt substance. The informant also has received simple injuries.

The learned counsel for the appellants, therefore, has submitted that in absence of any eye-witness accounts to the aforesaid occurrence and in view of past enmity, the charges have been over exaggerated.

So far as the offences under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is concerned, it has been submitted that the appellants are themselves members



of Scheduled Tribes and therefore it would not be expected of them to demean the members of the prosecution side by taking their caste name.

The learned Advocate for the appellants, therefore, submits that no offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can at all be said to have been made out.

For the afore-stated reasons, the order dated 26.11.2020, passed by the learned Additional District and Sessions Judge 1st cum Special Judge, Bettiah, West Champaran, is set aside.

The appeal stands allowed.

The appellants, above-named, are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned



Additional District and Sessions Judge 1st cum Special
Judge, Bettiah, West Champaran, in connection with
SC/ST Bhangaha P. S. Case No. 37 of 2020, subject to
the conditions as laid down under Section 438 (2)
Cr.P.C.

(Ashutosh Kumar, J)

skm/-

U		T	
---	--	---	--

