

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2985 of 2016

Arising Out of PS.Case No. -32 Year- 2015 Thana -PUSA District- SAMASTIPUR

=====

1. Vidya Nand Kumar, son of Ram Swarath Thakur, Resident of Village Mali Nagar, P.s Chak Mehshi District Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kumar Ashwini Son of Rajendra Kumar Resident of Village Karwahankar, Po Bajitpur, P.s Karpi, District Arwal.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Adv.
Mr. Ajit Kumar, Adv.
For the Opposite Party/s : Mr. None.

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-05-2016

Heard learned counsel for the petitioner.

2. By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the order dated 29th July, 2015 passed by the learned Judicial Magistrate 1st Class, Samastipur in Pusa P.S.Case No. 32 of 2015 by which cognizance of the offence has been taken under Sections 341, 323, 332, 353, 504, 506 of the Indian Penal Code and Section 3(1(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The prosecution case in short, as per the informant, is that the petitioner was posted as IT Operator (Panchayat). On 11th

May, 2015 at 5.25 p.m., he came to the Block Office. It is alleged that the petitioner was drunk. He was directed to leave the office premises but he addressed the informant as 'Dalit Harizan B.D.O.' and used his caste name in a derogatory manner. It is also alleged that the petitioner created impediment in the government work.

4. It is submitted by the learned counsel for the petitioner that from the reading of the FIR itself it would be clear that none of the ingredients of the offences alleged under the Indian Penal Code are attracted in the present case. He has submitted that though a wild and bald allegation has been made that the petitioner created impediment in the government work but from perusal of the short FIR itself, it would appear that when the petitioner started calling the informant by his caste name, the security guard posted in the Anchal under the order of the informant took him in custody and handed him over to the Police. He has further submitted that simply calling someone by taking his caste name would not constitute any offence punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

5. Despite repeated calls, none has appeared on behalf of the State.

6. I have heard learned counsel for the petitioner and carefully perused the materials available on record.

7. I find force in the argument of the learned counsel for the petitioner that even accepting the allegations made in the FIR to be true in its entirety ingredients of the offences alleged under the Indian Penal Code are not attracted. In that view of the matter, this Court is of the opinion that the cognizance taken against the petitioner of the offences punishable under Sections 341, 323, 332, 353, 504, 506 of the Indian Penal Code is apparently bad in the eye of law. Accordingly, the impugned order dated 29th July, 2015 is quashed to that extent.

8. However, in view of the nature of allegation made in the FIR, this Court is of the opinion that the ingredients of the offence punishable under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is clearly made out. In that view of the matter, the trial court would be free to proceed ahead in respect of the offence punishable under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

9. With the aforesaid observations and directions, the application stands allowed in part.

(Ashwani Kumar Singh, J)

Pradeep/-

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