

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43086 of 2016

Arising Out of PS.Case No. -232 Year- 2014 Thana -PIRPAINTI District- BHAGALPUR

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1. Manoj Dubey S/o Late Nand Je Dubey resident of Village- Dubouli,
P.S.- Pirpanti, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pasupati Nath Mandal son of Late Bhedi Mandal resident of Village-
Nadhi Diara, P.S.- Sahibganj (Mufassil), P.O.- Ganga Prasad, District-
Sahibganj, at present posted as Headmaster at R.D.P. High School,
Dubouli, P.S.- Pirpanti, District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Das, Advocate
Smt. Rani Swati, Advocate

For the Opposite Party/s : Mr. Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

8 02-11-2018 Heard learned counsel for the petitioner as well as
learned Special PP.

2. Petitioner is aggrieved by an order dated
24.03.2015 whereby and whereunder, he has been summoned to
face trial for an offence punishable under Sections, 341, 323, 337,
504 of the IPC as well as 3 (1) (x) of the SC/ST (POA) Act.

3. Pirpanti PS Case No. 232/2014 has been drawn
up on the written report of one Pashupati Nath Mandal, Incharge
Principal of R.D.P. High School on 09.10.2014 with an allegation
that on the same day at about 11.00 AM, Nigh Guard, Manoj
Dubey entered into the office, abused him by calling his caste
name as well as directed him to pay Rs. 1 Lakh as Rangdari,



otherwise he will not allow registration work. He also demanded receipt of the concerned students from whom registration fee has been realized. On his protest, Manoj Dubey assaulted him as a result of which, he sustained injury over his head. His spectacle also got broken. He also took away Rs. 2200/- from his pocket. After hearing hue and cry, all the teachers rushed towards his chamber but, all of them remained silent spectators out of fear. Arun Yadav and Ram Prakash Ravi were also abused. Then thereafter, stones were pelted. Anyhow, teachers got themselves rescued. It has also been disclosed that he frequently caused hindrance in due discharge of the official functioning.

4. Accordingly, investigation commenced and after concluding the same, charge-sheet has been submitted whereupon, by the order impugned the petitioner has been summoned in a manner, subject matter of instant petition.

5. The first and foremost question having been raised at the end of learned Special P.P. is with regard to maintainability of instant petition. To substantiate the same, it has been submitted that after amendment having effected in SC/ST Act, Section 14 has been introduced, more particularly, Section 14A prescribes appeal to be the right forum to challenge any kind of order having been passed by the court concerned identified under Section 14 of



the SC/ST (POA) Act. It has further been stated that when special procedure has been provided then, ambit and scope of Section 482 CrPC could not survive in a manner whereunder, inherent power of the High Court to deal with any situation could be acknowledged. So, it has been submitted that the instant petition is not maintainable.

6. On the other hand, learned counsel for the petitioner has submitted that new amendment happens to be enforceable from 26.01.2016. The order impugned is dated 24.03.2015. That means to say, on the date of taking of cognizance, old Act was prevailing having no provision for appeal and that being so, the order impugned is certainly challengeable under Section 482 CrPC. Apart from this, it has also been submitted that under the new Act, there happens to be no nomenclature under Section 3 (1) (x) while, the order impugned discloses having cognizance of an offence taken, apart from other Sections of IPC under Section 3(1) (x) SC/ST (POA) Act, which was prevailing under the old Act and so, petition under Section 482 of the CrPC is permissible and that being so, the instant petition is maintainable in the eye of law.

7. It is needless to say that the amendment in the substantive law has got retrospective effect while the procedure,



prospective. That means to say, from the date of enforcement of the Act, i.e. right from 26.01.2016, the new Act came into existence. This petition has been filed on 16.09.2016, that means to say, on the date on which this petition was filed, the new Act was there whereunder the procedure in terms of Section 14A came into existence and so certainly the petitioner would have filed a petition in terms of Section 14A of the Act and not under Section 482 CrPC because of the fact that the order impugned has been passed by Special Court.

8. Consequent thereupon, the instant petition lacks merit and is, accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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