

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1218 of 2021

Arising Out of PS. Case No.-31 Year-2020 Thana- MAHILA P.S. District- Siwan

1. Nawal Kishore Pati Tiwari @ Nawal Kishore Tiwari, Male, aged about 70 years, Son of Late Brij Nandan Pati Tiwari, Resident of Village- Gothi, P.S. - Aandar, District - Siwan.
2. Chandra Bhushan Pati Tiwari @ Chandra Bhushan Tiwari, Male, aged about 50 years, Son of Sri Nawal Kishore Patti Tiwari, Resident of Village- Gothi, P.S. - Aandar, District - Siwan.

... .. Appellants

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Appellants : Mr.Bipin Bihari Singh, Advocate.
For the Respondent : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 06-08-2021 Heard learned counsel for the appellants and learned Special P.P. for the State through Virtual mode.

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

The matter relates to grant of anticipatory bail to the appellants in A.B.P. No. 1568 of 2020, arising out of Siwan Mahila P.S. Case No. 31 of 2020, registered for the offences under Sections 341, 323, 324, 354(B) of the I.P.C. and Sections 3(ii)(va) of the SC/ST Act.

The prosecution case, in short, is that on 04.04.2020 at about 6.30 A.M., the informant was on her *Bathan* and



involved with labour for cutting *Shisham* tree. In course of cutting tree, some woods had fallen down in the field of accused persons, in the meanwhile, Suman Tiwari came and abused her by asking that why the woods had fallen in his field. She said that she will collect the woods from his field in the meanwhile, Sumant Tiwari, Jaswant Tiwari, Prakash Tiwari, Mithilesh Tiwari, Ratnesh Tiwari, Nawal Kishore Tiwari and his wife Binda Devi, Shubham Kumari and others started abusing her indicating her caste name and given threatening to kill. Jaswant Tiwari with ill-motive had dragged her Sari and Blouse and had tried with best to remove the clothes from her body. He told that *Gond* and *Gondin* will be killed and thrown. Prakash Tiwari and Suman Tiwari assaulted with Danda and Iron rod from which she became injured. Shubham Kumari had given a Farsa blow upon her hand and her finger was cut down. She became senseless and consequently thereafter her co-villager Janak Tiwari had taken her to P.H.C. Aandar, for treatment. The aunt of Chandra Bhushan Tiwari had set fire in her hut and consequently preferred the application. When she reached the police station and consulted the police personnel then her complain was not registered and asked to return back. Janak Kishore and Shivam Gond was put in Hajat and application was



not received then on 09.04.2020, she preferred an application in SC/ST Police Station but it was equally not entertained and no action taken, then the present one is being preferred for needful.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. They have falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against them. General and omnibus allegation has been made against the appellant no. 1. No grievous injury is said to have been caused in course of occurrence. The specific allegation is against co-accused, namely, Prakash Tiwari and Suman Tiwari. The appellant no. 2 is not named in the F.I.R. The alleged date of occurrence is said to be 04.04.2020 as to when the case was instituted on 23.05.2020. Delay has not been explained by the prosecution. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant no. 1 is named and appellant no. 2 is not named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 19.09.2020, passed in A.B.P. No. 1568 of 2020,



arising out of Siwan Mahila P.S. Case No. 31 of 2020 by learned Ist Additional Sessions Judge-cum-Special Judge, Siwan, is set aside. The criminal appeal is allowed.

Let the appellants 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 their personal bond to the satisfaction of the learned Ist Additional Sessions Judge-cum-Special Judge, Siwan, in connection with Siwan Mahila P.S. Case No. 31 of 2020.

Once the normalcy is restored, the appellants shall furnish bail bonds of Rs. 10,000/-(Rupees Ten Thousand) only 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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