

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2266 of 2021

Arising Out of PS. Case No.-1 Year-2021 Thana- GOPALPUR District- West Champaran

1. KAMESHWAR MISHRA S/O LATE SUDAMA MISHRA RESIDENT OF VILLAGE-GHOGHA, MISHRA TOLA, P.S.-GOPALPUR, DISTRICT-WEST CHAMPARAN.
2. PRABHU MISHRA S/O LATE SUDAMA MISHRA RESIDENT OF VILLAGE-GHOGHA, MISHRA TOLA, P.S.-GOPALPUR, DISTRICT-WEST CHAMPARAN.
3. SHAMBHUNATH MISHRA S/O LATE SUDAMA MISHRA RESIDENT OF VILLAGE-GHOGHA, MISHRA TOLA, P.S.-GOPALPUR, DISTRICT-WEST CHAMPARAN.
4. JITENDRA MISHRA S/O LATE SUDAMA MISHRA RESIDENT OF VILLAGE-GHOGHA, MISHRA TOLA, P.S.-GOPALPUR, DISTRICT-WEST CHAMPARAN.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. PRAHLAD RAM LATE RAMCHANDRA RAM R/O VILLAGE-GHOGHA MISHRA TOLA, P.S.-GOPALPUR, DISTT-WEST CHAMPARAN

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Umesh Chandra Verma
For the Respondent/s	:	Mr.Binay Krishna, Spl.P.P.
		Mr.Umesh Kumar Gupta

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 25-08-2023 Heard learned counsel for the appellant, learned Special P.P. for the State and learned counsel appearing on behalf of respondent no. 2.

2. The present appeal has been filed against order dated 21.01.2021 passed by learned A.D.J.-I-cum-Special Judge, under SC & ST Act, West Champaran at Bettiah in Gopalpur P.S. Case No. 01 of 2021 registered for the offence punishable



under Sections 341, 323, 427, 504, 506/34 of the Indian Penal Code and Section 3(1)(r)(s)(w) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (POA) Act (for short “SC/ST Act”), whereby the prayer for anticipatory bail of appellants was rejected.

3. As per prosecution case, on 03.01.2021 at about 3:00 PM, while the informant was at brick kiln, all the appellants came there and started forcibly ploughing the vacant land and on protest, the appellants abused the informant by caste name and thereafter assaulted him and his family members and also destroyed house-hold articles of informant.

4. Learned counsel for the appellants submits that admittedly there is land dispute between the parties. Assertion of title and possession of land in question by either of the parties led to simple scuffle. There is no injury report on record. It is not the case of the prosecution that at the time of alleged occurrence, any member of the public was present at the place of occurrence and as such, no case under the SC/ST Act is made out. Learned counsel for the appellants further submits that prior to the present case, appellant no. 1 had filed three complaint case against informant and others.

5. However, learned Special P.P. as well as learned



counsel for the respondent no. 2 opposed the appeal and submitted that appellants are named in the F.I.R. and appellant no. 1 has got two criminal antecedent. Admittedly, there is land dispute between the parties and both parties are on litigating terms.

6. Considering the aforesaid facts and circumstances, the impugned order dated 21.01.2021 is, hereby, set aside and appeal is allowed.

7. Accordingly, in the event of arrest or surrender within a period of six weeks from today, let the above-named appellant be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-I-cum-Special Judge, under SC & ST Act, West Champaran at Bettiah in Gopalpur P.S. Case No. 01 of 2021 .

(Prabhat Kumar Singh, J)

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