

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.326 of 2021

Arising Out of PS. Case No.-165 Year-2020 Thana- KHAIRA District- Saran

1. NAKUL SAH Son of Satyanarayan Sah Resident of Village - Dumari, P.S. Khaira, Distt. - Saran at Chapra.
2. ARJUN SAH Son of Satyanarayan Sah Resident of Village - Dumari, P.S. Khaira, Distt. - Saran at Chapra.
3. SUNIL SAH @ SUNIL KUMAR SAH Son of Satyanarayan Sah Resident of Village - Dumari, P.S. Khaira, Distt. - Saran at Chapra.
4. SATYA NARAYAN SAH Son of Late Singasan Sah Resident of Village - Dumari, P.S. Khaira, Distt. - Saran at Chapra.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Rajani Kumari- Advocate
For the Respondent/s : Mr. Binay Krishna- S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 02-08-2021 Heard Ms. Rajani Kumari, the learned Advocate for the appellants and Mr. Binay Krishna, the learned Special Public Prosecutor for the State.

By order dated 30.06.2021, the appeal with respect to appellant no.4 has been withdrawn.

The appellant nos.1, 2 and 3 have challenged the order dated 05.10.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (P.O.A.) Act, Saran at Chapra in connection with Khaira P. S. Case No.165 of 2020, instituted for the offences under Sections



147, 341, 323, 379, 504 of the Indian Penal Code and Section 3(ii)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.

It has been alleged in the F.I.R. that the informant was assaulted by the appellants and was also divested of his belongings.

The learned Advocate for the appellant nos.1, 2 and 3 has submitted that during the course of investigation, it has come to light that the informant and his associates used to pass indecent remarks against women folk who used to go to the public toilet. When this was protested, an occurrence took place in which the members of the village assaulted the informant.

However, since this issue was flagged by the appellant nos.1, 2 and 3, such a case has been lodged by implicating these appellants as well. The investigation report further reveal that the appellant nos.2 and 3 were not even present at the time and place of occurrence.

In view of the aforesaid stated facts and this case not having been lodged under Section 307 of the I.P.C., the learned Advocate for the appellants has submitted that the



offence under the SC/ST (P.O.A.) Act is not made out as against them.

For the reasons afore-stated, the order dated 05.10.2020, referred to above, is set-aside.

The appeal stands allowed.

The appellant nos.1, 2 and 3, above-named, in the event of their arrest or surrender before the learned Court below within a period of eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.10,000/- (Rupees 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 (P.O.A.) Act, Saran at Chapra in connection with Khaira P. S. Case No.165 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands disposed off accordingly.

(Ashutosh Kumar, J)

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