

(2021) 02 PAT CK 0083

In the Patna High Court

Case No : Criminal Appeal (Sj) No. 2068 Of 2020

Guddu Mahto @ Guddu Kumar @ Guddu Kumar Mahto And
Anr

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 05-02-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(va), 14A(2)
Indian Penal Code, 1860 — Section 34, 302

Citation : (2021) 02 PAT CK 0083

Hon'ble Judges : Ashwani Kumar Singh, J

Bench : Single Bench

Advocate : Bimlesh Kumar Pandey, Sadanand Paswan

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

2. By way of the instant application preferred under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act,

1989 (for short "the Act"), the appellants have challenged the order dated 29.08.2020 passed by the learned Additional District and Sessions

Judge-1st -cum-Special Judge, West Champaran at Bettiah in A.B.P. No.1273 of 2020 whereby he has rejected the prayer for grant of pre-arrest bail

of the appellants in connection with Bettiah (Town) P.S. Case No.283 of 2020 registered for the offences punishable under Sections 302 read with 34

of the Indian Penal Code and Section 3(2)(v-a) of the Act.

3. At the outset, learned counsel for the appellants submitted that appellant no.1, Guddu Mahto @ Guddu Kumar @ Guddu Kumar Mahto has already

been arrested during the pendency of appeal. Hence, his appeal is dismissed as infructuous.

4. According to the prosecution case, the informant's son left his house on his motorcycle on 11.05.2020 at 10:00 am. At 10:30 am, co-villager

Sandip Ram informed him on mobile no. of informant's husband that her son has been assaulted with bamboo stick by the appellants and Jitesh

Kumar and two or three unknown accused persons. After receipt of the information, she along with her co-villagers reached at the place of

occurrence and saw the appellants, Jitesh Kumar and two or three unknown persons present at the place of occurrence. However, on seeing them,

they fled away. After that, she brought her son to Bettiah hospital for better treatment from where he was referred to Muzaffarpur. When she asked

her son about the incident, he disclosed that the appellants and others had assaulted him by iron rod and bamboo stick as a result of which, he had

sustained grievous injuries. Subsequently, the injured died at SKMCH, Muzaffarpur.

5. So far as appellant no. 2 Vikash Mahto @ Vikahs Kumar is concerned, he contended that from the allegations made in the FIR, no case under the

Act is made out. He further contended that the first information report is based on the statement of the mother of the informant, but the statement of

the informant was not recorded while he was undergoing treatment. He further contended that the informant is not an eye witness to the occurrence

and, thus, the FIR ought to have been registered by Sandip Ram, who had informed the informant about the incident

6. On the other hand, learned Special Public Prosecutor appearing for the State has submitted that there is no infirmity in the order passed by the court

below. He contended that not only the offences alleged are grave, the allegation made against the appellant Vikash Mahto @ Vikahs Kumar is quite

serious as he is also alleged to have assaulted the deceased with bamboo stick and iron rod.

7. Having regard to the facts and circumstances of the case, I see no illegality or perversity in the impugned order passed by the court below.

8. Accordingly, the appeal so far as appellant no.2 is concerned, is dismissed.

9. In case, he surrenders and seeks bail, the same shall be considered on merits without being prejudiced in any manner by this order.