

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2413 of 2021

Arising Out of PS. Case No.-315 Year-2020 Thana- SABAUR District- Bhagalpur

1. ISTESHAKE @ KALU MAULANA Son of Late Abdul Wahid Resident of Village - Banshi Tikar, P.S. Sabour, District - Bhagalpur.
2. Md. Maroof Son of Isteshake @ Kalu Maulana Resident of Village - Banshi Tikar, P.S. Sabour, District - Bhagalpur.
3. Md. Khurshru @ Mustaque Son of Md. Isteshak @ Kalu Maulana Resident of Village - Banshi Tikar, P.S. Sabour, District - Bhagalpur.
4. Bibi Moina Wife of Late Mustak Resident of Village - Banshi Tikar, P.S. Sabour, District - Bhagalpur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma- Sr. Advocate
For the Informant	:	Mr. Dhananjay Kumar Gupta- Advocate
For the Respondent/s	:	Mr. Sadanand Paswan- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 13-08-2021 Heard Mr. Yogesh Chandra Verma, the learned Senior Advocate for the appellants, Mr. Dhananjay Kumar Gupta, the learned Advocate for the informant and Mr. Sadanand Paswan, the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 10.03.2021 passed by the learned IIIrd Additional Sessions Judge-cum-Special Judge (SC/ST), Bhagalpur in connection with Sabour P. S. Case No.315 of 2020, instituted for the offences under Sections 406, 420, 34 of the Indian Penal Code and Section 3(i)(r)(s)/ 3(2)(va) 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 by the informant that he had given a huge amount of Rs.48,90,000/- to one Heena Fatma for purchase of a plot of land. That title to the land was later found to be disputed. The informant therefore wanted his money back. When he went to the house of aforesaid Heena Fatma for return of his money, the appellants and others misbehaved with him and turned him out of the house. He was not paid back his money.

Hence, the prosecution case.

The learned Advocate for the appellants has submitted that the offences under Sections 406 and 420/ 34 of the I.P.C. would not be made out against them. They are neither the vendors nor vendees nor are witnesses to the agreement to sell. Only because of their being related to Heena Fatma and her family members, they have been made accused in this case and have been alleged to be sitting in the house of Heena Fatma, when the informant had gone to her house. They are also alleged to have ill-treated the informant.

The learned Advocate for the appellants therefore has submitted that the accusation under the SC/ST (P.O.A.)



Act is not made out and it appears to have been added only to give a serious colour to this case. So far as the charge under various sections of the I.P.C. are concerned, those are not made out from the facts of this case.

Thus, the accusation against the appellants is absolutely misconceived.

Regard being had to the aforesaid submissions, the order dated 10.03.2021 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 IIIrd Additional Sessions Judge-cum-Special Judge (SC/ST), Bhagalpur in connection with Sabour P. S. Case No.315 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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