

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3507 of 2021

Arising Out of PS. Case No.-181 Year-2021 Thana- KHAGARIA District- Khagaria

1. RAMAKANT MAHTO Son of Late Mahal Lal Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.
2. Lalan Mahto son of Late Mahan Lal Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.
3. Biyash Mahto son of Late Mahan Lal Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.
4. Jawahar Mahto Son of Late Mahan Lal Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.
5. Bittu Mahto @ Kittu @ Abhinav Kumar Son of Ramakant Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.
6. Lotu Mahto @ Littu Mahto @ Shashank Kumar Raman Son of Ramakant Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.
7. Jyotish Kumar Son of Bibodh Mahto Resident of village - Bhagwanchak,P.S. - Khagaria (Gangaur O.P.), Dist. - Khagaria.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ram Sumiran Rai
For the Respondent/s : Mr.Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 04-09-2021 Heard learned counsel for the appellants and learned Special P.P. for the State through virtual mode.

The present matter is taken up out of turn on the mentioning slip filed on behalf of the appellants stating therein that the examination of appellant No. 6 is going to be held and because of the present criminal case, he is having difficulty in appearing in the same. Let the mentioning slip filed on behalf



of the appellants be kept on record.

Learned counsel for the appellants is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The appellants have challenged the order dated 24.07.2021 passed by learned Additional Sessions Judge -1st -cum- Special Judge, SC/ST Act, Khagaria in ABP (SC/ST) No. 19/2021 in connection with Khagaria (Gangaur) P.S. Case No. 181/2021 registered for the offences under sections 147, 341, 323,, 379, 307, 504, 506 of the Indian Penal Code, 27 of the Arms Act and 3(i)(r)(s), 3(2)(va) of SC/ST Act whereby the prayer made on behalf of the appellants for grant of anticipatory bail has been rejected.

Prosecution allegation, in short, is that while the informant was on the way, the accused persons, variously armed, assaulted him and also abused him by taking his caste name. The accused persons also fired upon him which hit below the arm due to which he sustained injury.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the



present case. General and omnibus allegation has been made against the appellants. No specific overt act is alleged against the appellants. Specific allegation of firing is alleged against co-accused namely Tapeswar Mahto. There is a case and counter case between the parties. A free fight is alleged to have taken place. The injury on the accused side has not been explained by the prosecution. The prosecution has not come with clean hands. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is made out in the present case.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.

Considering the aforesaid facts and circumstances, the order dated 24.07.2021 passed by learned Additional Sessions Judge -1st -cum- Special Judge, SC/ST Act, Khagaria in ABP (SC/ST) No. 19/2021 in connection with Khagaria (Gangaur) P.S. Case No. 181/2021, is set aside.

The appeal stands allowed.

Let the appellants 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 their personal bonds to the satisfaction of learned



Additional Sessions Judge -1st -cum- Special Judge, SC/ST Act,
Khagaria in connection with Khagaria (Gangaur) P.S. Case No.
181/2021.

Once the normalcy is restored, the appellants shall
furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) each
with two sureties of the like amount each within a period of
eight weeks to the satisfaction of the Court concerned in
connection with the aforesaid case.

(Sudhir Singh, J)

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