

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.348 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- MOTIHARI TOWN District- East
Champaran

Vikash Kumar S/O- Virendra Prasad Jaiswal R/O- Ward No.- 6, Hamidpur,
Kesariya, P.S.- Kesariya, Dist.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Director General Of Police, Bihar, Patna.
Bihar, Patna
2. The Superintending Of Police, East Champaran At Motihari Bihar, Motihari
3. The Station House Officer, Two Police Station, East Champaran. Motihari.
Bihar, Motihari
4. Jhadi Paswan S/O- Late Jagdish Paswan R/O- Village- Parsa, P.S.-
Pakridayal, Dist.- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Tiwary
For the Respondent/s	:	Mr. Kameshwar Kumar, G.P.17 Mr. Sanjay Kumar, AC to GP-17

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 15-03-2024 1. The petitioner is a Bench Clerk (Peshkar), attached to the Court of learned Judge, Labour Court at Motihari, East Champaran. The Respondent No. 4, on the other hand, is the Informant in respect of Town P. S. Case No. 04 of 2024, dated 3rd of January, 2024, instituted under Sections 341, 323, 354(B), 120(B), 504, 506 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Before advertng to the prosecution case, this Court feels it necessary to state the following facts appearing from the



records: -

“The Informant was a witness in a case under the Workmen’s Compensation Act, 1923, pending before the learned Judge, Labour Court, Motihari at East Champaran. On 21st of April, 2022, date was fixed for examination of the Informant before the learned Judge, Labour Court in connection with the said case under the Workmen’s Compensation Act. He was examined and cross-examined. The evidence of P.W. 4 was recorded by the learned Presiding Officer. After recording his evidence, he was told by the Bench Clerk to put his LTI or signature on the deposition-sheet. The witness / Informant refused to put his signature on the ground that his deposition would be read over and explained to him. The Bench Clerk told him to call his learned Advocate. He came with his learned Advocate. The learned Advocate read over and explained the deposition made by the Informant. Then the Informant told that entire deposition was wrongly recorded and he refused to put his signature. The learned Judge recorded the said incident in the order-sheet, dated 21st of April, 2022. It is also recorded by the learned Judge that a young man who accompanied the Informant abused the learned Judge as well as the petitioner that the learned Judge connived with one Chaturi Rai and he



threatened the learned Judge as well as the members and staff attached to the Court to file case against them. Subsequently, the Informant lodged a complaint under Section 156(3) of the Code of Criminal Procedure before the learned Special Judge, SC/ST Act, Motihari, East Champaran, alleging *inter alia*, that on 21st of April, 2022 at about 01.30 P.M., the accused persons along with others assaulted him and his son. They also threatened to throw him away from the first floor of the Court building. It is further alleged that when his wife and daughter-in-law came to rescue him, the accused persons also tried to outrage their modesty and abused them saying Dusadh. The learned Special Judge under SC/ST Act sent the said complaint to the jurisdictional Police Station, directing the SHO to register F.I.R. against the accused.

3. Accordingly, Police registered Town P. S. Case No. 04 of 2024, dated 03.01.2024 against the petitioner and another persons.

4. The copy of the complaint was annexed with the formal F.I.R.

5. It is found from the complaint, filed under Section 156(3) of the Cr.P.C., that it was not supported by an affidavit. The complaint under Section 156(3) Cr.P.C. was filed without



complying the guidelines laid down by the Hon'ble Supreme Court in the case of *Priyanka Srivastava v. State of U.P.*, reported in *(2015) 6 SCC 287*.

6. This Court surprisingly notes that the learned Special Judge mechanically sent the complaint to the jurisdictional Police Station without verifying the fact as to whether any such incident at all took place or whether the Bench Clerk of a Court was involved.

7. On the contrary, it is found from the order recorded by the learned Judge, Labour Court that the son of the complainant threatened the learned Judge, Labour Court as well as the members and staff attached to the said Court to teach them a lesson by filing criminal case.

8. The learned Special Judge committed jurisdictional error in sending the complaint to the Police Station without considering the fact that the complaint was filed in violation of the guidelines laid down in the case of *Priyanka Srivastava (supra)*.

9. Therefore, the criminal case registered against the petitioner cannot lie.

9. Accordingly, the criminal case, being Town P. S. Case No. 04 of 2024, dated 03.01.2024 is set aside and



quashed.

10. The instant writ petition stands allowed.

(Bibek Chaudhuri, J)

skm/-

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