

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3035 of 2021

Arising Out of PS. Case No.-13 Year-2021 Thana- MAHILA P.S. District- Madhepura

KAULESHWAR KUMAR SINGH @ KAULESHWAR SINGH Son of
Saryug Singh Resident of Village- Ghorashap, P.O. Ekawalganj, P.S.- Bihta,
District- Patna.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vikram Deo Singh, Advocate Mr. Shankar Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 25-08-2021 Heard Mr. Vikram Deo Singh, learned counsel
for the appellants and Mr. Binay Krishna, learned Spl. PP
for the State.

The appellant has challenged the order dated 10.06.2021 passed by the learned Additional District & Sessions Judge-I-cum-Special Judge, Madhepura in A.B.P. No. 360 of 2021 arising out of Mahila P.S. Case No. 13 of 2021, whereby the prayer made on behalf of the appellant for grant of pre-arrest bail for the offences under Sections 354D, 509, 506/34 of the Indian Penal Code and Sections 67(B), 67(C) of the I.T. Act and Sections 3(i)(r) of the SC/ST (Prevention of Atrocities) Act has been rejected.

The FIR has been lodged by a lady constable alleging that the appellant who also is a literate constable had sent salacious message on her Whats App



number. When this was objected and the informant made the appellant know that he had been treated as her brother, then the informant was abused by her caste name and was also attempted to be demeaned in a most disgraceful manner.

Learned counsel for the appellant has submitted that the accusation does not appear to be correct for the reason that the informant is herself a lady constable but with respect to such accusation, the FIR has been lodged after delay of seven days, without any plausible explanation.

It further appears from the averments made in the FIR itself that the Superintendent of Police who came to know about the aforesaid fact asked her to compound the case with the appellant. It has been argued that this also raises suspicion regarding the truthfulness of the informant. Apart from this, it has been submitted that assuming every allegation in the FIR to be true, Section 354D IPC would have no application. Sections 67(B) and 67 (C) of the IT Act is no longer in the statute book.

The learned counsel for the appellant has further submitted that even the message which has been transcribed in the FIR does not make out a case either under anyone of provisions of the IPC or under the



SC/ST (Prevention of Atrocities) Act.

An additional argument has been raised that such message was only for the consumption of the mobile telephone holder; thus precluding any possibility of such message having been seen or heard by any member of the public.

Learned counsel for the petitioner has further submitted that there is some confusion in the mind of the informant regarding the conduct of the appellant and therefore, this case has been lodged.

For the arguments advanced, the order dated 10.06.2021 is set aside.

The appeal stands allowed.

On the appellant surrendering before the court below within a period of eight weeks, he shall be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-I-cum-Special Judge, Madhepura in A.B.P. No. 360 of 2021 arising out of Mahila P.S. Case No. 13 of 2021.

(Ashutosh Kumar, J)

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