

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1084 of 2020

Arising Out of PS. Case No.-64 Year-2019 Thana- SIMRI District- Darbhanga

1. MD. ASHFAQUE KHAN @ ASHFAQ KHAN Son of Ayub Khan Resident of Village - Bestwara, P.S.- Simri, District- Darbhanga
2. Md. Imran Khan Son of Md. Ashfaque Khan @ Ashfaq Khan Resident of Village - Bestwara, P.S.- Simri, District- Darbhanga
3. Kalo Bibi @ Shamima Khatoon Wife of Md. Ashfaque Khan @ Ashfaq Khan Resident of Village - Bestwara, P.S.- Simri, District- Darbhanga
4. Mumtaz Khan @ Md. Mumtaz Khan Son of Late Chhetan Khan Resident of Village - Bestwara, P.S.- Simri, District- Darbhanga
5. Ruhi Khanam Wife of Mumtaz Khan Resident of Village - Bestwara, P.S.- Simri, District- Darbhanga

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Syed Ashfaque Ahmad
For the Respondent/s : Mr.Alok Kumar Jha.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 19-02-2021 Heard the parties.

Learned counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of four weeks.

The matter relates to grant of anticipatory bail to the appellants in connection with Simri P.S. Case No. 64 of 2019 registered for the offences under Sections 341, 323, 354, 504 & 506 of the Indian Penal Code and Sections 3(i)(r)(w) of the SC/ST Act.



Allegedly, while the informant was cooking food in her house, the accused persons having armed with weapons, entered the house and began to cause hurt. They abused by taking her caste name. The accused persons stated her to transfer her land.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. General and omnibus allegation has been made against the appellants. No specific overt act is alleged against the appellant Nos. 2 to 4. There is case and counter case between the parties. The injury on the side of the accused has not been explained by the prosecution. The prosecution has not come with clean hands. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

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

In view of the aforesaid facts and circumstances, the order dated 25-01-2020 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Darbhanga



in Simri P.S. Case No. 64 of 2019 is set aside. The present Criminal Appeal is *allowed*.

Accordingly, let the appellants, above named, in the event of arrest or surrender before the learned court below within a period of eight weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Darbhanga in connection with Simri P.S. Case No. 64 of 2019.

(Sudhir Singh, J)

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