

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1065 of 2021**

Arising Out of PS. Case No.-98 Year-2019 Thana- LAKHNAUR District- Madhubani

1. MUNSHI SAH @ MANSI SAH S/o Late Ram Vilash Sahu Resident of Village - Chandrabauni Aunkshi, Police Station - Lakhsaur, District - Madhubani.
2. Asha Devi W/o Munshi Sah Resident of Village - Chandrabauni Aunkshi, Police Station - Lakhsaur, District - Madhubani.
3. Rajiya Devi @ Rojiya Devi @ Sajiya Devi Widow of Late Tuntun Sah Resident of Village - Chandrabauni Aunkshi, Police Station - Lakhsaur, District - Madhubani.
4. Basant Sah S/o Ram Prasad Sah Resident of Village - Lalapatti, Police Station - Ghanshyampur, District - Darbhanga.
5. Rekha Devi W/o Basant Sah Resident of Village - Lalapatti, Police Station - Ghanshyampur, District - Darbhanga.
6. Deepak Sah S/o Basant Sah Resident of Village - Lalapatti, Police Station - Ghanshyampur, District - Darbhanga.

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s : Mr.Ashok Kumar Prasad, Adv.
For the Respondent/s : Mr.A.G.

**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 14-A(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act for setting aside the order dated
23.11.2019 passed by learned 1st Additional Sessions Judge,



Madhubani in A.B.P. No. 1173 of 2019 arising out of Lakhnour P.S. Case No. 98 of 2019 registered for the offences punishable under Sections 341,323, 324,504, 379/34 of the Indian Penal Code & Section 3(1)(r) (s)/2(Va) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

The informant, Sukani Devi, lodged an FIR making allegations that the accused persons came to her orchard and started harvesting the *arhar* crop. On protest, the appellant No. 1 inflicted *Hasua* blow on her hand and the other appellants assaulted her and snatched her mangalsutra.

Learned counsel for the appellants has submitted that there is previous land dispute between the parties and it was the reason why they have falsely been implicated. The provisions of SC/ST Act is not attracted, as there is previous land dispute as well as there is not even whisper in the FIR that accused persons abused filthy words against the members of informant party. He has further submitted that in order to show that there is a land dispute between the parties Annexure-2 at page-17 has been filed which is xerox copy of the plaint of Title Suit No. 230 of 2016, which shows that the appellant's side has instituted a suit against the informant party. He has also submitted that Annexure-3 is the xerox copy of injury report of Sukani Devi and the injury sustained by her is simple in nature, caused by hard and blunt substance.



As there is a previous land dispute between both the parties, the alleged occurrence cannot be said to have taken place due to malicious feelings of caste. As such, the provisions of SC/ST Act are not attracted *prima facie* in the present case.

Considering these facts and circumstances, the appeal is allowed and the impugned order dated 23.11.2019 passed by the learned 1st Additional Sessions Judge (SC/ST) Act, Madhubani is set aside.

Accordingly, in the event of arrest or surrender within four weeks from today, the appellant above-named, shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge (SC/ST) Act, Madhubani in connection with Lakhnour P.S. Case No. 98 of 2019.

Office shall ensure that all defects are removed by the petitioner 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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