

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2109 of 2021

Arising Out of PS. Case No.-41 Year-2020 Thana- MADHWAPUR District- Madhubani

1. Shyam Thakur @ Shyam Sundar Thakur, aged about 60 years (M), S/O Late Ram Khelawan Thakur, R/O Village-Piraukhar, P.S-Madhwapur, District-Madhubani.
2. Raushan Thakur @ Chhotan @ Chhotan Thakur, aged about 47 years (M), S/O Late Ram Khelawan Thakur, R/O Village-Piraukhar, P.S-Madhwapur, District-Madhubani.
3. Anita Devi, aged about 43 years (F), W/O Raushan Thakur @ Chhotan @ Chhotan Thakur, R/O Village-Piraukhar, P.S-Madhwapur, District-Madhubani.
4. Manish Thakur, aged about 18 years (M), S/O Raushan Thakur @ Chhotan @ Chhotan Thakur, R/O Village-Piraukhar, P.S-Madhwapur, District-Madhubani.
5. Rajnish Thakur, aged about 17 years (M), S/O Raushan Thakur @ Chhotan @ Chhotan Thakur, R/O Village-Piraukhar, P.S-Madhwapur, District-Madhubani.

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellants	:	Mr. Madhav Jha, Advocate.
For the Respondent	:	Mr. Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 25-05-2021 Heard learned counsel for the appellants and learned
Special P.P. for the State through Virtual mode.

Learned counsel for the appellants is directed to
remove the defects, as pointed out by the office, within a period
of four weeks from the date of restoration of normalcy.

The matter relates to grant of anticipatory bail to the
appellants in A.B.P. No. 711 of 2020, arising out of Madhwapur



P.S. Case No. 41 of 2020, registered for the offences under Sections 341, 323, 354, 379, 504/34 of the I.P.C. and 3(i)(r)(s), 3(2)(va) of SC/ST (POA) Act.

The prosecution case, in short, is that on 23.05.2020 at about 5.00 P.M. in the evening, the son of the informant, namely, Suraj Kumar, was grazing the cow in his field. There, Shyam Thakur was also grazing his buffalo from before. His son constructed a hut in that field for protection from the sunlight. He was also present in that hut. The buffalo of Shyam Thakur broken his hut and also run for assaulting him. Upon which, he threw a Dhela of soil upon the buffalo. Shyam Thakur saw the same, abused and assaulted his son. His son came and narrated the entire story to his mother. When the wife of the informant asked about it, upon which, Shyam Thakur abused her by saying her caste name. Thereafter, all accused persons abused his family members. Raushan Thakur @ Chhotan Thakur assaulted with Lathi on the head of the informant causing head injury. When the wife and cousin brother of the informant came to save him they have also been assaulted. Rakesh Thakur and Manish Thakur torn the Blouse of informant's wife and snatched Mangalsutra. The injured were treated in P.H.C., Madhwapur.

It has been submitted on behalf of the appellants that



the appellants have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against them. There is case and counter case between the parties. Free fight is alleged to have taken place between the parties. General and omnibus allegation has been made against the appellants. No specific overt act is alleged against the appellants. Injury on the appellants' side has not been explained by the prosecution. The prosecution has not come with clean hands. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 09.10.2020, passed in A.B.P. No. 711 of 2020, arising out of Madhwapur P.S. Case No. 41 of 2020 by learned Additional Sessions Judge-1st, Madhubani, is set aside. The criminal appeal is allowed.

Let the appellants above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on their personal bond to the satisfaction of the learned Additional



Sessions Judge-Ist, Madhubani, in connection with Madhwapur
P.S. Case No. 41 of 2020.

Once the normalcy is restored, the appellants shall
furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) each
with two sureties of the like amount each within a period of
eight weeks to the satisfaction of the court concerned in
connection with the aforesaid case.

(Sudhir Singh, J)

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