

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.530 of 2021

Arising Out of PS. Case No.-98 Year-2020 Thana- DANIYAWAN District- Patna

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1. Shambhu Mahto, Son of Barun Mahto @ Barun Prasad, Resident of Village- Danara, P.S.- Daniyawar, District- Patna.
 2. Jitendra Kumar @ Kunnu, Son of Late Janki Mahto, Resident of Village- Danara, P.S.- Daniyawar, District- Patna.
 3. Kanchan Devi, Wife of Jitendra Kumar, Resident of Village- Danara, P.S.- Daniyawar, District- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar No.1, Advocate.
For the Respondent/s : Mr. A. M. P. Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 28-06-2021 Learned counsel for the appellants seeks permission to withdraw this application as appellant nos. 2 and 3, namely, Jitendra Kumar @ Kunnu and Kanchan Devi, have been arrested by the police.

Permission is accorded.

Accordingly, this application is dismissed as withdrawn with respect to appellant nos. 2 and 3.

Heard learned counsel for the appellant no. 1, namely, Shambhu Mahto and the learned Additional Public Prosecutor appearing for the State through Video Conferencing.

This appeal, under Section 14(A)(2) of the Scheduled



Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is directed against the order dated 26.08.2020 passed in A.B.P. No. 4476 of 2020, whereby and whereunder the learned Special Judge, SC/ST, Patna, rejected the prayer of pre-arrest bail of the appellants in connection with Special Case No. 278 of 2020 arising out of Daniyawan P.S. Case No. 98 of 2020 registered under Sections 341, 323, 307 and 504 of the Indian Penal Code and Sections 3(1)(r)/3(2)(v) of the of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The prosecution case, in brief, is that on 22.06.2020, informant, Arun Paswan, along with his son, Sunil Paswan had gone to the grocery shop of his villager, Shambhu Mahto and purchased the some grocery articles and paid money but Shambhu Mahto (appellant no.1) demanded excess money then he replied that why the excess money is being charged on that grocery articles, on which, Shambhu Mahto (appellant no.1) and Kunnu Mahto started to abuse and pelting bricks, in which, his son sustained injury at his head. At that time, they also denoted him and his son by their caste name as *Dusad*.

Learned counsel for the appellant no.1, Shambhu Mahto, submits that, in fact, informant wanted to purchase some grocery articles on credit from the shop of the appellant no. 1



and total price of the said grocery articles was not paid then at that time, appellant no. 1 made protest, on which, hot talk and scuffle took place in between informant and the appellants, in which, appellants' side also sustained injury, regarding which, Daniyawan P.S. Case No. 95 of 2020 is also instituted on 22.06.2020 on the basis of Fradbeyan of co-accused, Barun Prasad, against the informant and his family members but with ulterior motive, informant taking the advantage of his caste *Dusad*, lodged the present case with false allegation. Further submission is that the injury, as found on the person of son of the informant, is simple in nature. It is further submitted that the dispute in between the appellant and the informant has already been settled and the compromise petition has already been filed in this regard in the court of learned Special Judge, SC/ST Act, Patna on 13.08.2020, which would appear from annexure 6 of the appeal.

Having considered the facts and circumstances of the case, the impugned order is set aside and this appeal is allowed in respect to appellant no.1, namely, Shambhu Mahto.

Let the appellant no.1, above named, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on



furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST Act, Patna, in connection with Special Case No. 278 of 2020 arising out of Daniyawan P.S. Case No. 98 of 2020, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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