

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37923 of 2012

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1. Sudarshan Singh son of Late Vishwanth Singh
 2. Bimalesh Singh son of Ram Janam Singh
 3. Saryu Chaudhary son of Baudh Chaudhary

All are residents of village Tiura, P.S. Chutia, District-Rohtas.

.... Petitioner/s

Versus

1. State of Bihar
2. Hridan Paswan son of Late Bigan Paswan, resident of village-tiura, P.S. Chutia, District-Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh

For the Opposite Party/s : Mr. G.S.Gupta (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

5 14-05-2015 I have heard the petitioner on the merits of order dated 12.07.2012 and I have also heard the learned counsel for the informant and the State.

The learned Ist Additional Sessions Judge, Sasaram while passing the impugned order in SC/ST Case No.03 of 2010 arising out of Chutia P.S. Case No. 10/2009 referred to some of the paragraphs of the case diary, like, 2,3,6,7,8,9 and 10 and on that basis held that there were materials sufficient for framing charges against the petitioners also under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. I have personally perused those paragraphs of the case diary as the photo copy of the same is available to this Court and I find that what ever was stated by the informant was this much that after he had been abused and assaulted the informant stated to the

police that he had been exploited and was being pressurized by the accused persons treating him to be a member of a scheduled caste. Similar is the statement of his brother Binod Paswan in paragraph 3 and witnesses examined in paragraphs 6, 7, 8, 9 and 10 have rather stated that no such act of humiliation or insult was committed by the accused persons as may constitute the offence under Section 3(i)(x) of the said Act.

The learned Special Judge-cum-1st Additional Sessions Judge, Sasaram appears passing the order against the material facts of the case and, as such, the order cannot be sustained. It is set aside.

Let the matter be heard by learned Special Judge-cum-Additional Sessions Judge, Sasaram for passing a fresh order of charge and then proceed with the trial of the case accordingly. If no offence exclusively triable by the Court of Sessions and no offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, it goes without saying, the usual course to be adopted by the learned Judge shall be as per Section 228(i)(a) Cr. P.C.

With the above direction, the petition stands allowed by setting aside the order impugned herein.

(Dharnidhar Jha, J)

B.Kr./-Saif

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