

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1990 of 2021

Arising Out of PS. Case No.-25 Year-2020 Thana- SC/ST District- Bhagalpur

1. RAJESH KUMAR MISHRA @ PINTU MISHRA @ PINTU KUMAR MISHRA SON OF LATE NARESH MOHAN MISHRA @ LATE RAM NARESH MISHRA R/O MUHALLA- ISHAKCHAK, P.S.- ISHAKCHAK, DIST.- BHAGALPUR
2. SONU KUMAR MISHRA @ SONU MISHRA SON OF LATE NARESH MOHAN MISHRA @ LATE RAM NARESH MISHRA R/O MUHALLA- ISHAKCHAK, P.S.- ISHAKCHAK, DIST.- BHAGALPUR
3. MONU KUMAR MISHRA @ MONU MISHRA SON OF LATE NARESH MOHAN MISHRA @ LATE RAM NARESH MISHRA R/O MUHALLA- ISHAKCHAK, P.S.- ISHAKCHAK, DIST.- BHAGALPUR

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Diwakar Upadhyay- Advocate
For the Respondent/s : Mr. Sadanand Paswan- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 12-08-2021 Heard Mr. Diwakar Upadhyay, the learned Advocate

for the appellants and Mr. Sadanand Paswan, the learned Special

Public Prosecutor for the State.

The appellants have challenged the order dated

08.02.2021 passed by the learned 3rd Additional Sessions

Judge-cum-Special Judge (SC/ST Act), Bhagalpur in

connection with Bhagalpur SC/ST P. S. Case No.25 of 2020,

instituted for the offences under Sections 341, 323, 379,

504, 34 of the Indian Penal Code and Section 3(1)(r)(s) of

the Scheduled Castes & Scheduled Tribes (Prevention of



Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

It has been alleged in the F.I.R. that when the informant had visited a plot of land belonging to her along with her associates, the appellants came and abused her. She was also threatened to stop staking any claim over the said land. The informant was also abused by her caste name.

The learned Advocate for the appellants has submitted that the falsity of the accusation in the F.I.R. would be evident from the fact that the informant has not disclosed her true identity. She has tried to project herself as a hapless woman of Scheduled Caste community who is being harassed by the accused persons including the appellants. The fact of the matter is that she is the wife of one of the builders of the town with whom the appellants were under a contract for a sale of a flat. Some money also had been paid by the appellants but the flat was not given to them. On reminder to fulfill the obligation of a builder, the appellants have been slapped with the present charges.

Apart from this, it has been stated that there has been a dispute with respect to the land in question. The land actually belongs to the ancestors of the appellants but an attempt



was made to dispossess them by a stranger by filing a Title Suit. Even when the aforesaid Title Suit was dismissed, a power of attorney was issued by an imposter claiming descent from the same family as that of the appellants to one Anil Yadav who in turn has fraudulently sold the same to the husband of the informant.

There is a long drawn dispute over property and the present accusation is nothing but another case in the line of such litigation to harass the appellants and to stop her from staking her claim over the land which lawfully belongs to them. The accusation in the F.I.R. do not actually make out a case under the SC/ST (P.O.A.) Act. In paragraph-3 of the memo of appeal, there are references of many such cases and the learned Advocate for the appellants has submitted that such other litigations also are the offshoot of the dispute arising out of the land over which the appellants claim their title.

Regard being had to the afore-noted arguments, the order dated 08.02.2021 is set-aside.

The appeal stands allowed.

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 3rd Additional Sessions Judge-cum-Special Judge (SC/ST Act), Bhagalpur in connection with Bhagalpur SC/ST P. S. Case No.25 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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