

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3099 of 2021

Arising Out of PS. Case No.-129 Year-2021 Thana- LALGANJ District- Vaishali

1. SUNIL SAHANI, S/O LATE SHANKAR SAHANI @ UMA SHANKAR SAHANI RESIDENT OF VILLAGE- MATHURAPUR, P.S-LALGANJ, DISTRICT-VAISHALI.
2. RAHUL KUMAR, S/O LATE SHANKAR SAHANI @ UMA SHANKAR SAHANI RESIDENT OF VILLAGE- MATHURAPUR, P.S-LALGANJ, DISTRICT-VAISHALI.
3. PINKI DEVI, W/O ANIL KUMAR RESIDENT OF VILLAGE- MATHURAPUR, P.S-LALGANJ, DISTRICT-VAISHALI.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Umesh Chandra Verma- Advocate
For the Informant	:	Mr. Vinay Kumar Mishra- Advocate
For the State	:	Ms. Usha Kumari 1- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 25-08-2021 Heard Mr. Umesh Chandra Verma, the learned Advocate for the appellants, Mr. Vinay Kumar Mishra, the learned Advocate for the informant and Ms. Usha Kumari-1, the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 07.08.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in connection with Lalganj P. S. Case No.129 of 2021, instituted for the offences under Sections 341,323, 376, 504, 506/ 34 of the Indian Penal Code and Section 3(i)(r)(s)(w)(i)/3(2)(v) of the



Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

The prosecutrix has alleged in the F.I.R. that after the death of her husband, one Anil Kumar enticed her and started living with her as her husband. The informant also took her children along with the aforesaid Anil Kumar. Later, the aforesaid Anil Kumar reneged on his promise of marrying the informant. When pressure was exerted by the informant for marrying her, aforesaid Anil Kumar fled away. When the informant went to the house of Anil Kumar, she was assaulted by the appellants who are the brothers and wife of aforesaid Anil Kumar respectively.

Hence, the F.I.R.

The learned Advocate for the appellants has submitted that so far as the appellants are concerned, they are not said to have done anything except for their having assaulted the informant when she had gone to the house of aforesaid Anil Kumar. So far as the allegation under Section 376 of the I.P.C. is concerned, the appellants are also not alleged to have facilitated aforesaid Anil Kumar in committing such crime. The averments made in the F.I.R.



clearly indicate towards the informant living with aforesaid Anil Kumar of her own choice after the death of her husband. Thus, the major part of the allegation is directed towards Anil Kumar. It is not unexpected that with this kind of relationship, the wife of Anil Kumar would behave properly with the informant.

In that view of the matter, the accusation in the F.I.R. is not reliable so far as the appellants are concerned. The mischief of SC/ST (P.O.A.) Act is also not attracted for the reason that Anil Kumar and the appellants are also the persons of Scheduled Caste community.

For the reasons afore-stated, the order dated 07.08.2021 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 the learned 1st Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in connection with Lalganj P. S. Case No.129 of 2021, subject to the conditions laid



down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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