

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3487 of 2018

Arising Out of PS. Case No.-30 Year-2015 Thana- SC/ST District- Darbhanga

Manish Kumar Jha Son of Sri Madan Mohan Jha, Resident of Village-
Beloun, P.S.- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Dilip Kumar Paswan, son of Sri Chalittar Paswan, resident of Village Beloun
Baghi Tola, P.S.- Bahera, District- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Manish Kumar No 13, Advocate Mr. Rohit Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, APP
For the O.P. No. 2	:	Mr. Madhu Sudan Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 21-03-2023 Heard the parties.

This application has been filed for quashing the order dated 04.07.2017 passed by learned Special Judge (SC/ST Prevention of Atrocities Act), Darbhanga in connection with SC/ST Case No. 275 of 2017/ G.R. No. 469 of 2015 arising out of SC/ST P.S. Case No. 30 of 2015.

The prosecution story in short is that O.P. No. 2, submitted a written report to the S.H.O., SC/ST Police Station on 22/09/2015 alleging, *inter-alia*, therein that he works as *Raj Mistri* and earning from the same he makes livelihood of his family. It is submitted that petitioner, who is member of the Panchayat Samiti of Ramauli Gram Panchayat, on 26/02/2013 came on his house and told him to work for the construction of several government projects including the construction work of his own house. For this



he became ready for work along-with three Raj Mistri and six labours. It is also stated that Rs. 450/- for Raj Mistri and Rs. 225/- for labour was fixed for one day work. Thereafter they worked from 27/02/2013 to 23/02/2015. For the aforesaid period works, they received Rs. 01 Lac 80 thousand and Rs. 01 Lac 17 thousand was remains dues and it was told to them that the remaining payment will shortly made. When he went to the house of petitioner on 01/07/2015, it was told to him to come on 13/07/2015 but on that day also payment was not made. Again on 19/09/2015, he requested to clear the dues amount upon which the petitioner became angry and he was abused by his caste name and petitioner spited on his mouth and when his wife came to rescue him, she was dragged and assaulted by the petitioner by fist and slaps, who also tried to outrage the modesty of his wife. The said alleged occurrence was seen by the co-villagers named in the written report.

The Police after investigation submitted final form finding the allegations to be false.

The learned Magistrate by the impugned order has mentioned above has differed with the final form.

It has been argued by the learned counsel for the petitioner that the impugned order of cognizance has been passed without giving any reasons and it is a cryptic order. No



material which has been relied upon for taking cognizance has been discussed in the impugned order.

Once the Magistrate wants to differ with the final form, he ought to have passed a reasoned order and should have discussed the materials available on record.

Learned counsel for the State and the Opposite Party No. 02 have submitted that materials have come during investigation which support the allegation against the petitioners and the impugned order of cognizance is passed on materials.

I have considered the submissions of the parties.

It is an admitted fact that impugned order of cognizance dated 04.07.2017 is a non-speaking order and any order by a Judicial Authority which is a non-speaking order is no order in the eye of law and it cannot be sustained.

In that view of the matter, this application is allowed.

The order dated 04.07.2017 passed by learned Special Judge (SC/ST Prevention of Atrocities Act), Darbhanga in connection with SC/ST Case No. 275 of 2017/ G.R. No. 469 of 2015 arising out of SC/ST P.S. Case No. 30 of 2015 is hereby quashed.

(Sandeep Kumar, J)

Shishir/Vikas

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