

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2856 of 2023

Arising Out of PS. Case No.-349 Year-2022 Thana- RUPAULI District- Purnia

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1. Om Prakash Mandal S/O Kanti Mandal Village- Ajhokhopa Ps- Rupauli Dist- Purnia
 2. Binod Dilwar Son Of Sita Ram Paswan Village- Ajhokhopa Ps- Rupauli Dist- Purnia
 3. Hiralal @ Hira Lal Paswan Son Of Late Jamadar Paswan Village- Ajhokhopa Ps- Rupauli Dist- Purnia

... .. Appellant/s

Versus

1. The State of Bihar.
2. Sushma Devi wife of Jitendra Uraon Village- Ajhokhopa Ps- rupauli Dist- Purnia.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bhola Prasad, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 15-12-2023 Heard learned counsel for the appellants, learned counsel for the respondent no.2 and learned Spl.P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for anticipatory bail of the appellants vide order dated 16.05.2023 passed by the learned Special Judge, SC/ST Act, Purnia in connection



with A.B.P. No. 37 of 2023 (arising out of Rupauli P.S. Case No. 349 of 2022) registered for the alleged offences under Sections 341, 323, 406, 420, 467, 468, 471 read with 34 of the Indian Penal Code and Sections 3(1)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the appellants are alleged to have prepared a forged agreement to sale of land appertaining to Khata No. 345, Khesra No. 462, 38 and area 0.04 decimal and 200 kadi of Mauja Matheli Khemchand, Thana 284 on consideration amount Rs. 2 lacs in favour of the informant under conspiracy. It is further stated that the informant has paid total Rs. 80,000/- out of negotiated consideration amount Rs. 2,00,000/- (Rupees Two lacs). However, the appellants neither made registry of the said land in favour of the informant nor did they return the money to the informant. It is further alleged that when the informant asked them to return the money, the appellants assaulted and abused her by calling her caste name and also threatened to kill her.

4. Learned counsel for the appellants submits that



the appellants are innocent and have been falsely implicated in this case. There is general and omnibus allegation against the appellants. It is further submitted that the injury is simple in nature. Learned counsel has further submitted that as per the F.I.R., no member of public was present at the relevant point of time of the alleged incident, hence, no offence under SC/ST Act is made out against the appellants. It is related to civil dispute. Learned counsel for the petitioner placed reliance on the judgement in the case of **Bimla Tiwari Vs. State of Bihar and others (Special Leave Petition (CRL.) Nos. 834-835 of 2023)** at para 10, the Hon'ble Apex Court has held that "*we would reiterate that the process of criminal law cannot be utilized for arm-twisting and money recovery, particularly while opposing the prayer for bail.*"

5. Learned Spl. P.P. for the State as well as learned counsel for the respondent no.2 have opposed the prayer for anticipatory bail of the appellants.

6. In view of the aforesaid facts and circumstances of the case as well as the fact that no case is made out against the appellants, the impugned order dated



16.05.2023 passed by the learned Special Judge, SC/ST Act, Purnia in connection with A.B.P. No. 37 of 2023 (arising out of Rupauli P.S. Case No. 349 of 2022), is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, in the event of their arrest/ surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Purnia in connection with A.B.P. No. 37 of 2023 (arising out of Rupauli P.S. Case No. 349 of 2022), subject to the conditions mentioned in Section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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