

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.378 of 2021

Arising out of PS. Case No.-193 Year-2020 Thana- SABAUR District- Bhagalpur

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1. Subhash Mandal @ Subhash Chandra Verma @ Subhash Verma,
 2. Deepak Mandal @ Deepak Verma,
 3. Bipin Mandal @ Bipin Verma,
 4. Deepak Verma,
- All are sons of Late Sattan Mandal @ Satya Narayan Verma, Resident of Sabour Chhoti Hat (beside Durga Asthan), P.S.- Sabour, District- Bhagalpur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr. Mrityunjay Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 27-05-2021

Heard learned counsel for the appellants and learned Special Public Prosecutor for the State via video conferencing.

2. The instant appeal under Section 14-A(2) of the Scheduled Castes and the Schedules Tribes (Prevention of Atrocities) Act, 1989 (for short ‘the SC/ST Act’) has been preferred by the appellants challenging the order dated 01.10.2020 passed in A.B.P. No.1601 of 2020 by the learned Additional District & Sessions Judge-3rd-cum-Special Judge, (SC/ST Act), Bhagalpur whereby he has rejected their



application for grant of pre-arrest bail in connection with Sabour P.S. Case No.193 of 2020 registered under Sections 341, 323, 504, 379, 506 read with 34 of the Indian Penal Code and Section 3(1)(r)(s) of the SC/ST Act.

3. The first information report is based on the written report of one Shyam Sundari Devi submitted to the Officer-in-charge, Sabour Police Station on 15.07.2020 wherein she has stated that on 15.07.2020 at 09:00 am, while the labour and mason were doing work on her land, the appellants, namely, Subhash Mandal, Deepak Mandal, Bipin Mandal and one Birendra Verma came there and started hurling abuses. They called her *Dusadh* and asked her to stop the work. When she opposed, they pushed her away as a result of which she fell on the ground. Thereafter, all the accused persons started pelting bricks upon her and the labour working there. She has further alleged that the accused Birendra Verma threw a piece of brick upon her as a result of which she sustained injury on her forehead. When her son came in her rescue, they assaulted him also and threatened them to vacate the land otherwise they would kill them.

4. Learned counsel appearing for the appellants submitted that the appellants are innocent and have committed



no offence and they have been falsely implicated in this case. He contended that names of the appellants have been given in the FIR on account of previous dispute and enmity between the parties. He further contended that from the FIR it would be apparent that the occurrence did not happen in public view. Hence, the offences under the Act are not made out. He has further contended that the appellants have no criminal antecedent. According to him, appellant no.1 is physically handicapped. He has lodged an FIR against the family members of the informant of this case earlier vide Sabour P.S. Case No. 192 of 2020 dated 16.07.2020 and in order to put pressure upon the appellants to compromise the aforesaid case, the instant FIR has been lodged. He further submitted that Section 379 of the Indian Penal Code is purely ornamental and other allegations are general and omnibus andailable in nature. He further contended that the allegations under Section 3(1)(r)(s) of the Act has been levelled against the appellants in order to make the case serious.

5. On the other hand, learned Special Public Prosecutor appearing for the State submitted that the allegations made in the FIR do constitute an offence punishable under the Act. He also contended that from perusal of the FIR itself it



would transpire that the incident was seen by many persons.

6. Having heard the parties and perused the materials on record, since the offence punishable under Section 3(1)(r)(s) of the Act is clearly attracted, the court below has rightly rejected the application for grant of pre-arrest bail to the appellants as Section 18 of the Act clearly stipulates that nothing in Section 438 of the Code of Criminal Procedure shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under the Act.

7. In that view of the matter, I see no merit in this appeal.

8. It is dismissed, accordingly.

9. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present judgment:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me electronically by the Joint Registrar-cum-Addl. PPS.
- (ii) The corrected copy of the order shall be transmitted



by me to the Joint Registrar-cum-Addl. PPS electronically, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.

- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let steps be taken by the Joint Registrar-cum-Addl. PPS/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.05.2021
Transmission Date	30.05.2021

