

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4348 of 2021**

Arising Out of PS. Case No.-15 Year-2020 Thana- SC/ST District- Muzaffarpur

1. Sonu Kumar Sah @ Soni Sah S/O Late Bipat Sah R/O Mohalla- Padaw Pokhar, Bhajju Sah Lane, P.S.- Kaji Mohammadpur, District- Muzaffarpur
2. Kallu Kumar Sah @ Kallu Sah S/O Raju Sah R/O Mohalla- Padaw Pokhar, Bhajju Sah Lane, P.S.- Kaji Mohammadpur, District- Muzaffarpur
3. Vikash Kumar S/O Ashok Sah R/O Mohalla- Padaw Pokhar, Bhajju Sah Lane, P.S.- Kaji Mohammadpur, District- Muzaffarpur

... .. Appellant/S

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Anjana
For the Respondent/s : Ms. Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

2 22-08-2022 Heard counsel for the appellants and the learned
Special Public Prosecutor for the State.

The appellants have challenged the order dated 28.09.2021 passed by the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST (POA) Act, Muzaffarpur in connection with SC/ST Case No.15 of 2020, instituted for the offences under Sections 147, 148, 149, 323, 379, 380, 307, 504, 506 and 427 of the Indian Penal Code and Section 3(1)(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 informant alleges that he is owner and driver of E-Rickshaw. Further alleges that accused Kallu Kumar Sah @ Kallu Sah came to his house along with one accused and started abusing and assaulting the informant and on his refusal to ferry a passenger to railway station. Further alleges that all the accused persons abused them by taking his caste name and damaged the E-Rickshaw. It is next alleged that Anil Sah took charger of E-Rickshaw worth of Rs.5500/-. Kallu Sah assaulted by rod causing injury on head. Further, Vikash Kumar and Sonu Kumar Sah tried to strangle him by a towel, but was saved by people, who had gathered. Further, alleges that Anil Sah and Sonu Kumar Sah snatched a golden chain and informant was taken to hospital for treatment.

The learned counsel for the appellants submits that appellants have been falsely implicated in the present case. It is next submitted that the present F.I.R. arises out of a complaint. It is further submitted that if what has been alleged in the F.I.R. is true that informant was assaulting and he got injured, then definitely the informant would have instituted an F.I.R., but the informant instituted a complaint



for reasons best known to him based on which, the present F.I.R. came to be instituted. The learned counsel submits that in the event, if an F.I.R. would have been instituted, then the hospital would have informed the police and the police would have recorded the fard-bayan of the informant, but the fact that the complaint came to be instituted that creates doubt with regard to the veracity of the allegations as alleged in the F.I.R. It is next submitted that the complaint was instituted with respect to an occurrence committed on 03.11.2019 and the F.I.R. came to be instituted on 09.02.2020. It is also submitted that from bare perusal of the allegations as alleged in the F.I.R., it would manifest that no offence under the SC/ST (P.O.A.) Act is made out as the allegation of hurling abuses was within the premises of the informant and thus, not in a public view. The learned counsel for the appellants submits that prima facie no offence under the SC/ST (P.O.A.) Act is made out, as such, notices are not required. It is also submitted that as far as allegation of assault, snatching of chain and taking away of charger are concerned, the same is ornamental in nature as no F.I.R. with respect to the occurrence was instituted promptly.



Regard being had to the aforesaid submissions,
the order dated 28.09.2021 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.5,000/- (Rupees Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST (POA) Act, Muzaffarpur in connection with SC/ST Case No.15 of 2020, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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