

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2404 of 2021

Arising Out of PS. Case No.-12 Year-2020 Thana- SC/ST District- Bhagalpur

1. MOHAMMAD SHAHNAWAZ @ BAZI @ MOHAMMAD SHAHBAZ, Son of Md. Kalimuddin Resident of Village- Chhoti Naki, P.S.- Sanokhar, District- Bhagalpur.
2. MOHAMMAD IZHAR @ MOHAMMAD IZHARL HAQUE, Son of Md. Kalimuddin Resident of Village- Chhoti Naki, P.S.- Sanokhar, District- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Diwakar Yadav
For the Respondent/s : Mr. A. G

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 24-08-2021

I. A. No. 01 of 2021

For the reasons stated in the Interlocutory Application for condonation of delay, the prayer is allowed.

The delay is condoned.

Heard Mr. Diwakar Yadav, learned Advocate for the appellants and Ms. Usha Kumar-I, learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 16.12.2020, passed by the learned Additional District



and Sessions Judge III cum Special Judge, (SC/ST Act), Bhagalpur, in A.B.P. No. 1490 of 2020, arising out of Bhagalpur SC/ST P. S. Case No. 12 of 2020, whereby the prayer made on behalf of the appellants for grant of anticipatory bail for the offences punishable under Sections 341, 323, 427, 354, 504 and 34 of the Indian Penal Code and Section 3(1)(r)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

The accusation against the appellants is of having assaulted and demeaned the members of the prosecution party.

It has been argued on behalf of the appellants that there is a dispute with respect to twenty (20) decimals of land, which the informant claimed to have received under the Bihar Privileged Persons Homestead Tenancy Act, 1947.

The learned counsel for the appellants has submitted that the accusation being frivolous, the parties



have settled their differences and the informant does not wish to prosecute the appellants any further.

The appellants are students.

With respect to the land dispute between the parties, the appellant no. 1 had also got a station diary entry recorded on 26.06.2020, i.e., prior to the lodging of the subject F.I.R.

In the background of the afore-stated facts, no offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can at all be said to have been made out.

For the afore-stated reasons, the order dated 16.12.2020, passed by the learned Additional District and Sessions Judge III cum Special Judge, (SC/ST Act), Bhagalpu, is set aside.

The appeal stands allowed.

The appellants, above-named, are directed to be released on bail, in the event of their arrest or surrender before the court below within a period of eight



weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge III cum Special Judge, (SC/ST Act), Bhagalpu, in connection with Bhagalpur SC/ST P. S. Case No. 12 of 2020, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

(Ashutosh Kumar, J)

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