IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.70 of 2021

Arising Out of PS. Case No.-31 Year-2020 Thana- GUTHANI District- Siwan

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1. SUDAMA GUPTA Son of Late Gajar Gupta Resident of Village- Bhalui, P.S.- Guthni, District- Siwan.
2. Dharmendra Gupta Son of Sudama Gupta Resident of Village- Bhalui, P.S.- Guthni, District- Siwan.
3. Gudiya Devi Wife of Dharmendra Gupta Resident of Village- Bhalui, P.S.- Guthni, District- Siwan.

... ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Ajay Kumar Tiwary
For the Respondent/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 29-10-2021 Heard learned counsel for the appellants through video conferencing.

Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

This appeal has been preferred on behalf of the appellants under Section 14A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 16.07.2020, passed by the learned 1st Additional Sessions Judge-cum-Special Court, Siwan, in connection with Guthni P.S.Case No. 31 of 2020, registered for the offences punishable under Sections 363, 366(A) and 34 of the Indian Penal Code and Sections 3(i)(r)(s)(w) and 3 (va) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has

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been rejected.

As per the allegation, co-accused Basant Gupta kidnapped the daughter of the informant with intent to marry her. When the informant went to the house of Basant Gupta to inquire about her daughter, the present appellants threatened and abused the informant by calling caste name.

Learned counsel for the appellants has submitted that the main allegation of kidnapping is not against the appellants, rather it is against co-accused Basant Gupta. The appellant no.1 is father, appellant nos. 2 is brother of co-accused Basant Gupta, whereas appellant no.3 is wife of appellant no.2. They have no concern with the alleged occurrence. Moreover, the xerox copy of the statement of the victim recorded under Section 164 Cr. P.C. has been annexed with the record. The so-called victim Chandani Bharti has stated explicitly in her statement under Section 164 Cr.P.C. that she was angry with her mother and with her own sweet will, without informing her mother, she want to the house of her *mausi*. Her mother lodged this case after forming the assumption that Basant Gupta had kidnapped the victim. As the alleged victim Chandani Bharti has stated that she has not been kidnapped, the allegation of abusing the informant by calling her caste name appears to be falsely lodged

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only in order to make the offences graver. Provision of SC & ST (POA) Act *prima facie* is not attracted.

Accordingly, the appeal is allowed and the impugned order dated 16.07.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Court, Siwan, is set aside.

Let the appellants above named, in the event of arrest or surrender within four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-(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, Siwan, in connection with Guthni P.S.Case No. 31 of 2020.

Office shall ensure that all defects are removed by the appellants within the stipulated time provided in para 2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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