

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3307 of 2021

Arising Out of PS. Case No.-34 Year-2021 Thana- JALALGARH District- Purnia

1. MD. RASHID @ MD RASHID ALAM Son of Md. Raisuddin Resident of Village- Asiyani, P.S.- Jalalgarh, District- Purnea.
2. Monasir @ Md. Munazir @ Munajir Son of Washik @ Md. Wasikur Rahman Resident of Village- Asiyani, P.S.- Jalalgarh, District- Purnea.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bijendra Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 07-09-2021 Heard Mr. Bijendra Kumar Singh, learned counsel for the appellants and Mr. Sadanand Paswan, learned Spl. PP for the State.

The appellants have challenged the order dated 22.06.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in A.B.P. No. 47 of 2021/CIS No. 47 of 2021, arising out of Jalalgarh P.S. Case No. 34 of 2021, whereby the prayer made on behalf of the appellants for grant of pre-arrest bail for the offences under Sections 147, 148, 149, 447, 448, 341, 323, 325, 427, 435, 354, 380, 452 and 307 of the Indian Penal Code and Sections 3(i) (r) of the SC/ST (Prevention of Atrocities) Act has been rejected.



It is alleged that one Naushad and another had entered into the house of one Ruplal Murmu for the purposes of establishing physical/sexual contact with his wife *viz.* Koshtan Marandi. However, Naushad was made a captive by the members of the prosecution party and because of the assault perpetrated on him, he died. In retaliation to such act and the death of Naushad, many persons are said to have come to the house of aforesaid Ruplal Murmu and the members of that particular tribe were assaulted by the accused persons including the appellants. An attempt was also made by the accused persons to outrage the modesty of the female members of the prosecution party.

Learned counsel for the appellants has submitted that the wife of Naushad (deceased) has also filed a case, wherein she has stated that her husband was killed and his dead body was found in the house of Ruplal Murmu. This had led to skirmishes between the accused persons and the members of the prosecution party.

Mr. Singh, learned Advocate for the appellants however has submitted that though the contents of the FIR lodged by the wife of the deceased indicate towards the factum of the deceased having visited the house of Ruplal Murmu but so far as the accusation against the



appellants are concerned, it is absolutely general and omnibus.

In this connection, learned counsel for the appellants has submitted that members of a particular community who had protested against the killing of Naushad have been made accused in this case.

In this connection, it has been submitted that though the appellants belong to the same community as that of the deceased but they have been named in this case with general and omnibus allegation only as retaliation and in defence of the case which has been lodged by the members of the present prosecution party.

It has further been submitted that assuming every allegation in the FIR to be true, none of the charges would bring home the mischief of the SC/ST (Prevention of Atrocities) Act as nothing has been attributed against the appellants or other accused persons which would indicate that there was an intention to malign or subject the members of the prosecution party to ridicule because of their being tribals.

Thus, it has been submitted that the appellants, except for being named in the FIR, have not been attributed with any role. In that view of the matter, none of the offences under the SC/ST (Prevention of Atrocities) Act can at all be said to have been made out.



For the facts stated above, the order dated 22.06.2021 is set aside.

The appeal stands allowed.

On the appellants surrendering before the court below within a period of eight weeks, they shall be released on bail on their furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in A.B.P. No. 47 of 2021/CIS No. 47 of 2021, arising out of Jalalgarh P.S. Case No. 34 of 2021.

(Ashutosh Kumar, J)

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