

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1843 of 2021

Arising Out of PS. Case No.-25 Year-2016 Thana- SC/ST BETTIAH District- West
Champaran

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1. Samsad Mian, aged about 45 years, male.
 2. Mustaque Mian, aged about 37 years, male.
 3. Istaque Mian, aged about 36 years, male.
- All Sons of Rahman Mian and resident of Village - Barwa Parsauni, P.S. -
Inarwa, District - West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Rashmi Jha, Adv.
For the Respondent/s : Ms. Usha Kumari-1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 15-07-2021 Heard Ms. Rashmi Jha, the learned Advocate for

the appellants and Ms. Usha Kumari-1, the learned Special

Public Prosecutor for the State.

The appellants have challenged the order dated
27.02.2020 passed by the learned 1st Addl. Sessions Judge-
the Special Judge, S.C./S.T. Act, West Champaran, Bettiah
in connection with Bettiah SC/ST P.S. Case No. 25 of 2016
(Trial No. 75/2017), instituted for the offences under
Sections 341, 323, 504 and 34 of the Indian Penal Code



and Section 3(1)(r) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

The appellants are said to have assaulted and abused the prosecution party.

It has been submitted on behalf of the appellants that no such occurrence ever took place as has been reported in the F.I.R. There is a dispute over a construction on a particular land on which the parties have staked their respective claims. In fact, it has been urged, the informant and his associates are aggressors.

Considering the aforesaid aspect of the matter and finding the accusation to be false, the police did not charge-sheet the appellants. However, the Court below differed with the police report and took cognizance against the appellants under Sections 341, 323 and 504/34 of the I.P.C. and Section 3(1)(r) of the S.C./S.T. (Prevention of Atrocities) Act.

The learned counsel for the appellants has submitted that assuming every allegation in the F.I.R. to be



true, the offence under the S.C./S.T. (Prevention of Atrocities) Act cannot be made out as *prima facie* those allegations are highly exaggerated and meant for adding seriousness to the offence.

Regard being had to the aforesaid facts, the order dated 27.02.2020, referred to above, is set-aside.

The appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge-the Special Judge, S.C./S.T. Act, West Champaran, Bettiah in connection with Bettiah SC/ST P.S. Case No. 25 of 2016 (Trial No. 75/2017), subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The appeal stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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