

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17568 of 2013

Arising Out of PS. Case No. -72 Year- 2011 Thana -NARHAT District- NAWADA

- =====
1. Chhotu Yadav @ Chhote Prasad Yadav son of Musafir Yadav
 2. Ravindra Prasad Yadav, son of Rajo Yadav
 3. Surendra Prasad son of Narayan Yadav
 4. Shibalak Prasad @ Shiv Balak Pd. Yadav, son of Late Lilo Yadav
- All resident of village- Bokhra, P.S.- Sitamadhi, District- Nawada

.... Petitioners

Versus

The State Of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioners : Mr. Rajeev Nayan, Advocate

For the Opposite Party: Mr. Jitendra Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 30-07-2015

The present application has been filed for quashing the order dated 22.11.2012 passed in Spl. (H) No.18 of 2012 arising out of Narhat (Sitamadhi) P.S. Case No.72 of 2011 by which the learned 1st Additional Sessions Judge, Nawada has rejected the petition of discharge filed by the petitioners under Section 3(x), (xi) and (xii) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act.

2. According to the prosecution story, when the informant was cooking food in her house, the petitioners entered and started abusing and assaulting her, when petitioner no.1 threw her on ground and started dragging her towards the western room. Then the informant's husband came and raised alarm. Petitioner no.3 came

inside and took away a box containing ornaments and Rs.7000/- in cash while the other three petitioners assaulted the informant and her husband and then fled away.

3. It is submitted that while it is true that at the stage of framing of charge, even strong suspicion is sufficient to proceed and no detailed examination of materials is required, however, there must be at least some materials to form the basis for such suspicion. It is further submitted that in the instant case, there is no material whatsoever and none of the witnesses have supported the accusations as far as the provisions of the Scheduled Castes & Scheduled Tribes are concerned. As such and to this extent at least, the petitioners' prayer for discharging them ought to have been allowed.

4. Perused the case diary with assistance of the learned Additional Public Prosecutor. This Court is unable to find any material whatsoever such as statements of witnesses or otherwise, as might form the basis to proceed against the petitioners under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. The statements made in paragraphs 1, 4, 5, 6, 15, 17 and 30 of the case diary which have been referred by the learned Additional Sessions Judge, do not also contain any material at all with regard to the offence alleged under the Scheduled Castes &

Scheduled Tribes (Prevention of Atrocities) Act against the petitioners.

5. In the above view of the matter, this Court is of the view that allowing the prosecution of the petitioners to continue under the provisions of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act will be an abuse of process of the Court.

6. In the interest of justice, the order dated 22.11.2012 in so far as it relates to framing of charge against the petitioners under the provisions of Sections 3(x), (xi) and (xii) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act are hereby set aside. The petition stands allowed to the above extent only.

7. It is made clear that the prosecution case against the petitioners shall continue for the offences under the Indian Penal Code before the appropriate Court.

(Vikash Jain, J)

B.T/-

U		T	
---	--	---	--