

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57632 of 2015

Arising Out of PS. Case No.-142 Year-2007 Thana- SC/ST District- Vaishali

1. Nand Kishore Singh.
2. Uma Shankar Singh both son of Mokhatar Singh
3. Mokhatar Singh S/o late Banaras Singh all r/o North Madhubani P.s Sangarpur, Dist East Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2, Advocate

For the Opposite Party/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 24-03-2023 Heard learned counsel or the petitioners and learned
APP for the State.

The present petition has been preferred for quashing of the order dated 26.09.2015 passed in Tr. No.45 of 2015 arising out of Vaishali (Hajipur) P.S. Case No.142 of 2007 by learned Ist ADJ, Motihari, East Champaran cum Special Judge, Motihari, East Chamaparan whereby and whereunder the learned court below has rejected the petition of petitioners dated 18.09.2015 under Section 228 of the Cr.P.C. to remand back the case because no offence making out Section 3[1][X] of SC/ST Act.

As per the prosecution story, the informant had alleged that he was running a PDS Shop and while he was



distributing the kerosene oil to his consumers, the present petitioner came and demanded twenty liters of kerosene oil which was to be sent to Motihari. When he refused to provide the same stating that the same cannot be done at the cost of the consumer, it is alleged he was abused and the said Nand Kishore Singh left the place only to return along with other accused persons and immediately after their arrival they started assaulting the informant took his caste name and further said that only due to allotment of PDS shop he is trying to equate himself with the accused persons and he will be taken to task for that, he was further directed not to sit on the chair in the shop and if the same is found again, he will again be beaten.

Aggrieved the present FIR.

Learned counsel for the petitioners submit that so far as the incorporation of SC/ ST Act is concerned, under no stretch of imagination the same gets attracted.

Learned counsel for the petitioners although submit that the PDS Shop was being run in the house of the petitioner and as such the SC/ST Act cannot be attracted, a perusal of FIR would show that no such fact is incorporated in it. In fact, the informant has clearly alleged that he was distributing kerosene oil amongst his consumers when the petitioner Nand Kishore



Singh came and demanded kerosene oil and upon refusal he was abused, returned and later came with other accused persons assaulted and took caste name.

The FIR clearly signifies that the consumers were present when the said occurrence took place and as such it was definitely within the public view that the said caste name was taken.

Having gone through the FIR, it is clear that no case is made out and it is better that the petitioners face the music and appeared in the Trial.

The order dated 26.09.2015 by which the petition of the accused persons under Section 228 of the Cr.P.C. has rightly been rejected.

No case of interference is made out.

The petition is accordingly dismissed.

(Rajiv Roy, J)

Prakash Narayan /-

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