

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1078 of 2019

Arising Out of PS. Case No.-180 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

Anand Kumar Singh @ Babu Saheb son of Late Suresh Kumar Singh @
Suresh Singh, Resident of Village- Sheikhpur Akharaghat, P.S.- Ahiyapur,
District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Muzaffarpur
2. The Deputy Inspector General of Police, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The Sub- Division Police Officer Town Muzaffarpur, Muzaffarpur.
5. The S.H.O. of Ahiyapur, P.S.- Muzaffarpur
6. The I.O. of the Case, Ahiyapur, P.S.- Muzaffarpur.
7. Ajay Kumar Singh son of Kapildeo Prasad Singh. At present residing at
village- Fatehpur, P.S.- Ahiyapur, District- Muzaffarpur. Permanent resident
of Village- Chhatauni, P.S.- Taryani, Shivhar, District- Muzaffarpur.
8. Mohan Ram son of Aklu Ram, Resident of Village- Fatehpur, P.S.- Ahiyapur,
District- Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Radha Mohan Singh, Advocate
For the Respondent/s : Mr.Prabhat Kumar Verma, AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 17-07-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

2. This application under Articles 226 and
227 of the Constitution of India has been filed by the



petitioner for quashing the first information report (for short 'FIR') of Ahiyapur P.S. Case No.180 of 2019 registered under Sections 341, 323, 504 of the Indian Penal Code and Section 3(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act').

3. Learned counsel for the petitioner submitted that the occurrence has taken place inside the house of the informant Ajay Kumar Singh, which was certainly not a public place. He submitted that as far as the informant is concerned, he does not belong to either Schedule Caste or Schedule Tribe community. According to him, since the alleged occurrence had taken place inside the house of Alok Kumar Singh and not in public view, the ingredients of the offence punishable under the SC/ST Act would not be attracted. On the basis of the aforesaid submissions, he contended that institution of the FIR is an abuse of process of the court and in the interest of justice it ought to be set aside. The allegation made therein is that on 18.02.2019, at about 3 p.m. when the informant was at the resident of his master Alok Kumar Singh, the petitioner Anand Kumar Singh forcefully entered into the house and started removing the valuable articles kept in the house. When he protested, the petitioner



became angry and started abusing him. He assaulted him with iron pipe on his head as a result of which he fell down. Thereafter, the petitioner mercilessly assaulted him. In the meantime, another staff of Alok Kumar Singh, namely, Mohan Ram son of Aklu Ram arrived there and stated that the informant would die, if he is assaulted further, but the petitioner continued mercilessly assaulting him. When he tried to intervene and rescue the informant, the petitioner started abusing him by taking his caste name, 'Chamar'. He also took out pistol and said that he would kill him. Subsequently, with the help of other persons, the informant was taken to hospital where he was under going treatment.

4. Per contra, learned counsel for the State submitted that the allegations made in the FIR do attract ingredients of the offence punishable under Section 3(1)(r) of the SC/ST Act. He contended that merely because the informant himself does not belong to a Schedule Caste or Schedule Tribe community, the institution of the FIR under the provisions of SC/ST Act cannot be held to be bad. The victim, Mohan Ram, belongs to a Schedule Caste community and has specifically alleged that he was abused by taking his caste name 'Chamar' in presence of the informant and others present



in the house. Hence, it was in public view. Thus, in the facts and circumstances of the case, even if the occurrence of assault and abuse had taken inside the house, it was within the view of the informant and others.

5. I have heard learned counsel for the parties and perused the FIR, as contained in Annexure-1 to this application.

6. On perusal of the FIR, I find that the informant is alleged to have abused Mohan Ram, a member of a scheduled caste community, by taking his caste name 'Chamar' in presence of the informant. Hence, the alleged act would certainly attract the ingredients of Section 3(1)(r) and (s) of the SC/ ST Act. Though the registration of the FIR is under Section 3(x) of the SC/ST Act, the application of a wrong section in the format FIR would be of no consequence.

7. The aforesaid allegations would certainly attract ingredients of the offence alleged. Since the offences punishable under Section 3(1)(r) and (s) of the SC/ST Act are cognizable, the institution of the FIR and its investigation cannot be held to be bad, as to hold investigation into a cognizable offence is the statutory duty of the police.

8. In that view of the matter, I see no merit in



this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.07.2019
Transmission Date	25.07.2019

