

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.908 of 2022

Arising Out of PS. Case No.-492 Year-2021 Thana- HISUWA District- Nawada

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1. PARMANAND SHARMA @ SATYENDRA SHARMA, S/o- Sitaram Thakur Resident of Village Jhikarua, P.S. - Hisua, Dist. - Nawada.
 2. FULAN DEVI @ BIJUL DEVI wife of Jagbali Singh Resident of Village - Hisuadih, P.S. - Hisua, District - Nawada.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Vijay Rajvanshi Son of Late Videshi Rajvanshi R/o vill- Khairati Bigha, P.S.- Hisua, Dist- Nawada

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Binay Kumar
For the State	:	Mrs.Usha Kumari 1
For the Informant	:	Mr. Vibhakar Kumar

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

- 3 06-09-2022 The learned counsel for the appellants is directed to remove all the defects pointed out by the office within one month.

Heard learned counsel for the appellants as well as the learned Special Public Prosecutor for the State and also heard the learned counsel for the informant.

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, 1989 for setting aside the order dated 08.02.2022 passed by the learned Exclusive Special Court Scheduled Castes and Scheduled Tribes, Nawada in connection with Hisua P.S. Case No. 492 of 2021 registered for



offence punishable under sections 302, 120(B), 420, 467, 468, 471, 269, 187 of the Indian Penal Code, sections 3 (i) (r) (s) of the SC/ST Act and 40 Clinical Establishment Act, Biological Waste Management Rule & 15 Environment Act, 1986, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per allegation, the present case has been lodged on the basis of written report given by the Civil Surgeon. When the clinic of the appellants was raided, it was found locked. After breaking the lock, the raiding party entered into that clinic and found some objectionable materials. Some registers were also found and the details of the patients was entered in that register. That clinic was being run illegally and illegal termination of pregnancy (abortion) was done in that clinic. The deceased Sangeeta Devi was died in that clinic and she was a member of scheduled castes.

The learned counsel for the appellants has submitted that the husband of the deceased Sangeeta Devi has filed an affidavit stating that she was not treated in that clinic. He has submitted further that the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not attracted in that case. He has also submitted that section 302 of the Indian Penal Code is also not attracted in this case, as Sangeeta Devi was not treated in that clinic.

On the other hand, the learned Special Public Prosecutor as



well as the learned counsel for the informant has submitted that the materials collected during the course of investigation show that the clinic was run by the appellants illegally, to which they were not authorized and the clinic was involved in illegal termination of pregnancy (abortion).

Though the provisions of SC/ST (POA) Act as well as Section 302 of the Indian Penal Code is not attracted *prima facie*, but the materials collected during the course of investigation show that the appellants were running their clinic illegally. They were not authorized to run the clinic and illegal activities of termination of pregnancy were going on in that clinic, as such, I do not think it to be a fit case for anticipatory bail. Accordingly, it is rejected.

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

(Nawneet Kumar Pandey, J)

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