

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22628 of 2015

Arising Out of PS. Case No.-251 Year-2014 Thana- LAHERIYASARAI District- Darbhanga

Anil Sah @ Ajit Kumar Sah son of Hari Sah resident of village - Sakari,
Police Station - Sakari, District - Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar &
2. Umesh Paswan

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha
For the Opposite Party/s : Mr. Ram Shankar Dasspl.App

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 03-12-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner has challenged, in this application under Section 482 of the Cr.P.C., the order of cognizance dated 25.02.2015 passed in Laheriasarai P.S.Case No.251 of 2014 whereby the learned Chief Judicial Magistrate, Darbhanga has taken cognizance of offences under Sections 341, 323 and 504 of the Indian Penal Code as well as Sections 3 (i) (x) of the SC/ST (Prevention of Atrocities) Act.

According to FIR, the informant is a tempo driver. On 11.06.2014, he was driving his tempo along with passengers. As soon as, he reached near Laheriasarai bus stand, the petitioner had parked his motorcycle on the road which caused



inconvenience to the informant and informant requested to remove the motorcycle. For that reason, the petitioner allegedly started abuse and assaulted to the informant with iron rod causing injury on the head and other parts of the body.

Submission is that the offence under Section 3(i)(x) of SC/ST is not made out as there is no material to substantiate that the petitioner had intentionally insulted the informant to humiliate him for the reason that the informant was a member of Scheduled Caste. The occurrence took place for some different reason. Therefore, offence under Section 3(i)(x) of the SC/ST Act, 1989 is not applicable.

The said Sections reads as follows:-

“(3)(i) Whoever, not being a member of Scheduled Caste or a Scheduled Tribe,----- (x) intentionally insults or intimidates with intent to humiliate a member of Scheduled Tribe in any place within public view”

Submission is that the FIR does not reveal that the petitioner had knowledge about the informant is a member of Scheduled Caste. The petitioner did not abuse him with his caste name, nor the ingredients of intention of the petitioner is deduceable for the reason that if the informant would not have disturbed the petitioner, the occurrence might have been averted.

Notice was issued to the informant but no one



appears.

I find substance in the submission of learned counsel for the petitioner that intentional humiliation by the petitioner to the informant is completely lacking, hence, cognizance under Section 3(i)(x) of the SC/ST (Prevention of Atrocities) Act suffers from non-application of judicial mind and lack of material to substantiate the same. Accordingly, the impugned order to the aforesaid extent is hereby set aside.

The trial of the petitioner shall go on for the offences of the Indian Penal Code. This application is partially allowed.

(Birendra Kumar, J)

B.Kr./-

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