

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3125 of 2021

Arising Out of PS. Case No.-1 Year-2021 Thana- SC/ST District- Vaishali

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1. NILAM KUMARI D/o Devendra Rai Resident of Village - Bhagwatpur Taraura, P.S.- Mahua, Distt.- Vaishali.
 2. Shushila Devi W/o Devendra Rai Resident of Village - Bhagwatpur Taraura, P.S.- Mahua, Distt.- Vaishali.
 3. Devendra Rai Son of Late Maran Rai Resident of Village - Bhagwatpur Taraura, P.S.- Mahua, Distt.- Vaishali.
 4. Mahesh Rai Son of Devendra Rai Resident of Village - Bhagwatpur Taraura, P.S.- Mahua, Distt.- Vaishali.
 5. Ramesh Rai Son of Devendra Rai Resident of Village - Bhagwatpur Taraura, P.S.- Mahua, Distt.- Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajeev Ranjan No.Ii
For the Respondent/s : Mr.Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 08-10-2021 Heard learned counsel for the appellants and the State through virtual mode.

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

At the outset, counsel for the appellants seeks permission to withdraw this appeal with regard to appellant No. 3 namely, Devendra Rai as during pendency of this application, he has been taken into judicial custody.



Permission is granted.

Accordingly, this application with regard to appellant No. 3 namely, Devendra Rai is dismissed as withdrawn.

Now this appeal confines to the appellant Nos. 1, 2, 4 & 5 only.

The appellant Nos. 1, 2, 4 & 5 have challenged the order dated 30-06-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in connection with SC/ST P.S. Case No. 01 of 2021 registered for the offences under Sections-341, 323, 342, 354(B), 504, 506/34 of the Indian Penal Code and Section-3(i)(r)(s)(w) of SC & ST (Prevention of Atrocities) Act whereby the prayer made on behalf of the appellant Nos. 1, 2, 4 & 5 for grant of anticipatory bail has been rejected.

Prosecution allegation in short is that the grand daughter of the informant was taken away by the accused with ill intention. It is further alleged that the accused persons came at the door of the informant and started her abusing by caste name. It is also alleged that the accused persons assaulted the son of the informant.

It has been submitted on behalf of the appellant Nos. 1, 2, 4 & 5 that they have got no criminal antecedent. There is no



allegation of tampering of witnesses alleged against them. The appellant Nos. 1, 2, 4 & 5 have falsely been implicated in the present case. The present case has been instituted due to previous enmity. The appellant Nos. 1 and 2 are ladies. The allegation of assault is general and omnibus. No specific overt act is alleged against the appellant Nos. 1, 2, 4 & 5. So far allegation of Section 354(B) of the Indian Penal Code is concerned, the same is against co-accused Mintu Rai. The alleged date of occurrence is 24-12-2020 and the case has been instituted on 04-01-2021. The delay in instituting the FIR has not been explained by the prosecution. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant Nos. 1, 2, 4 & 5 are named in the Complaint Case/F.I.R.

Considering the aforesaid facts and circumstances, this Court is inclined to set aside the order dated 30-06-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in connection with SC/ST P.S. Case No. 01 of 2021 with regard to appellant Nos. 1, 2, 4 & 5 only by which their prayer for anticipatory bail was rejected.



Accordingly, the order dated 30-06-2021 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in connection with SC/ST P.S. Case No. 01 of 2021 is set aside with regard to appellant Nos. 1, 2, 4 & 5 only . The present Criminal Appeal is ***allowed*** with regard to appellant Nos. 1, 2, 4 & 5 only.

Let the appellant Nos. 1, 2, 4 & 5 , above named, in the event of arrest/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/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in SC/ST P.S. Case No. 01 of 2021.

(Sudhir Singh, J)

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