

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 48127 of 2014

Arising Out of P.S. Case No.-3 Year-2014 Thana- SC/ST District- Gopalganj

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1. Rajan Singh S/o Suresh Singh
 2. Mintu Singh @ Mintu Kumar Singh S/o Suresh Singh
 3. Sanjay Singh S/o Suresh Singh
 4. Suresh Singh S/o Late Sikandar Singh.
All resident of Village- Kaithwaliya, P.S. District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dharmshila Devi W/o Deonath Ram R/o Village- Kaithwaliya, P.S. District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Raghav Prasad, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 05-03-2019

Heard learned counsel for the petitioners; learned A.P.P.
for the State and learned counsel for the opposite party no. 2.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following relief:

*“That this is an application invoking
Your lordships Jurisdiction for quashing the order
of cognizance and issuance of process dated
9.5.2014 passed in Trail No. 5210/2014 (arising
out of Gopalganj Schedule caste/Schedule tribe
P.S. case no. 3/14) by the court of Learned Chief
Judicial Magistrate Gopalganj where by and*



where under the petitioners have been summoned to stand trial for the offences under section 341, 323, 354(A), 427, 504, 506/34 of the Indian Penal Code read with 3(i), (x), (xv) of the Schedule caste/Schedule tribes (prevention of atrocities Act) 1989.

3. The allegation against the petitioners is that they entered into the hut of the informant/ opposite party no. 2 and assaulted her due to which there was injury on the head and that they abused her by her caste name and also threatened her to vacate the land.

4. Learned counsel for the petitioners submitted that the case itself is false and frivolous for the reason that in the year 1941 itself, through a registered sale deed, the ancestors of the petitioners had bought the land in question. It was further submitted that for the same piece of land, proceeding under Section 144 of the Code is still pending. Learned counsel submitted that the witnesses before the police had stated that no such incident took place. It was further contended that no offence is made out under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the Act) under Sections 3(1) (x) of the Act for the reason that the same requires the abuse to be in public view, which, in the present case admittedly has not happened, since as per the allegation, the incident occurred inside the hut of the informant. Similarly, it was



submitted that the offence under Section 3(1) (xv) of the Act also cannot be said to have occurred since the same requires that a member of a Scheduled Caste or a Scheduled Tribe is forced to leave his house, village or other place of residence but in the present case, as per the allegation, there was only threat by the petitioners to vacate the land.

5. Learned A.P.P., upon going through the case diary submitted that other witnesses have also supported the prosecution case and, thus, the Court below has rightly taken cognizance under various sections.

6. Learned counsel for the opposite party no. 2 submitted that the incident took place at 9 o' clock in the morning and, thus, the Court has rightly taken cognizance under the Act also. However, on a direct query of the Court as to how offences under Sections 3(1) (x) and 3 (1) (xv) of the Act can be said to be made out when the Statute requires that the abuse has to be made in the public view, which in the present case admittedly did not happen as the allegation is that the abuse was inside the hut of the informant and, further, as per the requirement of the Statute, a member of a Scheduled Caste or a Scheduled Tribe is forced to leave his house, village or other place of residence, when in the present case, the allegation is that the informant was only



threatened to vacate the land, he could not answer or controvert the legal position.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the order impugned taking cognizance dated 09.05.2014 requires to be modified. In view of the discussions made above, it is clear that as per allegation in the F.I.R., even if it is taken to be true at its face value, does not make out any offence under Sections 3(1) (x) and 3(1) (xv) of the Act. Section 3(1) (x) of the Act requires that the abuse has to be made in public view which admittedly in the present case has not been done as allegation is that the same took place inside the house of the informant. Further, the requirement of Section 3(1)(xv) of the Act is that a member of a Scheduled Caste or a Scheduled Tribe is forced to leave his house, village or other place of residence, whereas in the present case, the allegation is that the informant was threatened to vacate the land. Thus, no offence is made out under the Act.

8. For reasons aforesaid, the order impugned dated 09.05.2014 passed in Trial No. 5210 of 2014 arising out of Gopalganj Scheduled Caste/Scheduled Tribe P.S. Case No. 3 of 2014, stands modified to the extent that the cognizance taken by the Court below shall be restricted to the sections mentioned in the



order only under the Indian Penal Code. With regard to the cognizance taken under the Act, the same stands quashed.

9. The case diary be returned to the Court below forthwith.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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