

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3404 of 2021

Arising Out of PS. Case No.-16 Year-2021 Thana- SC/ST District- East Champaran

1. BOLAR GADDI S/o Kalam Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
2. Kalam Gaddi S/O Late Bula Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
3. Anarul Gaddi S/O Kalam Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
4. Sona Gaddi S/O Jamuna Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
5. Naeem Gaddi S/O Sharif Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
6. Subhan Gaddi S/o Sharif Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
7. Iman Gaddi S/O Dhawal Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.
8. Sharif Gaddi S/O Chhatu Gaddi Resident of Vill - Gad Bahuari Babuaiya, P.S. - Palanwa District - East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Pramod Kumar Pandey- Advocate
For the Respondent/s	:	Mr. Binay Krishna- S.P.P.
For the informant	:	Mr. Pravin Kumar- Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 07-09-2021 Heard Mr. Pramod Kumar Pandey, the learned Advocate for the appellants, Mr. Pravin Kumar, the learned Advocate for the informant and Mr. Binay Krishna, the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated
30.06.2021 passed by the learned 1st Additional Sessions



Judge-cum-Special Judge SC/ST (P.O.A.) Act, East Champaran at Motihari in connection with Motihari SC/ST P. S. Case No.16 of 2021, instituted for the offences under Sections 341, 323, 379, 504, 506/ 34 of the Indian Penal Code and Section 3(i)(a)(r)(s)(f) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

The accusation in the F.I.R. is of the appellant having assaulted the members of the prosecution party by means of fists and slaps and also of abusing and demeaning them because of their caste. Some of the members of the prosecution party are also said to have been spitted against.

The learned Advocate for the appellants has submitted that though they have been named in the F.I.R. with the allegation involving the breach of the SC/ST (P.O.A.) Act but the accusation appears to have been over exaggerated for adding seriousness to the offence.

In fact, there is a land dispute between the parties. There is a plot of land namely Plot No.482 under Khata No.2 approximating about 06 decimal which was purchased by the father of Kalam Gaddi (appellant no.2) in the Year



1970. All the accused persons are of the same family and merely because of the dispute over the aforesaid plot of land, this case has been lodged.

The wife of appellant no.2 has also filed a case against the informant vide Palanwa P. S. Case No.70 of 2021.

The learned Advocate for the appellants therefore has submitted that the accusation is only for the purposes of preventing the appellants from staking claim over the plot of land under reference. Because of the land dispute, it appears that the accusation under the SC/ST (P.O.A.) Act has been added only to give a serious colour to the case.

As opposed to the aforesaid contention, Mr. Pravin Kumar, the learned Advocate for the informant has submitted that not only the appellants have demeaned the members of the prosecution party but have also repeated it in the same transaction. The counter-case which has been referred to by the learned advocate for the appellants is much later in point of time and therefore it ought not to be taken into account.

However, considering the fact that there is a dispute with respect to plot of land over which there is rival



claim of the parties, the order dated 30.06.2021 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 learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, East Champaran in connection with Motihari SC/ST P. S. Case No.16 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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