

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.2495 of 2021

Arising Out of PS. Case No.-65 Year-2020 Thana- SC/ST District- Kaimur (Bhabhua)

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1. Rajendra Pandey, S/ Mishri Pandey
 2. Arun Kumar Pandey, S/o Mishri Pandey
 3. Mishri Pandey, S/o Late Ramdev Pandey

All are R/o Village- Mohammadpur, P.S.-Mohania, District- Kaimur (Bhabhua).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pawan Kumar Singh, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 16-07-2021

Heard Mr. Pawan Kumar Singh, the learned

Advocate for the appellants and Mr. Binay Krishna, the

learned Special Public Prosecutor for the State.

The appellants have challenged the order dated

22.03.2021 passed by the learned Addl. District &

Sessions Judge-I-Cum-Special Juge, Kaimur at Bhabhua

in connection with Bhabhua SC/ST P.S. Case No. 65 of



2020, instituted for the offences under Sections 147, 148, 149, 341, 323, 379, 427, 504, 506 of the Indian Penal Code and Sections 3(i)(r)(s)/3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 27 of the Arms Act, whereby their prayer for grant of anticipatory bail has been rejected.

According to the F.I.R., the appellants and others are alleged to have demolished the boundary wall of the informant by employing a JCB machine. When this was objected, the appellants are said to have abused and assaulted the members of the prosecution party.

It has been submitted on behalf of the appellants that an absolutely false case has been lodged by him at the instance of the own relatives of the appellants with whom he has civil litigation. In fact, the ancestral property is yet to be partitioned but somehow or the other, the opposing faction of the appellants have usurped certain part of the ancestral property. A Title Suit has also been filed between the appellants and the



other members of their family, who are staking their exclusive respective claim over such property. The land in question was wrongly vended to the informant and others, which has also been challenged by the appellants. Vexed by this and exhorted by the other co-parceners of the property, the subject F.I.R. has been lodged against the appellants.

The learned counsel for the appellants has submitted that though they have been made accused earlier in several cases, the details of which have been provided in paragraph 3 of the *memo* of Appeal, but some of the cases from that list had been filed by the same informant and in most of the cases, the appellants are on bail. It has been submitted that the subject F.I.R. has been filed in order to put pressure on the appellants not to press the Title Suit with respect to demarcation of property amongst various share-holders. No offence under the SC/ST (Prevention of Atrocities) Act, it has been argued, can at all be said to have been made out from the background facts of the case.



Regard being had to the aforesaid submissions, the order dated 22.03.2021, referred to above, is set-aside.

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 Addl. District & Sessions Judge-I-Cum-Special Juge, Kaimur at Bhabhua in connection with Bhabhua SC/ST P.S. Case No. 65 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The appeal stands allowed.

(Ashutosh Kumar, J)

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