

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4902 of 2021

Arising Out of PS. Case No.-167 Year-2021 Thana- EKMA District- Saran

1. LALLAN MAHTO Son of Late Paltu Mahto Resident of Village - Ekma , P.S.- Ekma, Distt.- Chapra (Saran)
2. Mintoo Mahto Son of Lallan Mahto Resident of Village - Ekma , P.S.- Ekma, Distt.- Chapra (Saran)
3. Akash Mahto Son of Lallan Mahto Resident of Village - Ekma , P.S.- Ekma, Distt.- Chapra (Saran)

... .. Appellant/s

Versus

1. The State of Bihar
2. Gayanti Devi Wife of Dwarika Ram Resident of Village- Ekma near Canal P.O.- Ekma, P.S.- Ekma, District- Saran at Chapra

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raghav Prasad
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

4 15-09-2022 Heard learned counsel for the appellants as well as learned counsel for daughter of the informant.

Learned counsel for the appellants is directed to remove all the defects pointed out by the Stamp Reporter within one month.

This appeal has been preferred on behalf of the appellants under Section 14-A (2) of the SC & ST (Prevention of Atrocities) Act for setting aside the order dated 02.09.2021, passed in connection with Ekma P.S.Case No. 167 of 2021, registered for the offences punishable under Sections 341, 323, 324, 504, 506 and 354/34 of the Indian Penal Code and Sections 3(i)(r)(s)(w)(i)3(2)(va) of SC and ST (Prevention of Atrocities) Act, whereby the prayer for anticipatory bail of the appellants has been rejected.

As per allegation, the accused persons including the appellants came to the house of the informant. Co-accused Vikash Mahto assaulted the husband of the informant on his



head with *Dab*. The allegation against appellant no. 1 is that he outraged the modesty of the informant and appellant nos. 2 and 3 assaulted the informant and her husband. Co-accused persons also assaulted the daughter of the informant and they abused the members of the prosecution side by calling their caste name.

Learned counsel for the appellants has submitted that the members of the prosecution side had badly assaulted the members of the defense side and in this respect Ekma P.S. Case no. 155 of 2021 was lodged by appellant no. 2 which is prior to lodging of the present case. The members of the prosecution side are the first assailants, as such the case cannot be said to have originated due to malicious feeling of caste.

On the other hand, learned counsel for the daughter of the informant has submitted that the accused persons assaulted the members of the prosecution side. He has submitted further that Gayanti Devi, the informant has died, to which learned counsel for the appellants has submitted that the death of the informant was not caused due to injuries. She died after one year and two months of the occurrence and there is no charge sheet under Section 302 of the Indian Penal Code.

There is case and counter case. The case of the appellants are prior to lodging of the present case. The members of the defense side have also sustained injuries, as such this case cannot be said to have originated due to malicious feeling of caste. The appellants are the persons of clean antecedent.

Considering the facts and circumstances, the appeal is allowed and the impugned order dated 02.09.2021 is set aside. Accordingly, in the event of arrest or surrender within four weeks from today, the appellants, above-named shall be released on anticipatory bail on furnishing bail bond of Rs.



10,000/-(ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, SC/ST Act, Saran at Chapra in connection with Ekma P.S.Case No. 167 of 2021.

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

(Nawneet Kumar Pandey, J)

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