IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 207 of 2025

Tukir Allam @ Taukir Alam, aged about 38 years, S/o Gulam Rasul, R/o Village-Darji Mohalla, P.O. & P.S. Dhanwar, District-Giridih
.... …. Appellant

Versus

1. The State of Jharkhand
2. Victim .... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Rajesh Kumar, Advocate
Mr. Rishi Ranjan Vats, Advocate
For the State : Mr. Vineet Kumar Vashistha, Spl.P.P.
For the Resp. No.2 : Mr. A.N. Deo, Advocate

Order No.14 / Dated : 20.07.2026.

The present appeal has been filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Heard learned counsel for the appellant, learned counsel for the State and the learned counsel for the respondent No.2/victim.

3. The present appeal has been filed for quashing the order taking cognizance dated 20.12.2024 passed by the learned Additional Sessions Judge-I-cum-Special Judge, Giridih in connection with SC/ST P.S Case No.39 of 2023 arising out of Dhanwar P.S. Case No. 17 of 2023, for the offences under Sections 341, 323, 354, 504, 506 r/w Section 34 of the I.P.C. and Sections 3(1)(r)(s)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The case is presently pending in the Court of learned Special Judge, SC/ST Act Giridih.

4. It has been challenged making reference to Section 223 of the BNSS, 2023 which is quoted herein below:-

> **223. Examination of complainant.** (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:
>
> Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:
>
> Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses-
>
> (a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or
>
> (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212:

> Provided also that if the Magistrate makes over the case to another Magistrate under Section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them
>
> (2) A Magistrate shall not take cognizance on a complaint against a public servant for any offence alleged to have been committed in course of the discharge of his official functions or duties unless-
>
> (a) such public servant is given an opportunity to make assertions as to the situation that led to the incident so alleged; and
>
> (b) a report containing facts and circumstances of the incident from the officer superior to such public servant is received."

5. Learned counsel for the other side could not point out any law contrary to the above parliamentary enactment.

6. In view of the above fact, the order taking cognizance dated 20.12.2024 by the learned Additional Sessions Judge-I-cum-Special Judge, Giridih in connection with SC/ST P.S Case No.39 of 2023 arising out of Dhanwar P.S. Case No. 17 of 2023 is, hereby, quashed and set aside.

7. The matter is remitted back to the concerned Court for passing afresh order after giving due hearing to the parties.

8. The parties are also at liberty to raise all the plea before the concerned Court.

9. With the above observation and direction, the present criminal appeal is hereby, disposed of.

(**Rajesh Kumar, J.**)

20.07.2026

Pawan/Raja

Uploaded on 22.07.2026