

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1292 of 2017

Jitray @ Jitray majhi

....

Petitioner

Mr. Bhojaraj Seth, Advocate

-versus-

Girish Chandra Mohanta and another ...

Opposite Parties

Mr. Janmajaya Katikia, AGA and

M/s. T. Mishra and associates, Advocates for O. P. No.1

CORAM:

THE CHIEF JUSTICE

Order No.

ORDER
09.12.2022

04. 1. The challenge in the present petition is to an order dated 20th January, 2017 passed by the learned Additional Sessions Judge (ASJ), Karanjia in Criminal Revision No.11 of 2013 declining to interfere with an order dated 6th December, 2012 passed by the S.D.J.M., Karanjia in not taking cognizance against the Opposite Party-Accused for the offence under Section 3(1)(x) of the SC and ST (POA) Act, 1989.
2. As noticed by the learned ASJ under 3(1)(x) of the SC and ST (POA) Act whoever not being a member of Schedule Caste (SC) or a Schedule Tribe (ST) intentionally insults or intimidates with intent to humiliate a member of SC or a ST in any place within the public view, is liable to be punished. The relevant portion of the impugned order in this regard reads as under:

“It is alleged by the complainant that the accused scolded him in un-parliamentary language pointing to his tribe. While recording his statement U/s.200 Cr.P.C. he has only stated that the accused started abusing him by saying

Maagiha Sala Adivasi Majhi etc. The witnesses Kailash Chandra Patra and Arjun Mohanta have stated that the accused abused the post master saying “Majhi Sala Tote Kie Chakiri Dela” etc. The witnesses namely Rasmi Ranjan Mohanty, Sudam Charan Barik and Umesh Chandra Mohanta have not stated anything about any such utterance by the accused. There is nothing in the statement of the complainant recorded U/s. 200 Cr.P.C. that the words allegedly uttered by the accused was with an intention to insult or intimidate him being a member of Schedule Tribe. The Hon’ble High Court of Allhabad in of **Pappu Singh Vrs State of U.P.: (2002) Crl. J. 1251 (Allhabad)** has held that the simply addressing a person by his caste without any intention to insult or intimidate does not constitute the offence under the said section.”

3. While learned counsel for the Petitioner kept reading the relevant line from the FIR, it is plain that what two of the witnesses stated was different as has been extracted by the learned ASJ in the above paragraph. It appears that the conclusion of the learned ASJ that there is nothing in the said statement which could be said to be with an intention to insult or intimidate the complainant for being a member of the ST, is a plausible one.

4. Consequently, the Court is not persuaded to interfere with the impugned order of the learned ASJ. The petition is dismissed. The interim order passed earlier stands vacated. A copy of this order be sent to the concerned Court below forthwith.

(Dr. S. Muralidhar)
Chief Justice

M. Panda