

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2854 of 2021

Arising Out of PS. Case No.-231 Year-2020 Thana- KHIJARSARAI District- Gaya

1. DWARIKA YADAV S/o- Late Ram Dhani Yadav Resident of Village- Khudai, P.S.- Khijar Sarai, District- Gaya.
2. Shiv Kumar S/o- Dwarika Yadav Resident of Village- Khudai, P.S.- Khijar Sarai, District- Gaya.
3. Raj Kumar S/o- Dwarika Yadav Resident of Village- Khudai, P.S.- Khijar Sarai, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rakesh Ranjan, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 30-09-2021 Heard learned counsel for the appellants and learned Spl.
P.P. for the State.

Counsel for the appellants is directed to remove the defect(s), as pointed out by the office, within a period of eight weeks.

Learned counsel for the appellants submits that the limitation, as pointed out by the office, be condoned in the light of the order dated 08.03.2021, passed by the Hon'ble Apex Court, in Suo Motu Writ Petition (Civil) No.03 of 2020.

Considering the submissions made on behalf of the learned counsel for the appellants, the limitation, as pointed out by the office, is condoned.

The appellants have challenged the order dated



16.09.2020 passed by learned Special Judge, SC/ST Act, Gaya in connection with Khijar Sarai P.S. case No.231 of 2020 registered for the offences under Sections 341, 342, 308, 385, 504, 506/34 of the Indian Penal Code and Sections 3(1)(r)(s)/3(w)(2)(va) of the SC/ST (Prevention of Atrocities) Act, 1989, whereby the prayer made on behalf of the appellants for grant of anticipatory bail has been rejected.

The prosecution case, in short, is that on 06.08.2020 while the informant was sitting outside his house along with his family members, the accused persons including the petitioners suddenly came there and started assaulting the informant and his family members. Petitioner Nos.1 and 3 assaulted Bugali Devi by iron rod, due to which she sustained head injury and accused Upendra Yadav assaulted Tusi Devi, due to which she sustained head injury and the accused persons abused the informant by taking his caste name.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. It is case and counter case between the parties. Free fight is alleged to have taken place. The injuries on the side of the accused persons have not been explained by the prosecution. The prosecution has not come with clean hands. The alleged occurrence has not taken place within



public view. Hence no offence under the SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.

Considering the aforesaid facts and circumstances, the order dated 16.09.2020 passed by the learned Special Judge, SC/ST Act, Gaya in connection with Khijar Sarai P.S. case No.231 of 2020 is set aside.

Let the appellants, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Gaya in connection with Khijar Sarai P.S. case No.231 of 2020.

The criminal appeal stands allowed.

(Sudhir Singh, J)

Narendra/-

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

