

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1294 of 2021

Arising Out of PS. Case No.-139 Year-2020 Thana- JANTA BAZAR District- Saran

1. BALIRAM MAHTO Son of Shree Mahto R/o Village - kateya, P.S. - Janta Bazar, District - Saran.
2. Binod Mahto Son of Baliram Mahto R/o Village - kateya, P.S. - Janta Bazar, District - Saran.
3. Pramod Mahto Son of Baliram Mahto R/o Village - kateya, P.S. - Janta Bazar, District - Saran.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 19-07-2021 Heard Mr. Krishna Kant Singh, learned counsel for the appellants and Mr. Binay Krishna, learned Spl. PP for the State.

The appellants have challenged the order dated 04.12.2020 passed by the learned Ist Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 1997 of 2020 arising out of Janta Bazar P.S. Case No. 139 of 2020, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 341, 323, 354, 379, 504, 506 and 34 of the Indian Penal Code and Section 3/4 of Prevention of Witch (Dain) Act, 1999 and Sections 3(1)(r)(s)(w) of the SC/ST (Prevention of



Atrocities) Act has been rejected.

The accusation against the appellants is of having accosted the informant, insinuated about her being a sorcerer and when she objected, she was abused by taking her caste name. The informant claims to have been assaulted as well.

Learned counsel for the appellants has been submitted that an absolutely false case has been lodged against the appellants. The reason for saying so is that on the same day, when the subject FIR was lodged, another FIR was also lodged with similar allegation but at a different point of time.

Mr. Singh pointed out that if the factum of assault in the subject FIR was correct, then in the second FIR which has been brought on record by way of supplementary affidavit, there ought to have been reference of the present FIR.

Not having done so makes both the cases suspect.

However, learned Advocate for the appellants has also submitted that in the subject FIR, the informant has not received any injury whatsoever. Whatever injury the informant may have received, the appellants argue, those may have been caused in the second FIR, where there is a specific allegation of assault. But that would be



relevant when the appellants pray for bail in the second FIR about which reference has been made in the supplementary affidavit.

Mr. Binay Krishna, learned Spl. PP for the State however opposes and submits that the order impugned ought not to be interfered with in view of specific allegations against the appellants of having taken the caste name of the informant in an abusive manner and of having blamed the informant of committing necromancy.

After having perused the records and having heard the learned counsel for the parties, it appears that the offence under the Indian Penal Code are not made out. So far as the offence under SC/ST (Prevention of Atrocities) Act is concerned, it appears to have been exaggerated for the reason of making this case serious. So far as the accusation under the Prevention of Witch (Dain) Act, 1999 is concerned, merely on account of the appellants having told the informant that she is a sorcerer, the offence will not be made out.

For the facts aforesaid, the order dated 04.12.2020 is set aside.

The appeal stands allowed.

On the appellants surrendering before the court below within a period of eight weeks, they shall be



released on bail 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 Ist Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 1997 of 2020 arising out of Janta Bazar P.S. Case No. 139 of 2020.

(Ashutosh Kumar, J)

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