

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1583 of 2018

Arising Out of PS. Case No.-17 Year-2018 Thana- PAKARIBARAW District- Nawada

Vijay Kumar, S/o Ram Kumar Prasad Chauhan, R/o Village- Khiran Bigha,
P.S.- Hisua, District- Nawada, Presently posted as Headmaster, Upgraded
Middle School, Belkhunda, Block- Pakribarawan, District- Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Old Secretariat, Patna , Bihar
2. The Director General of Police, Patna, Bihar.
3. The Collector-cum-District Magistrate, District- Nawada.
4. The Superintendent of Police, District- Nawada.
5. Sub-Divisional Police Officer, Pakribarawan, District- Nawada.
6. The Station House Officer, Pakribarawan Dhamoul O.P. Police Station, District- Nawada.
7. The Investigating Officer, Kishori Prasad, Pakribarawan Dhamoul O.P. Police Station, Nawada.
8. District Programme Officer Establishment, District- Nawada.
9. District Education Officer, District- Nawada.
10. Sub-Divisional Officer, Sadar, District- Nawada.
11. Block Education Officer, Pakribarawan, District- Nawada.
12. Block Education Officer, Warisaligunj-cum-Inquiry Officer, District- Nawada.
13. Block Development Officer-cum-Secretary Block Employment Unit, Pakribarawan, District- Nawada.
14. The Informant namely, Madhumita, W/o Kumar Aman, R/o Kapsandi, P.S.- Pakribarawan, District- Nawada, currently posted as Assistant Teacher with Upgraded Middle School, Belkhunda, Block- Pakribarawan, District- Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Saroj Kumar Sharma, Advocate
For the Respondent/s : Mr.Partha Sarthiga-4, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 01-03-2024 1. The petitioner has invoked Constitutional Writ Jurisdiction of this Court praying for quashing of the FIR



instituted against him on the basis of a complaint for the offence punishable under Section 3 (i) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other consequential reliefs.

2. One Ms. Madhumita, who happens to be the Assistant Teacher in the Upgraded Middle School, Belkhunda, Pakriwaran, made a written complaint to the jurisdictional police station on 18th of January, 2018, alleging, *inter alia*, that on 17th of January, 2018 at about 09.30 AM, the informant reached the school by half an hour late. The informant requested the Headmaster to allow her to mark her presence in the attendance register but she came to know that the petitioner had kept the attendance register in his *Almirah*. Since the informant came to the school late, she was not allowed to put her attendance mark on the attendance register. While insisting upon the attendance register, the petitioner misbehaved with her. She was abused by the petitioner in the name of her caste and other abusive languages. The petitioner also rushed towards the informant with his shoes to beat her, but for timely intervention by other teachers and students.

3. On the basis of the said complaint, FIR was lodged against the petitioner being Pakribarawan (Dhamoul O.P) P.S.



Case No. 17 of 2018, dated 19th of January, 2018, under Sections 341, 323, 354 and 504 of the IPC and Section 3 (i) (r) of the SC/ST (PoA) Act, 1989.

4. The petitioner has filed the instant writ petition for quashing of the FIR. It is submitted by the learned Advocate for the petitioner that during investigation police wanted a report sent by the Block Education Officer to the District Programme Officer on 19th of March, 2018, over the incident. The Block Education Officer submitted his report stating *inter alia* that on 16th of January, 2018, the complainant was absent without any prior information. On 17th of January, 2018, she came to school at about 11:45 A.M. The Headmaster told her to come regularly at the time of opening of the school. Over the said issue, there was hot altercation between two. On 17th of January, 2018, at about 09:30 AM, the informant came to school. The Headmaster did not allow her to mark her attendance. The B.E.O. inquired into the matter with other teachers and the students, they all supported the Headmaster. Moreover, about 90 students submitted an application supporting the Headmaster.

5. Be that as it may, we are concerned in the instant writ petition as to whether the written complaint submitted by the informant discloses a case under Section 3(i) (r) of SC/ST



(PoA) Act, 1989.

6. Section 3 (i) (r) runs thus:-

“Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view..”

7. The Hon’ble Supreme Court in *Hitesh Verma v. State of Uttarakhand & Anr.* reported in *(2020) 10 SCC 710*, observed that the essential ingredients of an offence under Section 3 (i) (r) is intentional insult or intimidation with intent to humiliate a member of a Schedule Caste and a Schedule Tribe “in any place within public view”. What is to be regarded as “place in public view” had come up for consideration before the Hon’ble Supreme Court in *Swaran Singh & Ors vs. State through standing counsel and Anr*, reported in *(2008) 8 SCC 435*. The Court had drawn distinction between expression “public place” and any place within “public view”. It was held that if an offence is committed outside the building, as for example in a lawn, outside a house and a lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within “public view”.

8. On the contrary, if the remark is made inside a building but some members of the public are there, then it



would not be an offence since it was not in the “public view”.

9. According to the complainant, the petitioner abused her in the official chamber of the school in presence of two other teachers. Even if, the allegation made by the petitioner is accepted as true, it would be found that the incident allegedly occur in a “public place” but not within the “public view”.

10. Therefore, *prima facie*, allegation under Section 3 (i) (r) cannot be substantiated.

12. There is another point which is pertinent to state in this case that offence under Section 3(i) (r) of the SC/ST (PoA) Act, 1989 is committed always by a person not being a member of the Scheduled Castes or Schedule Tribes. The petitioner of the instant writ petition stated that he also belongs to a member of Extremely Backward Class (EBC), namely “Nonia”. Section 3 of the said Act stipulates that if the offence described in various provisions of Section 3 is committed by a person not belonging to a SC/ST, he is liable to be prosecuted. Therefore, the petitioner being a “Nonia” cannot take any advantage for his act.

13. However, as the incident which has been narrated by the informant did not take place within “public view”, the allegation made out against the petitioner under Section 3 (i) (r)



of the SC/ST (PoA) Act, 1989 cannot sustained.

14. Accordingly, the FIR under Section 3 (i) (r) against the petitioner be quashed.

15. The instant Writ Petition is thus allowed in part.

(Bibek Chaudhuri, J)

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