

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3509 of 2021

Arising Out of PS. Case No.-176 Year-2021 Thana- MOTIPUR District- Muzaffarpur

1. RAGHUNATH BHAGAT Son of Sita Bhagat @ Sita Ram Bhagat Resident of Village - Bhawanidih, P.S. Motipur, District Muzaffarpur.
2. Murti Devi Wife of Raghunath Bhagat Resident of Village - Bhawanidih, P.S. Motipur, District Muzaffarpur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhavesh Kumar, Advocate

For the Respondent/s : Mrs.Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 22-10-2021 Heard learned counsel for the appellants and learned
Spl. P.P. for the State through virtual mode.

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

Counsel for the appellants seeks permission to withdraw the present appeal on behalf of appellant No.1, as the appellant No.1 has been taken into judicial custody.

Permission is accorded.

The appeal filed on behalf of appellant No.1 is dismissed as withdrawn.

The appellant No.2 has challenged the order dated



26.07.2021 passed by learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Muzaffarpur in connection with Motipur P.S. case No.176/2021 registered for the offences under Sections 376, 120B/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act, 1989, whereby the prayer made on behalf of the appellant No.2 for grant of anticipatory bail has been rejected.

The prosecution case, in short, is that the accused persons including the appellant No.2 abused the informant by taking her caste name and son of the appellant No.2 established physical relation with informant on pretext of marriage.

It has been submitted on behalf of the appellant No.2 that the appellant No.2 has got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the appellant No.2. The appellant No.2 has falsely been implicated in the present case. The appellant No.2 is a lady. No offence under Section 376 of I.P.C. is attracted against the appellant No.2. The case has been instituted after two days of the alleged occurrence. The alleged occurrence has not taken place within public view. Hence no offence under the SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the



appellant No.2 is named in the F.I.R.

Considering the aforesaid facts and circumstances, the order dated 26.07.2021, passed by the learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Muzaffarpur vide A.B.P. No.1666 of 2021, in connection with Motipur P.S. case No.176/2021, is set aside with regard to appellant No.2 only.

Let the appellant No.2, above named, in the event of arrest or 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/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Muzaffarpur in connection with Motipur P.S. case No.176/2021.

The criminal appeal stands allowed with regard to appellant No.2 only.

(Sudhir Singh, J)

Narendra/-

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