

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38479 of 2012

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1. Anil Kumar Jha @ Akhil Mohan Jha, S/O Ramesh Kumar Jha Resident
Of Village- Bennuchopar, P.S- Muffasil, District- Bettiah (West
Champaran)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Raja Ram Choudhary, son of late Mathura Choudhary, Village Katki,
P.S. Deo, District Aurangabad, at present Village/Mohalla Tekari Road
Shahpur P.S. Town Police Station, Aurangabad, District Aurangabad

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Shri Shailesh Kumar Singh, Advocate

For the State of Bihar : Shri. Uday Pratap Singh, APP

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA

ORAL ORDER

3 26-02-2015

Heard.

It is a case of inherent improbability and absurdity.

The petitioner, a Manager of Punjab National Bank, Aurangabad,
was approached allegedly by the complainant seeking the
cancellation of a demand draft issued by his Branch. The
allegation is that the petitioner while requesting the complainant to
come in the queue and not finding him in queue had abused the
complainant by taking his caste name.

The learned Chief Judicial Magistrate, Aurangabad passing the summoning order dated 9.1.2012 had held that a prima facie case under Section 504 of the Indian Penal Code and Section 3(x) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act is made out.

Section 504 of the Indian Penal Code reads as under:-

“504- Intentional insult with intent to provoke breach of the peace-

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extent to two years, or with fine, or with both”.

On perusal of the complaint petition the Court finds absolute absence of allegation regarding intentionally insulting the complainant by hurling abuse or otherwise so much so to provoke him to break the public peace or to commit any other offence. Thus, in the opinion of this Curt, the offence under Section 504 of the Indian Penal Code was not constituting and as such the summoning of the petitioner for committing that offence is patently bad.

So far the offence under Section 3(x) of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities)

Act is concerned, it is well settled that merely calling some one by his caste name could not constitute an offence unless other ingredients of the offence are constituted by the facts of the case..

Besides, what I find is that that the petitioner who was himself Chief Manager of the Bank should not be as irresponsibly while performing his duties as to hurl abuse upon the constituents of his Bank. This is a case of inherent probability and patent absurdity as regards the allegations which were slapped upon the petitioner to malign him in the public estimate.

On the above grounds and reasons, the petition succeeds and the same is allowed. The order of summoning dated 9.1.2012 passed in Aurangabad Town P.S.Case No. 248 of 2010 is hereby quashed.

(Dharnidhar Jha, J)

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