

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.321 of 2022

Arising Out of PS. Case No.-249 Year-2011 Thana- SC/ST District- Vaishali

-
-
1. Pushpanjali Lata W/o Sri Vishwanath Prasad R/o village/Mohalla- QR. No. 242 (D) Railway Colony, P.S. and District- Samastipur
 2. Vishwnath Prasad S/o Late Ram Lalit Prasad R/o village/Mohalla- QR. No. 242 (D) Railway Colony, P.S. and District- Samastipur
 3. Rajiv Ranjan Srivastava @ Sanjay Kumar Srivastava S/o Sachita Nand Singh R/o village/Mohalla- QR. No. 242 (D) Railway Colony, P.S. and District- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Ram Naresh Ram S/o Kodai Ram Resident of Paharhi Chak, P.O.- Sonepur, District- Chhapra (Saran)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amrendra Kumar Sinha No.1, Advocate
For the State	:	Mr. Sadanand Paswan, A.P.P.
For the O.P. No.2	:	Mr. Awadhesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 20-03-2024 Heard learned advocate for the petitioners and learned Additional Public Prosecutor for the State as well as learned advocate on behalf of the Opposite Party No.2.

2. Being aggrieved by an order of framing of charge dated 10.11.2019 against the petitioner and the others under Section 341, 323, 504, 406, 379 of the I.P.C. read with Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The accused/petitioners have approached this Court in revision.



3. It is contended by the learned advocate for the petitioners that the Trial Court committed illegality in framing charge under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the accused persons but charge ought to have been framed under Section 3(i)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is also submitted by him that no charge under Section 3(i)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 could be framed against the petitioners because of the fact that no such incident took place within the public view.

4. I have heard the learned advocate for the petitioners and learned advocate for the opposite party no.2. It is submitted by the learned advocate for the petitioners that real dispute between the parties relates to payment of debt allegedly taken by the opposite party no.2 from the petitioners.

5. Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 states “who ever, not being a member of a SC or ST -

(x) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Schedule Castes or the Scheduled Tribes so as to render it less fit for the



purpose for which it is ordinarily used;”

6. There is no allegation of commission of any act against the accused persons of converting the water of any spring or reservoir or any other source into fowls water. It is also submitted by the learned advocate for the petitioners that from the F.I.R. it is asserted that the accused persons allegedly abused the petitioner who is a member of SC/ST by his caste name. Entire incident took place inside the room of the accused, it was not committed within the public view. Prosecution also failed to produce any independent witness to prove that they heard the incident of using abusive words against the opposite party no.2. Therefore, since the incident did not happen within public view, no offence under Section 3(i)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 shall lie against the petitioners.

7. Learned advocate on behalf of the opposite party no.2 supports the framing of charge. It is submitted by the learned advocate for the opposite party no.2 that the accused persons did not make any allegation against non applicability of any of the provisions under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, accordingly, charge was framed. At this stage, the accused persons by filing the



instant revision cannot pray for alteration of charge. Moreover, there is a specific provision under Section 216 of the Cr.P.C. where charges can be alter.

8. Having heard the learned advocates for the parties and on perusal of entire materials on record, this Court is of the view that the learned Trial Judge committed a jurisdictional error in framing charge against the petitioners under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 because no such allegation has been made against the accused/petitioners.

9. At this stage, this Court cannot consider as to whether any offence under Section 3(i)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been made out against the petitioners or not. The case diary has not been produced before this Court. Moreover, this Court cannot under revisional jurisdiction alter add or worry the charge already framed against the accused. However, it is found from the record itself that charge under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 cannot lie against the accused persons. This part of the charge is set aside.

10. Both the parties are given liberty to place their



respective cases before the learned Special Judge under SC/ST Act Saran at Chapra to decide in consultation with the case diary as to whether charge under Section 3(i)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would have been framed against the accused persons after ascertaining the fact whether the accused persons were abused in the name of their caste **within the public view.**

11. With the above order, the impugned order dated 10.11.2019 is partially modified. The charge under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is quashed and set aside.

12. The learned Trial Judge is directed to act in accordance with the direction made herein above. Accordingly, the instant revision is disposed of.

(Bibek Chaudhuri, J)

mdrashid/-

U		T	
---	--	---	--

