

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52082 of 2015

Arising Out of PS.Case No. -42 Year- 2013 Thana -SC/ST District- LAKHISARAI

- =====
1. Dayanand Singh son of Late Ram Das Singh
 2. Gopal Singh son of Dayanand Singh

Both are residents of village- Rampur Chokra, P.S.- Piri Bazar, District- Lakhisarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the State : Mr. Ambika Bhagat, Spl. A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-05-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the order dated 24.6.2015 passed by the learned Additional Chief Judicial Magistrate, Lakhisarai in S.C./S.T. P.S. Case No.42 of 2013 by which he has summoned the petitioners after taking cognizance of the offences punishable under Sections 341, 323, 325, 448, 504 and 341 of the Indian Penal Code and Sections 3(1)(x)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC & ST Act").

2. It would be evident from reading of the First Information Report (for short "FIR") that the informant, a member of the Schedule

Castes community, has alleged that on 16th September, 2013, while he was sleeping on the roof of his own house, at about 3 a.m. both the petitioners, who are his co-villagers, scaled over his roof and hurled filthy abuses naming his caste and also pushed him down as a result of which he sustained serious head injuries and became unconscious.

3. It has been contended by the learned counsel for the petitioners that the petitioners have been falsely implicated in the case with a view to take vengeance due to long standing land dispute. It is also contended that the alleged incident took place within the forecorner of the house and, as such, the provisions of SC & ST Act would not be applicable.

4. On the other hand, learned Special Public Prosecutor for the State has submitted that during course of investigation, the witnesses have supported the allegations made in the FIR and finding the allegations to be true, the investigating officer has submitted charge-sheet against the petitioners. He has submitted that the provisions under Section 3(1)(v) of the SC & ST Act do not prescribe that the occurrence alleged should take place within public view. So far as Section 3(1)(X) of the SC & ST Act is concerned, he has submitted that matter may be agitated by the petitioner before the trial court at the stage of framing of charges.

5. I have heard respective counsel for the parties and

perused the materials available on record.

6. Apparently, the allegations made in the FIR do attract ingredients of cognizable offences alleged under the Indian Penal Code. Further, I find substance in the submission of the learned counsel for the State that for constituting an offence under Section 3(1)(v) of the SC & ST Act, it is not necessary that the alleged act should take place in public view. Such being the legal position, I am of the opinion that whether the allegation of abusing the informant by taking his caste name took place in public view or not can be agitated before the court below by the petitioner at the stage of framing of charge. The court below would certainly be in a better position to examine this issue by looking into not only the FIR, but also the other materials collected by the police during investigation. In view of the aforesaid discussion, at this stage, I am not inclined to interfere with the order impugned.

7. The application is, accordingly, disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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Transmission Date	