

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.17 of 2022

Arising Out of PS. Case No.-31 Year-2021 Thana- VALMIKINAGAR District- West
Champaran

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1. Babulal Mushar @ Bawali S/O- Late Neur Mushar Resident of Village- Rehua Tola, P.S.- Valmikinagar, District- West Champaran.
 2. Chhote Lal Mushar Son of Late Neur Mushar Resident of Village- Rehua Tola, P.S.- Valmikinagar, District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Raj Kali Devi Wife of Rma Mushar Resident of village- Rehua Tola P.S.- Bettiah Town, Dist- west Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anant Kumar Mishra
For the State : Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 12-10-2022 1. Heard learned counsel for the appellants and learned Special P.P. for the State, on point of admission and on merit also.

2. The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') against the order dated 08.10.2021 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST), Bettiah, West Champaran in connection with Valmikinagar P.S. Case No. 31 of 2021 registered under Sections 302, 201 and 34 of Indian Penal Code and Sections 3(i)(r)(s) and 3(2)(v) of the



Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Spl. PP that information has already been given to the informant. Informant failed to join the present proceedings.

5. Appellants are named in F.I.R. where appellant no.1 is in custody since 01.07.2021 and appellant no.2 is in custody since 13.08.2021.

6. The allegation against the appellants is to commit murder of son of the informant, alongwith other co-accused persons due to previous enmity.

7. Learned counsel for the appellants submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion. It is further submitted that nothing surfaced/recovered during the course of investigation, which may connect the appellants, *prima facie*, with the present set of occurrence. It is submitted that both the parties are members of Scheduled Caste community and, as such, in the present case, provision of the Act is not applicable. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellants attract



atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellants are men of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellants submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.***

9. Learned Special P.P. for the State, while opposing the prayer of bail, fairly conceded that informant is not the eye witness of the occurrence.

10. In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion coupled with the fact that chargesheet has already been submitted, let both the appellants, above named, are directed to be released on bail in connection with Valmikinagar P.S. Case No. 31 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions



Judge-cum-Special Judge (SC/ST), Bettiah, West
Champaran/concerned Court, subject to the conditions as laid
down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 08.10.2021 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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