

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2309 of 2021**

Arising Out of PS. Case No.-44 Year-2020 Thana- SC/ST District- Sitamarhi

-
1. MAHENDRA MAHTO S/O LATE RAM KHELAWAN MAHTO R/V BHUTAH, P.S. SONEBARSA, DISTRICT-SITAMARHI.
 2. RAJESH MAHTO S/O MAHENDRA MAHTO R/V BHUTAH, P.S. SONEBARSA, DISTRICT-SITAMARHI.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pushpendra Kumar Singh
For the Respondent/s : Mr. Mahendra Thakur

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 02-11-2021 Heard learned counsel for the appellants as well as learned APP, assisted by learned counsel for the informant.

Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

This appeal has been preferred on behalf of the appellant under Section 14-A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 09.02.2021, passed by the learned Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi, in connection with Sitamarhi SC/ST P.S.Case No. 44 of 2020, registered for the offences punishable under Sections 341, 323, 325, 354, 504 and



506/34 of the Indian Penal Code and Sections 3(1)(r)(s)(w) (i)/3(2) (va) SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per the allegation, the accused persons after teasing the informant Ramkali Devi, abused her by calling caste name. They were also raising voice to burn to death the informant by sprinkling petrol. They also assaulted her with *lathi*. The informant has mentioned in the FIR that it was the third incident.

Learned counsel for the appellants has submitted that they have been falsely implicated since the son of the informant was teasing the wife of petitioner no.1. He also submitted that there is delay of 22 days in lodging the FIR.

Learned counsel for the informant has submitted that perusal of the FIR itself shows that *prima facie* a case under the provisions of SC/ST Act is made out.

It has been mentioned in the FIR itself that it was the third indecent and delay in lodging the FIR has been explained in the *fardbeyan* itself, wherein the informant has mentioned that the reason for delay is the attempt of sorting out the matter for amicable settlement in the social *panchayat*.



There is not a single chit of paper which shows that the son of the informant was teasing the wife of appellant no.1

Prima facie, perusal of the FIR reveals that provisions of the SC/ST Act are clearly attracted. As such, the present appeal is dismissed as not maintainable.

If the appellants surrender and file regular bail, the same shall be considered and disposed of on its own merit, without being prejudiced by the present order.

Office shall ensure that all defects are removed by the appellant within the stipulated time provided in para 2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

HR/-

U		T	
---	--	---	--

