

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1230 of 2022

Arising Out of PS. Case No.-535 Year-2021 Thana- RUPASPUR District- Patna

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1. Krishna Nand Sah @ Munna Sah, Son Of Sadanand Sah Resident Of Village - Abhimanyu Nagar, Food Bazar, P.S.- Rupaspur, Distt.- Patna.
 2. Anil Singh @ Khalifa, Son Of Janak Singh @ Janakdhari Singh Resident Of Village - Kothawan, P.S.- Khagaul, Distt.- Patna.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Ramchandra Raut, Son of Late Lakhraj Raut Resident of Village - Abhimanyu Nagar Jalalpur, P.s.- Rupaspur, Distt.- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Jai Vardhan Narayan
For the Respondent/s : Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 01-08-2022 Heard learned counsel for the appellants and the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 07.02.2022 passed by the learned Special Judge, SC/ST Act, Patna in connection with A.B.P. No.592 of 2022 arising out of Rupaspur P. S. Case No.535 of 2021, instituted for the offences under Sections 341, 323, 504, 506 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby their prayer for grant of anticipatory bail has been rejected.



The learned counsel for the appellants submits that the appellants are persons with clean antecedent and the informant alleges that his son Kislay Chandra had gone to the mall of Munna Sah for purchasing some articles and when he asked the price of the article, he was informed about the price, which was much more than the market price, on which the son of the informant objected. Thus, it is alleged that Munna Sah along with his staffs started abusing the son of the informant by taking his caste name. Thereafter, it is alleged that his son came back home, when 10-15 minutes thereafter, the accused persons including the appellants also came intended to assault the son of the informant, but on intervention of his wife, they went away. It is next alleged that at 9.45 P.M. again, the accused persons including the appellants along with 8-10 unknown persons came to the house of the informant and Munna Sah started assaulting his son along with the unknown persons and said, they would kill him by addressing him by his caste name. It is next alleged that the informant along with his wife came when they tried to intervene, on which accused persons tried to assault them but they were saved.

The learned counsel for the appellants submits



that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the same is cryptic and vague. It is next submitted that the F.I.R. does not even remotely disclose which article the son of the informant had gone to purchase. It is further submitted that it absolutely does not stand to reason that how blatantly the SC/ST Act is being misused by persons for whose benefit the same was enacted by the legislature. It is next submitted that the informant alleges that the accused persons including the appellants came to the house of the informant and intended to assault the son of the informant, but on intervention of his wife, he was saved.

The learned counsel thus submits that it appears that by way of after thought the informant in order to implicate the appellants along with other accused falsely alleged that they came to their house and assaulted his son, but then there is no injury report on record. It is further submitted that the second part of the allegation was committed at the house of the informant, as such, it was not in public view. It is further submitted that the first part of the allegation wherein it is alleged that the son of the informant was addressed by his caste name in the mall, but the F.I.R.



does not disclose the name of any persons, who were present in the mall who witnessed the occurrence. The learned counsel thus submits that an act, which was framed by the legislature for the benefit of the S.C./S.T. Act is being misused miserably.

The learned counsel next submits that since prima facie no case is being made out from bare perusal of the allegation as alleged in the F.I.R., as such, no notice is required on the informant in terms of the act. The learned counsel next submits that from perusal of the fard-bayan, it would manifest that the same was given in the police station on 16.10.2021, when the occurrence is of 11.09.2021. This further goes to demonstrate that the present case came to be instituted by way of after thought.

The learned Special Public Prosecutor opposes the bail application, but is not in a position to meet the submission of the learned counsel for the appellants with regard to delay in instituting the F.I.R. and that the allegation are vague and cryptic and the allegation does not even remotely suggest that in whose presence, the said act of abuse was committed in the mall.

Regard being had to the aforesaid submissions,



the order dated 07.02.2022 is set-aside.

The appeal stands allowed.

The appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.2,000/- (Rupees Two Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Patna in connection with A.B.P. No.592 of 2022 arising out of Rupaspur P. S. Case No.535 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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