

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22747 of 2015

Arising Out of PS. Case No.-166 Year-2014 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. Raghubansh Singh, Son of Bisundeo Singh
 2. Shiv Shankar Singh, Son of Bisundeo Singh
 3. Bisundeo Singh, Son of Late Lagan Singh
 4. Bhagan Singh, Son of Late Ramsundar Singh
 5. Nandu Singh, Son of Late Lakhan Singh
 6. Naresh Singh, Son of Nandu Singh
 7. Ram Ekbal Singh, Son of Late Bhola Singh
 8. Ramchandra Singh, Son of Late Lakhan Singh
 9. Rajkali Devi, Wife of Bisundeo Singh
 10. Parmila Devi, Wife of Shiv Shankar Singh
 11. Yashodiya Singh, Wife of Raghubansh Singh, All are resident of village - Kharua, Police Station - Kundwa Chainpur, District - East Champaran
- Petitioner/s

Versus

1. The State of Bihar
 2. Sanjay Ram, Son of Late Munni Ram, resident of village - Kharua, Police Station - Kundwa Chainpur, District - East Champaran
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Advocate
For the Opposite Party/s : Mr. Ram Shankar Das, SPL.APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 08-01-2020

Heard learned counsel for the parties.

2. The petitioners have challenged the order of cognizance dated 02.06.2014 passed by learned Judicial Magistrate, 1st Class, Sikarahana in the judgeship of Motihari whereby the learned court below has taken cognizance for offences under Sections 323, 379, 427, 504 of the Indian Penal Code as



well as Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) in Complaint Case No. 166 of 2014 corresponding to T.R. No. 4991 of 2014.

3. Challenge is on the ground that no offence under Section 3(1)(x) of the SC/ST Act is made out as there is no allegation of commission of humiliation to a member of the Scheduled Caste in public view. The complainant or witnesses of the complainant have not supported such allegation, hence, the order of cognizance is bad to the aforesaid extent.

4. According to complaint petition, the complainant had purchased Plot No. 1279 under Khata No. 16, Area 2 Dhurs through registered sale deed dated 15.02.2014. Thereafter, complainant erected a hut on that land and lived along with family members. The accused persons came there and started assault alleging therein that a member of *Chamar* caste cannot be allowed to live in the locality of the petitioners, rather they should live in the locality of their caste-men. The accused persons assaulted to the complainant and his wife and committed mischief and theft by damaging the hut and removing the household articles.

5. In the statement on oath, the complainant briefly stated about the occurrence of assault, abuse and damage to the



hut. Complainant further stated that the petitioners put their cart at the place. Inquiry witness no. 2 Raju Sah stated that he had sold the said land to the complainant. The accused persons damaged the hut put on the land by the complainant. Witness no. 3 Pradeep Singh also supported the allegation of abuse and assault committed by the petitioners for the reason of purchase of land by the complainant. The next witness Horil Sah supported that the accused persons were not allowing to the complainant to live in the house made on the purchased land. However, stated that no occurrence of assault or damage had taken place.

6. The provisions of Section 3(1)(v) of the SC/ST Act as was prevailing on the date of occurrence read as follows:-

“Whoever, not being a member of a Schedule Caste or a Scheduled Tribe wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”

7. Since the petitioners have not produced any document of bona fide claim over the said land, the offence aforesaid is prima facie made out for the purpose of conclusion that the trial would continue. The charge can be amended at any stage.



8. For the reason, I do not find any merit in this application. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	09.01.2020
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