
(2021) 07 PAT CK 0061

Patna High Court

Case No: Criminal Appeal (SJ) No. 3 Of 2021

Jitendra Singh @ Jitendra Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: July 16, 2021

Acts Referred:

- Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 - Section 3(i)(r), 3(i)(s), 3(2)(va)
- Indian Penal Code, 1860 - Section 34, 323, 341, 353, 379, 504, 506

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Krishna Kant Singh, Sadanand Paswan

Final Decision: Allowed

Judgement

- 1 The matter has been heard via video conferencing.
2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellants on 14.07.2021, which was allowed.
3. Heard Krishna Kant Singh, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor (hereinafter referred to as the "Special PP"™) for the State.
4. Learned counsel for the appellants submitted that during pendency of the appeal, petitioner no. 1, Jitendra Singh @ Jitendra Kumar and petitioner no. 3, Antu Kumar, have been arrested and, thus, the application on their behalf may be permitted to be withdrawn as it has become infructuous.
5. In view thereof, as prayed for by learned counsel for the appellants, the petition on behalf of the petitioner no. 1, Jitendra Singh @ Jitendra Kumar

and petitioner no. 3, Antu Kumar, stands disposed off as withdrawn and is restricted to appellant no. 2, Satyendra Singh.

6. The present appeal is directed against the order dated 05.09.2020 passed by the learned Additional Sessions Judge 1st, Sheikhpura, in Korma PS

Case No. 88 of 2019 by which the prayer for anticipatory bail of the appellant no. 2 has been rejected.

7. The appellant no. 2 apprehends arrest in connection with Korma PS Case No. 88 of 2019 dated 09.12.2019, instituted under Sections 341, 323, 353,

379, 504, 506/34 of the Indian Penal Code and 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act,

1989 (hereinafter referred to as the "SC/ST Act").

8. As per the FIR, the informant, who was the driver of the jeep, was sitting in the jeep besides the road during election of PACS, when there was

some quarreling and the informant, who was known to the accused persons, out of whom five have been named, including the petitioners, and fifteen

unknown, as earlier also he used to come to the village to drop them, tried to intervene, the same was not liked by the accused who abused him using

caste name and when the informant was returning to his jeep and was recording the scene from his mobile, the accused are said to have become

angry and had slapped him and damaged the indicator light and loudspeaker of the vehicle and had also manhandled, damaged and taken away the

mobile phone of a homeguard. It has further been stated that after conducting the election of PACS, the informant along with Hirday Narayan

Pandey, the homeguard, went to Sadar Hospital, Sheikhpura, and, thereafter complaint was made at 8.00 PM.

9. Learned counsel for the appellant no. 2 submitted that the allegation is totally false and fabricated for the reason that there was absolutely no

occasion for the informant to come in the village and even if it is accepted that there was some quarrel going on between the parties, as he was not

involved in maintaining law and order, he had no authority to interfere. Further, it was submitted that had there been any such type of incident, at

every polling booth, there are armed police personnel and a Magistrate, who are required to maintain law and order, they would have reported it and

also controlled the situation, but no such complaint has been made anywhere, which clearly proves that the allegation is totally false and fabricated.

Learned counsel submitted that even the allegation of manhandling is unbelievable for the reason that a person, who is injured, could not have waited

for getting treatment and thus, the allegation that after the election was over, the informant and the homeguard went and got themselves treated,

shows falsity of the allegation. Learned counsel submitted that even in the injury report only bruises have been found which have been said to be

simple in nature. It was contended that there is no allegation that the appellant and other accused had abused him by taking caste name in public so as

to attract any offence under the SC/ST Act. Learned counsel submitted that only due to political rivalry, as the petitioner no. 1 was the winning

candidate in the election, the present case has been lodged at the behest of his rivals. It was submitted that the petitioner no. 2 has no criminal

antecedent and that petitioner no. 1 has also been released by the court below itself.

10. Learned Special PP submitted that as per the allegation, the petitioner no. 2 along with others had abused the informant by caste name. However,

it was not controverted that there is no allegation of such abuse in open space.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the Court below within six weeks from today, the appellant no. 2, Satyendra Singh, be released on bail upon furnishing bail bonds of Rs.

25,000/-(twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge, 1st,

Sheikhrapura, in Korma PS Case No. 88 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and

further (i) that one of the bailors shall be a close relative of the appellant no. 2, (ii) that the appellant no. 2 and the bailors shall execute bond and give

undertaking with regard to good behaviour of the appellant no. 2, and (iii) that the appellant no. 2 shall cooperate with the Court and police/prosecution.

Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of his bail bonds.

12. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the appellant no. 2, to the notice of the Court

concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellant no. 2.

13. The order dated 05.09.2020 passed by the learned Additional Sessions Judge 1st, Sheikhpura, in Korma PS Case No. 88 of 2019 is set aside.

14. Accordingly, the appeal stands allowed.