

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.703 of 2021

Arising Out of PS. Case No.-153 Year-2019 Thana- DHANAHA District- West Champaran

1. BINOD CHAUDHARY S/O LATE MAHADEO CHAUDHARY
RESIDENT OF VILLGE TAMKUHWA, P.S-DHANAHA, DISTRICT-
WEST CHAMPARAN.
2. MUKESH CHAUDHARY S/O SRI BINOD CHAUDHARY RESIDENT
OF VILLGE TAMKUHWA, P.S-DHANAHA, DISTRICT-WEST
CHAMPARAN.
3. LADDU CHAUDHARY S/O SRI BINOD CHAUDHARY RESIDENT OF
VILLGE TAMKUHWA, P.S-DHANAHA, DISTRICT-WEST
CHAMPARAN.
4. NAGINA CHAUDHARY S/O SRI BISHUNDEO CHAUDHARY
RESIDENT OF VILLGE TAMKUHWA, P.S-DHANAHA, DISTRICT-
WEST CHAMPARAN.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Kunti Dev Wife of Bindu Ram R/o vill- Tamkunhwa, P.S- Dhanaha, Dist
West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Umesh Chandra Verma, Advocate
For the Respondent/s : Mr. A.G

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

- 5 19-07-2023 1. This interlocutory application has been filed for
condoning the delay in preferring the present appeal.
2. For the reasons mentioned in this interlocutory
application, I am satisfied that the appellants were prevented
from sufficient cause in preferring this appeal within time.
3. Accordingly, this interlocutory application is
allowed and the delay in filing this appeal is hereby condoned.



4. Despite valid service of notice, nobody appears on behalf of respondent No. 2.

5. Heard learned counsel for the appellants, the State.

6. The present appeal is directed against the order dated 30.06.2020, passed in a case registered for the offence punishable under Sections 341, 323, 354, 457, 380/34 of the Indian Penal Code read with Sections 3 (i) (r) of the Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act (SC/ST Act), whereby anticipatory bail of the appellants has been rejected.

7. It is alleged that appellant No. 1 Binod Chaudhary went to the house of the informant Kunti Devi, in the night and was opening box kept on cot, when informant identified him as Binod Chaudhary, she tried to catch hold of him but the appellant assaulted her with fists and slaps and tried to outrage her modesty and also succeeded in fleeing away from there. Thereafter she found Rs. 10,000/- and a gold earring worth Rs. 20,000/- missing from the box. It is further alleged that when the informant along with her 'devar' Buna Ram and 'deyadin' Firija Devi went to the house of Binod Chaudhary than other appellant No 2 , 3 and 4 abused her by caste name and also threatened to assault them.



8. It is submitted that appellants have been made accused in this case due to previous enmity. As a matter of fact, due to dispute over pathway a quarrel took place between the parties and taking advantage of it this false and concocted case has been lodged against these appellants. There was delay of 10 days in lodging the F.I.R for which there is no plausible explanation which itself creates a doubt over the prosecution case. It is not the case of informant that any member of public was present at the time of the incident, as such no case under SC/ST is made out against the appellant. They claim clean antecedents.

9. Learned counsel for the state and respondent no.2 opposed the prayer for bail.

10. Having regard to the submissions made by the parties and taking into consideration the materials available on record, this appeal is allowed and the impugned order dated 30.06.2020 is set aside.

11. Accordingly, in the event of arrest or surrender the appellant, above named, before the court below within eight weeks from today, they 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 the



learned 1st Additional Sessions Judge-cum- the Special Judge,
under SC & ST Act, West Champaran, Bettiah, in Dhanaha, P.S.
Case [No. 153 of 2019, subject to the condition as laid down
under Section 438 (2) of the Code Of Criminal Procedure.

(Prabhat Kumar Singh, J)

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