

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.827 of 2004

1. Ram Sudistha Singh, son of Ram Narayan Singh, resident of Village – Kadrabad, Police Station – Bachhwara, District – Begusarai.
2. Ram Ujagar Singh, son of Ram Narayan Singh, resident of Village – Kadrabad, Police Station – Bachhwara, District – Begusarai.
3. Nilu Singh @ Bhoga Singh, @ Bhola Singh, son of Ram Sudhistha Singh, resident of Village – Kadrabad, Police Station – Bachhwara, District – Begusarai.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mrs. Vaishnavi Singh, Advocate
For the Respondent	:	Mrs. Anita Kumari Singh, APP

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date: 12-09-2024

1. This appeal is filed against the judgment dated 08.11.2004, passed in SC/ST (Prevention of Atrocities) (Harijan) Case No. 31 of 2003 on the file of Learned Special Judge, SC/ST (Prevention of Atrocities) Act cum-Ist Addl. Sessions Judge, Begusarai for the charges under Sections 323, 341, 354, 447 and 504 read with 34 of the Indian Penal Code (hereinafter referred to as ‘IPC’), and also under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act (hereinafter referred to as ‘the Act’) wherein the appellants were convicted under Section 3(1)(x) of the Act and were sentenced to undergo imprisonment of six months and to pay a fine of Rs.



500/- each, and in default of payment of fine, to suffer imprisonment for one month. However, the appellants were acquitted for the charges punishable under the said Sections of the IPC in view of the compromise between the victim and the appellants.

2. The case of the prosecution, in short, is that on 10.05.2003, at about 05:30 P.M., the informant, namely, Sumitra Devi (P.W.-3) was sitting in her house. All of a sudden, all the accused persons with firearms came to her house, abused her and threatened to kill her. They all suspected that she had practiced 'Witch Craft' on the son of 3rd appellant and as such he was not recovering, even after the treatment. Further, the appellant No. 1, namely, Ram Sudhistha Singh assaulted her and gave a fist blow on her mouth as a result her front tooth broke. Appellant No. 2, namely, Ram Ujagar Singh pushed her down, assaulted her with slaps and fists. Appellant No. 3, namely, Nilu Singh @ Bhoga Singh dragged her by catching her hair for which she raised alarm. After that, co-villagers, namely, Leela Devi (P.W.-2) Rajo Paswan (P.W.-1), Gopal Paswan (P.W.-4) and many others came to the place of occurrence.



3. Basing on the written complaint of P.W.-3, a case was registered against the appellants for the offences punishable under the Indian Penal Code as well as under the SC/ST Act and it was numbered as SC/ST (Prevention of Atrocities) (Harijan) Case No. 31 of 2003 against all the appellants.

4. After thorough investigation, a charge-sheet was laid for the abovesaid offences. After taking cognizance, the case was committed to the Court of Special Judge under SC/ST Act by an order dated 09.10.2003 by the Chief Judicial Magistrate. As stated supra, the charges were framed for the offences punishable under IPC and also under Section 3(1)(x) of the Act.

5. During the course of arguments, it is submitted by Learned counsel for the appellants that the appellants compromised with the victim (P.W.-3), and therefore, a petition was filed to record the amicable settlement between them dated 25.03.2004. Basing on the Compromise petition, all the offences punishable under the IPC got compromised, but as the offence u/s 3(1)(x) of SC & ST Act is not a



compoundable offence and as such, the Special Court had no option except to conduct the trial.

6. In order to prove the case against the appellants beyond the reasonable doubt, the prosecution has examined five witnesses i.e. P.W.-1 to P.W.-5 and Exhibit 1 and 2 were marked. The evidence of P.W.-1, namely, Rajo Paswan, discloses that he did not witness the dispute at the time of occurrence, but identified the accused as they belong to the same village. In the cross-examination, it is specifically stated by him that he heard about the dispute as a rumor.

7. P.W.-2, namely, Leela Devi is daughter of P.W.-3. Her evidence discloses that the appellants assaulted P.W.-3 and abused her. But, in her cross-examination, she specifically stated that the parties have come to a compromise. The evidence of P.W.-3 is same as that of the evidence of P.W.-2.

8. Admittedly, P.W.-3 herself is the victim/informant in this case. In the cross-examination she testified that she compromised with all the accused and there was a land dispute between the informant and the appellants. P.W.-4, namely, Gopal Paswan turned hostile.



9. P.W.-5, namely, Ramanand Singh is one of the Advocate Clerk through whom the F.I.R. was marked as Exhibit-1. He identified the handwriting and signatures of the one B.N. Ram, the then Incharge of SC/ST Police Station. In his cross-examination, he specifically stated that the F.I.R. was not written in his presence and he had no knowledge about the case.

10. Heard Mrs. Vaishnavi Singh, Learned counsel for the appellants and Mrs. Anita Kumari Singh, Learned Additional Public Prosecutor for the State.

11. On perusal of the entire evidence on record, it is apparent that there are disputes between the victim and the appellants with regard to a land. Admittedly, P.W.-2 and P.W.-3 belong to Scheduled Castes and Scheduled Tribes Category. Except their evidence, there is no other evidence available on record and independent witnesses also did not corroborate with the evidence of the informant in any manner.

12. This Court is unable to understand, as to how, the trial Court marked document/Exhibit through an Advocate Clerk, who has no knowledge about the contents of the documents. Document can only be marked by a person who



has acquaintance with the contents of the documents or who is the author of the documents. Furthermore, the Investigating Officer was not examined for the reasons best known to the prosecution. The evidence of prosecution witnesses do not reveal specific words to prove that the offence under Section 3(1)(x) of the Act are attracted. Furthermore, the record reveals that the victim-informant arrived to a compromise with the appellants and as such, the trial Court acquitted the appellants for all the offences punishable under Indian Penal Code, except for the offences punishable under Section 3(1)(x) of the Act. As stated Supra, no specific words used to abuse the informant were found in the evidence in order to attract Section 3(1)(x) of the Act.

13. In order to support the case, Learned counsel for the appellants has relied on the decision of the Hon'ble Apex Court in the case of *Hitesh Verma Vs. The State of Uttarakhand & Anr.* in *Criminal Appeal No. 707 of 2020* arising out of *SLP (Criminal) No. 3585 of 2020*, wherein in *paragraph No. 16*, Lordships have held that:-

“16. There is a dispute about the possession of the land which is the subject



matter of civil dispute between the parties as per respondent No. 2 herself. Due to dispute, appellant and others were not permitting respondent No. 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.”

Further, their Lordships have also held in **paragraph No. 18** that:

“18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.”



14. The Learned counsel for the appellants relied on another decisions of Hon'ble Apex Court in the case of ***Ramesh Chandra Vaishya Vs. the State of Uttar Pradesh & Anr.*** reported in ***AIR 2023 SC(SUPP) 709***, wherein their Lordships have also relied on ***Hitesh Verma (supra)***, ***paragraph 18***, which reads as follows:

“18. That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is



targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaquoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks. Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under section 438, Cr.PC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable



the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognisance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial.”

15. The above citations relied by the Learned counsel for the appellants are squarely applicable to the facts and circumstances of this case. Admittedly, there is a civil dispute between the parties i.e. the informant (P.W.-3) and the appellants. There is no evidence before the Court as to the assault or abuse made by the appellant except the evidence of P.W.-3 (informant) and P.W.-2. However, P.W.-2 and P.W.-3 have admitted in their cross-examinations that P.W.-3 got compromised with the appellants.

16. In view of the aforesaid discussions, the conviction of the appellants for the offence punishable under Section 3 (1) (x) is not sustainable and the judgment of the



trial Court dated 08.11.2004, arising out of Harijan P.S. Case No. 31 of 2003 in connection with SC/ST (Prevention of Atrocities), Act on the file of Learned Special Judge, SC/ST (Prevention of Atrocities) Act cum-Ist Addl. Sessions Judge, Begusarai is hereby set aside and the appellants are acquitted for the offences punishable under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act.

17. The bail bonds of the appellants shall stand cancelled.

18. *In result, appeal is allowed.*

(G. Anupama Chakravarthy, J)

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