

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2598 of 2022

Arising Out of PS. Case No.-8 Year-2020 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. RAJ KUMAR PRASAD SAH @ RAJ KUMAR PRASAD S/O LATE YADUNANDAN SAH Resident of village- Laukahi, P.S.- District- Madhubani.
 2. PRADEEP KUMAR SAH @ PRADEEP PRASAD SAH S/O RAJ KUMAR PRASAD SAH Resident of village- Laukahi, P.S.- District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. RAM EKBAL DAS S/O LATE CHOUTHU DAS Resident of village- Laukahi, P.S.- District- Madhubani.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Ranjan
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 14-11-2024 1. Heard learned Counsel for the appellants, learned counsel for the informant and learned Additional Public Prosecutor for the State.
2. An order, dated 24.06.2022, passed by learned Additional Session Judge I -cum- Special Judge (SC/ST Act), Madhubani, in ABP No. 946 of 2022, is under challenge in the present appeal preferred under Section 14-A (2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellant in connection with C. R.



Case No. 08 of 2020 Sections
147/148/149/504/506/427/379/354(B)/420/467/468/120B
of the Indian Penal Code and Section 3 (i)(r)(s) of the
Schedule Caste/Schedule Tribe (Prevention of Atrocities)
Act, has been rejected.

3. The prosecution case, as per the complaint case, is that on the respondent no. 2 has a piece of land admeasuring about 15 Katha situated at Plot No. 129 and Plot No. 156, which was decided in favour of the complainant/respondent no. 2 by Bataidari Case No. 481/75-76. The complainant is enjoying possession of the aforesaid land for the last 36 years. On 09.12.2019, while the respondent no. 2, including his family members, were constructing a hut, the appellant, along with 4-5 unknown persons, arrived there and started dismantling the hut. When the complainant protested, they abused him by his caste name Tatwa and was also assaulted by accused persons by fists and slaps.
4. Learned counsel for the appellants submits that the present complaint has been filed due to land dispute inasmuch as the complainant/respondent no. 2 is the son of the previous Bataidar and the appellant is contesting



the dispute regarding the Batidar with the complainant's father. Earlier CWJC No. 4431 of 1991 was filed by the complainant's father and CWJC No. 3831 of 2000 was filed by appellant no. 1, which were jointly disposed by this Court vide order, dated 29.11.2013, by remanding the matter before the Deputy Collector, Land Reforms, who passed the order after remand, dated 03.05.2018. Being aggrieved, the appellant no. 1 filed CWJC No. 5030 of 2019, which is still pending before this Court. The complainant is respondent no. 13 in the said writ application. Learned counsel further submits that Tanti-Tatwa, which was included by the State Government in the list of Schedule Caste vide resolution, dated 01.07.2015, has been declared unconstitutional by the Supreme Court in a judgment reported in **Dr. Bhim Rao Ambedkar Vihar Manch Bihar, Patna v. The State of Bihar and Ors. (AIR 2024 SC 3531)**. Accordingly, the submission is that Tanti-Tatwa was not a Schedule Caste, as such, the allegation that the complainant was called by his caste name as Tatwa by the appellant is not covered by the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act.



5. On the other hand, learned counsel for the complainant vehemently opposes the prayer for anticipatory bail of the appellants and submits that on the date when the complainant was called by his caste name as Tatwa, the inclusion of the Tatwa caste in the Schedule Caste was there. The same has subsequently been excluded by the Supreme Court, as such, the SC/ST Act is attracted. He further submits that cognizance has already been taken by the learned Magistrate under provision of section SC/ST Act, therefore, the appellant does not deserve the anticipatory bail.
6. I have heard learned counsel for the parites, the allegation in the complaint is that the appellant called the complainant by his caste name Tatwa, Hon'ble Supreme Court in a judgment Dr. Bhim Rao Ambedkar Vihar Manch Bihar, Patna v. The State of Bihar and Ors. (Supra) has categorically held that inclusion of Tanti-Tatwa by the State Government vide resolution, dated 01.07.2015, was mala-fide and de-hors the constitutional provisions and accordingly quashed the resolution, dated 01.07.2015, with retrospective effect. The Supreme Court has further said that the



members of Tanti-Tatwa community, who were appointed under Schedule Castes reserved quota and were extended such benefits subsequent to the resolution, dated 01.07.2015, may be accommodated under Extremely Backward Classes, accordingly, I am inclined to grant the appellant privilege of anticipatory bail.

7. This appeal is, accordingly, allowed and the order, dated 24.06.2022, passed by learned Additional Sessions Judge I -cum- Special Judge (SC/ST Act), Madhubani, in A.B.P. No. 946 of 2022, is set aside.
8. Let the appellant, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on 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), Madhubani, in connection with C.R. Case No. 08 of 2020, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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