

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.34602 of 2013**

Arising Out of PS.Case No. -207 Year- 2012 Thana -SC SC PS District- VAISHALI(HAJIPUR)

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1. Dr. S. Smriti W/O Kumod Ranjan Resident Of P.S. Saraiya, District Muzaffarpur.
  2. Ritesh Kumar S/O Brij Kishore Singh Resident Of Chakramdas, P.S. Vaishali, District Vaishali.
  3. Pankaj Kumar S/O Birendra Singh Resident Of Chakramdas, P.S. Vaishali, District Vaishali.
  4. Suresh Kumar S/O Raghunath Singh Resident Of Chakramdas, P.S. Vaishali, District Vaishali.

.... .... Petitioner/s

Versus

1. The State Of Bihar.
2. Arvind Kumar S/O Late Yogendra Chowdhary R/O Khanejadpur, P.O. Daud Chapra, P.S. Minapur, District Muzaffarpur.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sarvesh Kumar Singh

For the Opposite Party/s : Mr. Ram Shankar Das (Spl.P.P.)

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

4      12-01-2017      This application has been filed for quashing order dated 06.06.2013 passed in Hajipur S.C./S.T. P.S. Case No.207 of 2012, registered on 2.8.2012 under Section 341, 323, 448, 504/34 of the Indian Penal Code and 3(1) (X) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act by Sri Afzal Alam, Judicial Magistrate Ist Class, Vaishali, whereby and whereunder the cognizance was taken against the petitioners.

The prosecution story in short is that the accused persons entered into a restaurant namely Buddha Fun and Food Village



where petitioner no.1 refused to make payment of the entry charge of Rs.10/- of children park in the premises of the restaurant and when the protest was made , the informant was assaulted and abused by calling caste name.

On the basis of the aforesaid Ferdbeyan, Hajipur S.C./S.T. P.S. Case No.207 of 2012 under Section 341, 323, 448, 504/34 of the Indian Penal Code and 3(1) (X) of the S.C. & S.T. (Prevention of Atrocities) Act was registered and the learned Judicial Magistrate has taken cognizance in this case vide impugned order dated 6.6.2013 and the aforesaid order under challenge actually before this Court.

It is submitted on behalf of the petitioners that on bare perusal of the FIR itself it appears that the allegation against the petitioners is only that she along with the other family members visited at Buddha Fun and Food Village Restaurant and after the meal, they refused to pay money and when the complainant protested, she called the other accused persons , who were villagers and they have abused by taking their caste name and also assaulted.

Heard learned A.P.P. also, who opposes this application stating that there are materials available on the record and the



learned Judicial Magistrate after perusal of the materials available in the case diary, had taken cognizance against the petitioners under 341, 323, 448, 504/34 of the Indian Penal Code and 3(1) (X) of the Prevention of Atrocities of S.T./S.C. Act, as such there is nothing illegal in the impugned order.

From bare reading of the FIR, it does not appear that whether the Petitioner No.1 had taken the caste name as she happens to be resident of Muzaffarpur rather it appears that the allegation is against the other petitioners, who are resident of place of occurrence but the learned Judicial Magistrate Ist Class, could not examine this aspect of the matter and has taken cognizance against all the petitioners. It further appears that at best the allegation against the petitioner no.1 is that she refused to pay money but the learned court below without appreciating the aforesaid facts has taken cognizance against the accused persons under Sections 341, 323, 448, 504/34 of the Indian Penal Code and 3(1) (X) of S.T. & S.C. (Prevention of Atrocities) Act in a very mechanical way, as such for the end of justice, it will be proper to remand back the case back before the learned court below to pass an appropriate order after perusal of the materials available on the record, examining as to what are the materials



available against each petitioners and pass an order afresh within a period of three months from receipt of this order.

It is needless to say that the learned court below will pass the order without being prejudiced by the observation of the Court.

With the aforesaid observation, this application is allowed, impugned order dated 06.06.2013 passed in S.C./S.T. P.S. Case no.207 of 2012 is remitted back for deciding it afresh, without being prejudiced by any observation of the Court, within a period of three months from receipt of order.

Registry is directed to communicate the order at once to the court below.

**(Vinod Kumar Sinha, J)**

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