

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1740 of 2021

Arising Out of PS. Case No.-442 Year-2020 Thana- CHAPRA MUFFASIL District- Saran

1. SRIRAM OJHA @ SHIV RAM OJHA Son of Late Tejnarayan Ojha Resident of Village - Marahiya, Police Station- Chapra Muffasil, District - Saran at Chapra.
2. Chandra Shekhar Ojha @ Chandrashekhar Jha Son of Late Tejnarayan Ojha Resident of Village - Marahiya, Police Station- Chapra Muffasil, District - Saran at Chapra.
3. Hareram Ojha Son of Late Tejnarayan Ojha Resident of Village - Marahiya, Police Station- Chapra Muffasil, District - Saran at Chapra.
4. Patayak Ojha @ Radhe Krisna Ojha @ Patayak Son of Late Tejnarayan Ojha Resident of Village - Marahiya, Police Station- Chapra Muffasil, District - Saran at Chapra.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Uday Shankar Singh, Advocate Mr. Satya Prakash, Advocate
For the Respondent/s	:	Ms. Usha Kumari-i, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 12-08-2021 Heard Mr. Uday Shankar Singh, learned counsel for the appellants and Ms. Usha Kumari-I, learned Spl. PP for the State.

The appellants have challenged the order dated 16.01.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 3231 of 2020 arising out of Chapra Muffasil P.S. Case No. 442 of 2020, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 341, 323,



379, 504 and 34 of the Indian Penal Code and Sections 3(1)(r)(s) of the SC/ST (Prevention of Atrocities) Act has been rejected.

It has been alleged in the FIR that the appellants have assaulted the members of the prosecution party by hard and blunt substance, as a result of which, the informant, in particular, has received injuries. He is also said to have been divested of Rs. 10,000/- which was kept in the cash box.

It has been urged on behalf of the appellants that an absolutely false case has been lodged against them because of the earlier dispute in the Assembly elections of the State of Bihar. The wires are being pulled by someone else and the informant has been made to stand as the victim of assault by the appellants. The appellants have not been specifically attributed with any role except for their being part of the crowd which had collected at the shop of the informant.

None of the Sections of the IPC can at all be said to have been made out against the appellants. The accusation under the SC/ST (Prevention of Atrocities) Act is highly unjustified and appears to have been added in the list of charges only for the purposes of adding seriousness to the offence.

Regard being had to the aforementioned arguments



and taking into account that there is a possibility of the offence under Section SC/ST (Prevention of Atrocities) Act not being made out from the facts of this case against the appellants the order impugned dated 16.01.2021 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 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in A.B.P. No. 3231 of 2020 arising out of Chapra Muffasil P.S. Case No. 442 of 2020.

(Ashutosh Kumar, J)

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