

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2202 of 2023

Arising Out of PS. Case No.-119 Year-2021 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Amit Kumar, son of Late Ajit Kumar Singh, resident of Village- Bhagwanpur,
Chak Shekhu, Police Station- Dalsinghsarai, District Samastipur, at present
R/o- C-19, Century Apartments, Sector- 100, Noida. 201304.

... .. Appellant

Versus

1. The State of Bihar
2. Lalit Paswan, Late Ramjatan Paswan, Resident of Village- Parn, Ward No.
06, P.O.- Chakwahauddin, Police Station, Dalsingh Sarai, District-
Samastipur.

... .. Respondents

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Appearance :

For the Appellant	:	Ms.Shatabdi Sinha, Advocate
For the State	:	Mr.Binay Krishna, Spl.PP
For the Informant	:	Mr.Harsh Vardhan, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 06-02-2024

Heard Ms. Shatabdi Sinha, learned counsel for the
appellant, Mr. Binay Krishna, learned Special Public Prosecutor
for the State duly assisted by Mr. Harsh Vardhan, learned
counsel for the informant.

2. The present memo of appeal is being for setting
aside of the cognizance order dated 09.11.2022 passed by
learned Special Judge, SC/ST (POA) Act, Samastipur in
connection with Complaint Case No. (C.R. No.) 119 of 2021,
whereby and whereunder the learned court has taken cognizance
for the offence under Section 323 of the Indian Penal Code (in
short the 'I.P.C.') and Section 3(i)(r)(s) of the Scheduled Castes



and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the appellant.

3. The facts of the case in brief is that on 17.06.2021, the complainant-opposite party no. 2 has filed the instant complaint petition being Complaint Case No. 119/2021 before the court of Additional District & Sessions Judge-1-cum-Special Judge, SC/ST (POA) Act, Samastipur against the appellant alleging therein that O.P. No. 2/complainant, who is a member of scheduled castes and works as a labour, engaged by the appellant for painting his house in November 2020 against settled labour charge of Rs. 10,000/-, he started the work along with his other co-labourer, for which the appellant had given him Rs. 5000/- and promised to pay the remaining amount after completion of work. O.P. No. 2/complainant completed the whole work. On 13.06.2021, when complainant was standing near a shop, he saw that appellant was coming in car along with driver, he stopped him and demanded his remaining amount i.e. Rs. 5000/-, the appellant get down from his car and assaulted the O.P. No. 2/complainant and also said him as “Saala Dusaad”. When the O.P. No. 2/complainant defended himself, the appellant started beating him, where he saved him anyhow.



4. The statement of the complainant was recorded on 09.02.2022 and enquiry witnesses namely, (1) Sunil Paswan, (2) Shankar Paswan and (3) Amrit Paswan were examined on 02.08.2022. The copy of the deposition of enquiry witnesses are annexed as Annexure '2' series to the present memo of appeal.

5. Thereafter, on 09.11.2022, the learned court, after perusal of the complaint and deposition of enquiry witnesses, took cognizance of the offence against the appellant under Section 323 of the I.P.C. and under Section 3(i)(r)(s) of SC/ST Act.

6. Ms. Shatabdi Sinha, learned counsel appearing for the appellant submitted that the appellant has falsely been implicated in this case. Learned counsel submitted that the factual matrix which gives rise to the instant case is that on 14.03.2021, appellant's Manager namely, Amit Kumar lodged a case being Dalsingsarai P.S. Case No. 072/2021 against Vinod Mahto, Ramudgar Mahto and Vinod Mahto alleging therein that the aforesaid persons along with 20-25 persons had demolished the shop owned by the appellant and looted costly goods kept therein. When the appellant stopped the accused persons from doing so, they started abusing him and threatened him to kill and also started firing in air. A copy of the said F.I.R. is annexed



as Annexure '3' to this memo of appeal.

7. Learned counsel submits that the present complaint case is the outcome of the aforesaid F.I.R. which is planted against the appellant.

8. On 08.01.2024, this Court had granted one week's time to learned counsel for the appellant to bring on record as to whether matter has been compromised between the parties in view of submission. On 24.01.2024, this Court has been informed that the compromise petition on affidavit has been filed on 12.01.2024, but on perusal of the record the same found not available.

9. Today, learned counsel for the appellant submitted that the compromise petition is available on record through supplementary affidavit. In paragraph '3' of the supplementary affidavit, it is stated that on 12.06.2023 the matter was compromised between the appellant and the complainant before learned Special Court, SC/ST Act, Samastipur. A copy of compromise petition is annexed as Annexure '7'.

10. Learned counsel for the appellant also relied upon the judgment of this Hon'ble Court in the case of **Sanjay Jain Vs. State of Bihar & Ors.** reported in **2019(1) PLJR 811**, where a guiding note was taken from legal report of Hon'ble



Supreme Court report as **2012(1) PLJR (SC) 133** reported in the matter of **(Shiji v. Radhika)**, that in a non-compoundable cases, though the Magistrate has no jurisdiction to drop the proceeding, but the High Court in exercise of power under Section 482 Cr.P.C. can quash the proceeding in the event it appears to the Court that the case between the parties is completely a private dispute and there is no chance of recording conviction against accused persons in that event continuation proceeding will be sheer wastage of time of the court.

11. Learned counsel for the State duly assisted by learned counsel for the informant have also endorsed on the submission of learned counsel for the appellant. Learned counsel appearing on behalf of informant also appears in agreement regarding factum of compromise.

12. Having heard learned counsel for the parties and on perusal of the records, it appears that matter has been compromised between parties and for said effect a compromise petition filed through supplementary affidavit on record, this Court finds as the matter between the parties has been compromised, continuation of proceeding will be the nothing but the wastage of valuable time of the Court.

13. At this stage, this Court takes note of the judgment



of this Hon'ble Court in the case of **Sanjay Jain (supra)** from paragraph nos. 5, 6 and 7 which reads as under:

“5. During the pendency of this case, parties have settled their dispute outside the Court, as the petitioners have already paid the outstanding dues of Rs.12.5 lacs to the complainant O.P.No.2 and the same has been accepted by his counsel before this Court.

6. Counsel for the petitioners submits that as parties have already settled the dispute, it will be sheer wastage of time to allow this proceeding to continue. Counsel for the O.P. also supported the contention and submitted that O.P.No.2 is no longer interested to prosecute the case.

7. The Hon'ble Supreme Court in the case reported in **2012(1) PLJR (SC) 133 (Shiji v. Radhika)** has observed that in a non- compoundable cases, though the Magistrate has no jurisdiction to drop the proceeding, but the High Court in exercise of power under Section 482 Cr.P.C. can quash the proceeding in the event it appears to the Court that the case between the parties is completely a private dispute and there is no chance of recording conviction against accused persons in that event continuation proceeding will be sheer wastage of time of the court. Para 13 of the said judgment is as follows:

“Para 13: It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be exercise in futility. There is a subtle distinction



between compounding of offences by the parties before trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other. While the Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of High Court under Section 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power under Section 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate



evidence for it cannot assume the role of an appellate court while dealing with the petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.”

14. As it appears that both the parties have entered into compromise and settled their disputes amicably, this Court feels that it will be an unnecessary prolongation of the case without any fruitful result.

15. Considering the aforesaid facts and circumstances and in view of the legal position as discussed above the cognizance order dated 09.11.2022 passed by learned Special Judge, SC/ST (POA) Act, Samastipur in connection with Complaint Case No. (C.R. No.) 119 of 2021 is hereby quashed.

16. This appeal stands allowed, accordingly.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	07.02.2024
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