

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.941 of 2022

Arising Out of PS. Case No.-1046 Year-2021 Thana- KHAJANCHI HAT District- Purnia

1. RAMAVATI DEVI W/o Manoj Kumar @ Manoj Gupta @ Manoj Kumar Gupta Resident of Ward- 15, Taranagar, Madhubani, P.S. - K. Hat, District - Purnia.
2. AKRITI SHREE @ KOMAL KUMARI D/o Manoj Kumar @ Manoj Gupta @ Manoj Kumar Gupta Resident of Ward- 15, Taranagar, Madhubani, P.S. - K. Hat, District - Purnia.
3. ABHIRAJ @ CHHOTU KUMAR S/o Manoj Kumar @ Manoj Gupta @ Manoj Kumar Gupta Resident of Ward- 15, Taranagar, Madhubani, P.S. - K. Hat, District - Purnia.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Lakhman Chaudhary @ Lakshman Mahto S/o- Late Kali Chaudhary Resident of Taranagar, Manjali Chowk, Madhubani, Ward No. -15, P.S. - K. Hat, Madhubani T.O.P., District - Purnia.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Rana Vikram Singh Mr. Ranjeet Kumar Jha Rashika
For the Respondent/s	:	Mr.Raj Kumar Mr. Vijay Kumar

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 28-07-2022 The learned counsel for the appellants is directed to remove all the defects, if any, pointed out by the office within one month.

Heard learned counsel for the appellants as well as 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 14.02.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in connection with K. Hat (Madhubani) P.S. Case No.1046/2021 registered for offence punishable under sections 341, 323, 325, 307, 504, 506/34 of the Indian Penal Code and sections 3 (I) (r) (s) of the SC/ST (POA) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per allegation, some street dog brought a diaper (Huggies) and dropped it to the house of the appellants. That diaper was brought by the street dog at the house of the appellants from the house of the informant, as such, allegedly the appellants asked the informant to remove that diaper since it was dropped from his house. The further allegation is that the accused persons assaulted the informant and also abused him by calling his caste name.

The learned counsel for the informant has submitted that the informant has sustained some injuries and the reason of delay in lodging of the FIR is treatment of the victim.

The learned counsel for the appellants has submitted that the appellants requested the members of the informant side



to remove that diaper, which was brought by the street dog from the house of the informant and it was the reason that the members of prosecution side badly assaulted the members of defense side by lathi, dabiya and kachiya after entering into his house and also attempted to kill the wife of co-accused Manoj Kumar Gupta. When co-accused Manoj Kumar Gupta went to his house, he saw his wife and his child in unconscious state and he lodged Khajanchi P.S. Case No. 1045 of 2021. The learned counsel for the appellants has submitted further that the case lodged by the appellants are prior to the case of the informant side.

The occurrence did not occur due to malicious feeling of caste, rather it was originated as diaper was brought by a street dog in the house of the appellants. There is case and counter case. The case lodged by the defense side is prior to the case of the prosecution side. As such, the provisions of SC/ST Act do not attract *prima facie*.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 14.02.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in connection with K. Hat (Madhubani) P.S. Case No.1046/2021 is set aside.



Accordingly, the appellants, in the event of arrest or surrender before the court below within four weeks from today, are directed to be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Purnia in connection with K. Hat (Madhubani) P.S. Case No.1046/2021.

Office shall ensure that all defects are removed by the petitioner 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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