

Arising Out of PS. Case No.-2195 Year-2016 Thana- WEST CHAMPARAN COMPLAINT  
District- West Champaran

- ... .. Appellant/s

1. The State of Bihar
2. Makun Thakur S/o Late Sheonarayan Thakur Resident of Village-Pokhariya Maldahiya, P.S.-Shikarpur, District-West Champaran.

... .. Respondent/s

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

5      05-02-2025      1.                  Heard learned Counsel for the appellants and  
learned Additional Public Prosecutor for the State.

2.                  An order dated 26.02.2020, passed by learned 1<sup>st</sup>



Additional Sessions Judge-cum-Special Judge, SC/ST Act, West Champaran at Bettiah in A.B.A. No. 2882 of 2019, is under challenge in the present appeal preferred under Section 14-A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the anticipatory bail application of the appellants in connection with Complaint Case No. 2195-C of 2016 registered for the offences punishable under Sections 148/149/341/354-B/387/427/504 of the Indian Penal Code and Section 3 (1) (r) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been rejected.

3. The prosecution case, as per the complaint petition, is that the house of complainant/ respondent no. 2 is situated on plot no. 306, admeasuring 1 katha 19 dhur whereas appellants were living in the house constructed on a big plot having number 372 and used to go on the main road through passage crossing the house of respondent no. 2. It is alleged that the appellants requested respondent no. 2 to allow them to use 10 feet land to enable their vehicle to approach their house whereupon respondent no. 2 replied that appellants can purchase land for pathway from others as respondent no. 2 was not having sufficient homestead land. A panchayati was held and



panchnama was prepared against the will of the respondent no. 2/ complainant, in respect of which, the respondent no. 2 raised his grievance before the Circle Officer and on 24.11.2016, the Circle Officer made an inspection of the land and found that the passage was on raiyati land, through which pathway was existing for approaching main road. It is further alleged that on 07.12.2016, the appellants variously armed, started demolishing the informant's house with an intention to expand the width of pathway/ passage and upon protest by the informant and witnesses, the appellants abused the informant by taking his caste name and also assaulted him. When the informant's wife intervened, she was also assaulted by appellants no. 1 and 4.

4. Learned Counsel appearing on behalf of the appellants submits that there is long-standing dispute between the parties and a proceeding under Section 107 Cr.P.C. was initiated by Sub-Divisional Officer, Narkatiaganj, on the report of the B.D.O., between appellant no. 3 and full brother of respondent no. 2. He further submits that the dispute between the parties is regarding use of passage, for which, panchnama was prepared on 18.08.2016, allowing the appellants to use the pathway/ passage passing through the front of the informant's house. The grievance was also raised by respondent no. 2 before



the Circle Office who made an inspection report confirming the existence of pathway/ passage on the disputed cite. He next submits that a proceeding under Section 107 Cr.P.C. was also initiated by S.D.O. Narkatiaganj on the application submitted on behalf of appellants and others on 25.11.2016. From perusal of the entire allegation in the complaint, it is apparent that the complaint has been lodged due to land dispute between the parties and there was no intention on the part of the appellants to humiliate the respondent no. 2 and his family members on the ground of being the members of ST/SC community. The land dispute has been given the colour of an offence under Scheduled Castes and Scheduled Tribes Act. He also submits that the learned Special Court, while taking cognizance, failed to appreciate this fact.

5. Despite service of notice, no body appears on behalf of opposite party no. 2, however, learned Spl.P.P. for the State opposed the prayer for bail and submits that it is true that there is land dispute between the parties but cognizance has been taken by the learned Special Court.

6. Having heard learned Counsel for the parties and taking into consideration the nature of allegation and the fact that there is a long-standing land dispute between both the



parties regarding passage/ pathway, for which several litigations were lodged between the parties, I am inclined to grant anticipatory bail to the appellant.

7. Accordingly, this appeal is allowed and the order dated 26.02.2020, passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, SC/ST Act, West Champaran at Bettiah in A.B.A. No. 2882 of 2019, is set aside.

8. Let the appellants, above named, 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 learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, SC/ST Act, West Champaran at Bettiah in A.B.A. No. 2882 of 2019, arising out of Complaint Case No. 2195-C of 2016.

**(Anil Kumar Sinha, J)**

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