

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2560 of 2021

Arising Out of PS. Case No.-109 Year-2020 Thana- DINARA District- Rohtas

1. Dampi Mishra @ Shashikant Mishra Son Of Janardan Mishra Resident Of Village - Madukarpur, Police Station - Dinara, District - Rohtas.
2. Sakendu Mishra @ Durgesh Mishra Son Of Birendra Mishra @ Birendra Nath Mishra Resident Of Village - Madukarpur, Police Station - Dinara, District - Rohtas.
3. Priyanshu Mishra @ Priyanshu Kumar Son Of Lal Babu Mishra Resident Of Village - Madukarpur, Police Station - Dinara, District - Rohtas.
4. Bal Bhagwan Mishra @ Bal Bhagwan Son Of Anugrah Narayan Mishra Resident Of Village - Madukarpur, Police Station - Dinara, District - Rohtas.
5. Lal Babu Mishra @ Shailesh Mishra Son Of Awadh Bihari Mishra Resident Of Village - Madukarpur, Police Station - Dinara, District - Rohtas.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Atul Kumar Pandey- Advocate
For the Respondent/s : Mr. Binay Krishna- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 20-07-2021 Heard Mr. Atul Kumar Pandey, the learned Advocate

for the appellants and Mr. Binay Krishna, the learned Special

Public Prosecutor for the State.

A permission has been sought to withdraw the

application with respect to appellant nos.3, 4 and 5, who

have been arrested during the pendency of the appeal.

The appeal with respect to appellant nos.3, 4 and

5 is dismissed as withdrawn.

The appellant nos.1 and 2 have challenged the

order dated 08.02.2021 passed by the learned 1st Additional

Sessions Judge-cum-Special Judge, Rohtas at Sasaram in



connection with Dinara P. S. Case No.109 of 2020, instituted for the offences under Sections 147, 148, 149, 323, 324, 435 and 506 of the Indian Penal Code, Section 3(1)(r)(s) 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.

The accusation in the F.I.R. is that about 18 accused persons including the appellants participated in the affray when the informant was going ahead with the construction of a cowshed.

The learned Advocate for the appellant nos.1 and 2 has submitted that there is a dispute between the parties with respect to the passage of land and at the time of construction of the cowshed by the informant and his associates, there was a verbal scuffle about the passage of land. That dispute ultimately galvanized to a fight between the two parties.

There is a counter-version of the occurrence also lodged by Om Prakash Mishra (appellant no.2) whose case has been withdrawn because of his having been arrested. Though there are injuries on the person of the victims but



those are not grievous and are not in consonance with the ocular testimony.

Regard being had to the afore-stated facts, it has been urged that the offence under the SC/ST (P.O.A.) Act would not appear to make out, the order dated 08.02.2021, referred to above, is set-aside.

The appeal stands allowed.

The appellant nos.1 and 2, 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 Additional Sessions Judge, Rohtas at Sasaram in connection with Dinara P. S. Case No.109 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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