

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2488 of 2022

Arising Out of PS. Case No.-162 Year-2020 Thana- JOGAPATTI District- West Champaran

1. Binod Yadav @ Vinod Yadav, Son Of Mogal Yadav R/O Village- Barharwa, P.S.- Yogapatti, District- West Champaran
2. Ramayan Yadav @ Ram Narayan Yadav @ Ramayan, Son Of Mogal Yadav R/O Village- Barharwa, P.S.- Yogapatti, District- West Champaran
3. Surendra Yadav, Son Of Mogal Yadav R/O Village- Barharwa, P.S.- Yogapatti, District- West Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Prabhawati Devi, Wife Of Lagan Ram R/O Village- Barharwa, P.S.- Yogapatti, District- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vijay Kr Singh No. 1

For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-12-2022 Heard learned counsel for the appellants and the learned Special Public Prosecutor for the State.

The appellants have challenged the order dated 28.05.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran in connection with Jogapatti P. S. Case No.162 of 2020 (Trial No.75 of 2021), instituted for the offences under Sections 447, 307, 504, 506, 34 of the Indian Penal Code and Section 3(i)(r) 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 have antecedent of two cases and the informant alleges that on account of dispute relating to land, the accused persons including the appellants came at 12.30 A.M. and started abusing, on protest, appellant no.1 fired causing injury on waist of the informant. Further, on alarm, they fled.

The learned counsel for the appellants submits that the appellants have been falsely implicated in the present case. It is next submitted that the date of occurrence is 26.04.2020 and the F.I.R. came to be instituted on 05.05.2020 i.e. after a delay of nearly more than nine days and that too, on a written application of the informant which further creates doubt with regard to the veracity to the allegations as alleged in the F.I.R. It is submitted that had the informant been injured by firearm, then definitely he would have gone to the hospital for treatment and the fard-bayan would have been recorded at the hospital. It is also submitted that from perusal of Annexure-2, it would manifest that there is no firearm injury and the police after investigation submitted final form no.03/2021 dated 04.01.2021 (Annexure-3) and the learned Magistrate in a mechanical manner differed with the police report and took cognizance. The learned counsel thus submits that since one investigating agency has found the appellants to be innocent sending them to jail based on the same material on which the Court took cognizance would amount to

travesty of justice in absence of a duly constituted trial.

Regard being had to the aforesaid submissions, the order dated 28.05.2022 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 eight weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran in connection with Jogapatti P. S. Case No.162 of 2020 (Trial No.75 of 2021), subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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