

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21637 of 2015

Arising Out of PS. Case No.-627 Year-2014 Thana- FORBESGANJ District- Araria

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1. Pallavi Priya and Anr W/o Sanjeev Kumar Sharma. Resident of village - Kamargama, P.S.- Asarganj, District - Munger.
 2. Sanjeev Kumar Sharma, Assistant Operator. S/o Sri Raghu Nandan Sharma. Resident of village - Kamargama, P.S.- Asarganj, District - Munger.

... .. Petitioners

Versus

1. State Of Bihar and Anr
2. Pramod Ram, Presently posted at 132/33 KB Grid Sub Station, Halim Chowk, Khagra, Kishanganj as Assi

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Kumar Kaushik

For the Opposite Party/s : Mr.Ram Shankar Dasspl.P.P.

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
C.A.V. ORDER

5 20-12-2019 This application has been filed for quashing the order dated 01.12.2014 passed by the learned Chief Judicial Magistrate, Araria in connection with Forbesganj P.S. Case No. 627 of 2014, whereby and whereunder learned Chief Judicial Magistrate has taken cognizance against the petitioners for the offence punishable under Section 3(x) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Prosecution case in short is that on the basis of the complaint of Pramod Ram, Assistant Controller, Electricity Board, Forbesganj, Sub Division, before the Assistant Executive, Engineer, F.I.R was registered stating therein inter alia that on 21.07.2017 at about 3.30 P.M. the accused persons



came to his house and started abusing him by caste name. He was going to lodge a case in that connection but the Assistant Executive Engineer came and intervened in the matter and prevented him from filing the case before the police. It is also alleged that on 23.07.2014, his wife had gone to the temple for worship, there also, petitioner no. 1 started abusing her by caste name and also tried to forbade her from performing Puja in the temple, in which, others intervened and they pacified the matter. It is also alleged that as a matter of fact that petitioner no. 1 is a characterless lady and she has contacts with several persons, which was protested by the colony people and due to which, the occurrence took place.

3. It appears that after investigation, chargesheet has been submitted and cognizance was taken vide order dated 01.12.2014 by the learned Chief Judicial Magistrate, which, is under challenged in the present application.

4. Submission of learned counsel for the petitioners is that earlier to the filing of the case by the informant, petitioner no. 2 and others officials of the Transmission Company have made a complain against the informant as he was threatening to implicate them in the case under SC/ST Act, which was enquired by the three member Enquiry Committee chaired by



the Superintending Engineer Electrical, who also found allegation of abusing the informant, false and moreover, the informant and his wife has false and frivolous allegation against petitioner, no. 1 (wife of petitioner no. 2) of being a characterless lady and in that background the present false case has been lodged just to pressurize the petitioners. It has also been submitted that there is nothing to show that the abuse was made in public view and there is also no eye witness of the occurrence but learned Magistrate without appreciating all these facts has taken cognizance against the petitioners, which is out and out bad in law and continuance of such a proceeding will only be an abuse of process of the Court.

5. Heard learned A.P.P. also.

6. It appears that in this case, earlier notice was issued to the opposite party no. 2 and it appears that opposite party no. 2 appeared by filing Vakalatnama but nobody appears on behalf of opposite party no. 2 to place his case.

7. This court is aware of the fact that while considering the application for quashing the cognizance, the court declined to conduct a roving enquiry rather the Court has strictly to go by the allegations made in the complaint petition. This Court is also aware of the fact that the object behind the legislation of SC/ST



(Prevention of Atrocities) Act is to protect the Scheduled Caste and Scheduled Tribes from discrimination in the society, which is continuing in the name of caste and they have been provided protection under Article 17 of Constitution of India but at the same time, Court has also to see that the above privilege be not misused to satisfy ones grudge or be not used as a tool to wreck vengeance and misused the very object of the Act, which may lead to make impact on the genuine cases of SC/ST (Prevention of Atrocities) Act. So far present case is concerned, there is allegation of abusing the informant and his wife by caste name and also of assaulting the wife of informant and cognizance has been taken under Section 3(x) of SC/ST (Prevention of Atrocities), Act there is provision for punishment of person under Section 3(i)(x) whoever, intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.

8. In the present case, as per F.I.R., the occurrence took place inside the house of the informant and there is no allegation that any other persons was present there at that time and as such, it cannot be said that the said abused was in public view and second part of the occurrence took place in the temple and that also does not show that any person was present there and the



occurrence took place in public view. As such, the essential ingredients constituting offence under Section 3(i)(x) appears to be missing in the present case.

9. It further appears from the materials available on record that both parties have leveled allegation counter allegation against each other, in view of the fact that wife of the informant has leveled allegation against petitioner no. 1 of being a characterless lady and the matter was also enquired by the three men committee under the Chairmanship of the Superintending Engineer, which appears from Annexure -3, in which, the allegation of abusing the informant and his wife was also found false and it further appears from annexure -3 that the complaint was lodged by the petitioner no. 1 and other employees, which is annexure -2 before the Managing Director and other higher officials, as such, it appears that there was enmity between them. Hon'ble Apex Court in the case of **State Of Haryana And Ors vs Ch. Bhajan Lal And Ors reported in 1992 AIR 604 has framed certain guidelines** by way of illustration wherein power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, which reads as follows:-

“(a) where the allegations made in the First Information



Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned



Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

10. In the present case from the materials available in the F.I.R. as well as collected in course of investigation does not constitute an offence under Section 3 (i) (x) of SC/ST (Prevention of Atrocities) Act, and further it also appears that this case is glaring example of misused of process of SC/ST (Prevention of Atrocities) Act to wreck the vengeance and in such view of the matter, allowing the proceeding to continue will certainly be an abuse of process of the Court.

11. Accordingly, this application is allowed and impugned order dated 01.12.2014 passed by the learned Chief Judicial Magistrate, Araria in connection with Forbesganj P.S. Case No. 627 of 2014, is hereby quashed.

(Vinod Kumar Sinha, J)

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