

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.731 of 2018

Arising Out of PS. Case No.-131 Year-2017 Thana- SAHAJITPUR District- Saran

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1. Dibya Nand Singh @ Mukesh Singh Son of Late Balmiki Singh
 2. Sanjay Singh, Son of Late Banaras Singh.
 3. Ranjan Singh @ Ratan Singh, Son of Late Banaras Singh.
 4. Kamlesh Singh @ Bhukhal Singh, Son of Late Ramsagar Singh.
 5. Niket Kumar,
 6. Chhotu Kumar,
 - Both sons of Kamlesh Singh @ Bhukhal Singh.
 - All resident of Village- Medhuka, Police Station- Sahajitpur, District- Saran.
 7. Sadhu Pandey, Son of Late Baban Pandey, resident of Village- Puchhari, Police Station- Baniapur, District- Saran.

... .. Petitioners

Versus

1. The State Of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Muzaffarpur.
4. The Senior Superintendent of Police, Saran, Chapra.
5. The Investigating Officer of Sahajitpur P.S. Case No. 131 of 2017 dated 23.11.2017.
6. Sunita Devi, wife of Shila Nath Manjhi, resident of Village P.S. Sahajitpur, District- Saran.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Kumar
For the Respondent/s : Mr. Kumar Manish GP- 4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 15-01-2019

By way of the present writ petition, the petitioners have prayed for quashing of the first information report (for short 'FIR') of Sahajitpur P. S. Case No. 131 of 2017 dated 23.11.2017 registered under Sections 323, 452, 380, 504 and 506 of the Indian



Penal Code (for short 'IPC') as also Section 3(1) (s) and (z) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act').

2. Learned counsel for the petitioners submitted that the FIR has been instituted at the instance of Janak Singh and Gautam Singh, who are the witnesses to the complaint. The plot, which has been mentioned in the complaint is under dispute between the petitioners on the one side and Janak Singh and Gautam Singh on the other. A title suit has been filed on 26.05.2015 in the Civil Court at Chapra bearing Title Suit No. 266 of 2015 in which notices have already been issued. The parties have appeared and the suit is going on. In the said suit, the disputed land bearing Khata No. 82, Plot Nos. 632, 663, 664, 665, 672, 673 and other plots are also involved. The suit is for declaration of right and title between the petitioners and Janak Singh and Gautam Singh. He further contended that the complainant has stated that she had purchased the land in dispute on 14.09.2015, i.e., after filing of the title suit. When the petitioners came to know about the alleged purchase of the land in dispute, the complainant has also been made a party- respondent in the said suit on 27.10.2016. In spite of valid service of notice and appearance made by the parties, since the complainant failed to file written statement, she has been



debarred from filing written statement in the said suit vide order dated 23.03.2017. He further contended that it is alleged in the complaint that the petitioners have abused the complainant by taking her caste name, but in the entire complaint, no where it is mentioned that the petitioners are not a member of scheduled castes/scheduled tribes and they intentionally insulted or intimidated with intent to humiliate the complainant in a place within a public view.

3. On the above pleadings, he has argued that in absence of basic ingredients of the offence, the prosecution of the petitioners be not allowed to continue. In support of his submissions, he has placed reliance on a decision of the Supreme Court in **Gorige Pentaiah vs. State of A. P. & Ors. [(2008) 12 SCC 531]**.

4. *Per contra*, learned counsel appearing for the State submitted that there is specific averment in the complaint that the accused persons belong to upper caste and the complainant is a member of a scheduled caste, namely, '*Dusadh*'. The complainant has alleged that the accused persons abused her by taking her caste name in full public view. They not only assaulted her and her mother-in-law, who came in her rescue, but they also uprooted '*Palani*' and hut of the complainant causing loss of about



Rs.40,000/-. They also took away Rs.10,000/- in cash, several goods and other household articles. He contended that the aforestated allegation would clearly attract the ingredients of offences alleged.

5. I have heard learned counsel for the parties and carefully perused the record.

6. Initially, a complaint was filed by respondent no. 6 in the court of CJM, Chapra (Saran) vide Complaint Case No. 2673 of 2017, which was sent to the police for investigation pursuant to which the FIR in question was registered on 23.11.2017.

7. In the complaint, it has been alleged that the complainant had purchased a piece of land bearing Khata No.82, Plot Nos. 663, 664, 665, 672 and 673 in village- Medhuka Kala, Police Station- Shahajitpur, District- Saran on 14.09.2015 through registered sale deed from Janak Singh and Gautam Singh. After purchasing the land, she got constructed three huts and started living therein. The accused persons belong to upper caste and they wield lot of power whereas the complainant is a poor member of a scheduled caste, namely, '*Dusadh*'. On 13.05.2017, at 3 p.m., accused persons being variously armed with *lathi* and *bhala* came at the land of the complainant and started abusing her by taking her caste name. They threatened her to remove her '*Palani*' and



hut failing which she would have to face dire consequence. When she protested, they started abusing her more aggressively and assaulted her with fists and slaps. When her mother-in-law, namely, Jhondh Kunwar came in rescue, the accused persons assaulted her also. They dragged them out of '*Palani*' and uprooted '*Palani*' causing loss of Rs.40,000/- to the complainant. They also took away all the belongings kept inside '*Palani*', including cloths and ornaments. While leaving the place they again threatened and abused calling the complainant '*Dusadhin*'.

8. The allegations made in the FIR clearly attract the ingredients of the offences alleged. There is no substance in the submission made by the petitioners that the complainant has not stated that the accused persons do not belong to the scheduled caste. As narrated above, it has clearly been stated in the complaint that the accused persons are of upper caste whereas the complainant is a member of a scheduled caste, namely, '*Dusadh*'. There is allegation that they assaulted the complainant and her mother-in-law by taking their caste name inside '*Palani*' and outside '*Palani*', in public view in broad day light. The facts of the case of the petitioners are not identical to the facts of the case in **Gorige Pentaiah vs. State of A. P. & Ors.** (Supra).



9. In that view of the matter, the ratio laid down in that case is not at all applicable in the present case. The existing civil dispute relating to the plots in question cannot be a ground for quashing the FIR. In case, a civil dispute is going on in the court, the determination of right and title will be done by the civil court, but the civil court can not decide the fate of the criminal action faced by the complainant at the hands of the accused persons. The truth or otherwise of the allegations is to be examined by the police in course of investigation and not by this Court. As the allegations made in the complaint, which have been converted into an FIR attract ingredients of a cognizable offence, the police have statutory right to investigate the same. By no stretch of imagination, the institution of the FIR or its investigation can be held to be bad in law.

10. In that view of the matter, I see no merit in this writ petition.

11. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
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