

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2038 of 2024

Arising Out of PS. Case No.-78 Year-2023 Thana- PATNA COMPLAINT CASE District-
Patna

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Pappu Chaudhary @ Pappu Kumar Son of Late Dukhi Chaudhary Resident of Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna-800010, Presently residing at Shri Braj Kishore Smarak Pratisthan (Shri Braj Kishore Memorial Institute), Sadakat Ashram, P.S.- Patliputra, Dist.- Patna -800010

... .. Appellant/s

Versus

1. The State of Bihar
2. Vijay Prakash Son of not Known President, Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna -800010
3. Rana Awadhesh Son of Not Known Secretary, Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna-800010
4. Awadhesh K. Narayan Son of Not Known Assistant Secretary, Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna-800010
5. Vivek Ranjan Son of Not Known Finance Secretary, Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna-800010
6. Pramod Karn Son of Not Known AIC - in - Charge at Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna-800010
7. Pramod Kumar Son of Not Known Fruit Dealer, Bihar Vidyapith, Sadakat Ashram, P.S.- Patliputra, Dist.- Patna-800010
8. The Then S.H.O., Patliputra Police Station Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhakar Sahai, Adv.
For the Respondent/s : Mr. Usha Kumari 1, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 26-10-2024

1. Heard learned counsel for the appellant and learned Special P.P for the State.

2. The appellant has preferred the present appeal under Section 14A(1) of the Scheduled Castes and



Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') against the order dated 06.03.2024 passed by the learned Exclusive Special Judge (SC/ST), Patna in Complaint Case No. 78(c) of 2023 whereby and whereunder the learned trial court refused to take cognizance against accused persons/respondent nos. 2-8.

3. The brief fact of this case as it appears from the complaint as lodged by appellant is that he was working as a peon with Shri Braj Kishore Smarak Pratishthan (in short 'S.B.K.S.P'), where he resides alongwith his family on rent. On 19.09.2023 respondents/accused persons all of the sudden surrounded the building with the help of the co-workers and also alongwith local police. It is alleged further that all the accused persons/respondents are working for the Bihar Vidyapith which is adjacent to the building where the present occurrence took place, due to land dispute, pending between both organization, for which a Title Suit No. 76/2020 is also pending before the Court. It is alleged



that the present occurrence took place in order to evict the appellant from aforesaid premises of S.B.K.S.P. The aforesaid incident of forceful eviction was made without issuing any Court notice in this regard and when appellant asked for Court's notice the accused/respondent no. 2, namely, Vijay Prakash used derogatory words and passed racial remarks against appellant, where accused/respondent no. 3, namely, Rana Awadhesh threatened appellant to kill and also used abusive language. It is further alleged that even SHO of the locality was also present there who also used vulgar language for the appellant. Upon hearing the outcry of the appellant, one Yugeshwar Mahto a co-staff of the appellant along with appellant's daughter Varsha Kumari and wife Guriya Devi and also some nearby persons, who happened to be there as a visitor gathered over there and in front of all, the accused/respondent no. 4 namely, Awdhesh K.Narayan, respondent no. 6 namely, Pramod Karn and respondent no. 7 namely, Pramod Kumar caught hold of



the appellant's arm and collar and used derogatory words and racial abuse. They also slapped appellant on his face. It is alleged that the respondent no.5, namely, Vivek Ranjan beaten appellant and abused him. The other accused, namely, Pramod Kumar pushed the appellant's wife by her chest, when she came to rescue her husband. Meanwhile, crowd started to acquire a larger shape, consequently, all the accused persons/respondents left the place and threatened the appellant to leave the place within two days. It appears from perusal of record that the occurrence took place on 19.09.2023, whereas the complaint case was lodged before the learned Exclusive Special Judge (SC/ST), Patna on 26.09.2023 that is after seven days.

4. Mr. Prabhakar Sahai, learned counsel appearing for the appellant submitted that the complainant categorically stated on oath regarding involvement of accused persons/respondents in the present case. It is further submitted that the abusive words in caste name of



appellant was used by respondents during the occurrence and, therefore, a clear *prima-facie* case is made out which was completely over looked by learned trial court by dismissing complaint under section 203 of the Cr.P.C.

5. Heard Mrs. Usha Kumari-1 Spl.PP for the State.

6. Altogether, four witnesses including complainant were examined during enquiry, namely, Pappu Chaudhary @ Pappu Kumar (complainant), inquiry witness no. 1, namely, Yogeshwar Mahto, inquiry witness no. 2, namely, Guriya Devi (wife of Pappu Chaudhary @ Pappu Kumar), inquiry witness no. 3, namely, Barsha Kumari (daughter of pappu chaudhary @ Pappu Kumar).

7. Upon perusal of S.A. of complainant which was recorded on oath, it appears that he lodged present Complaint case against Vijay Prakash, Rana Awadesh, Awadhesh K. Narayan, Vivek Ranjan, Ranvijay Sinha, Pramod Karn, Pramod Kumar, Shilpi Kanth, Urmila Kumari, Sweety Kumari, Ajay Chaudhary, Shubham Kumar and



other unknown persons and also against SHO namely P.K Shahi of Patliputra Police Station and 5-6 constables of BMP-15. It appears from his statement that on the date of occurrence i.e., on 19.09.2023, he was in his office at Shri Braj Kishore Sadakat Ashram, where he was working since 2004, when accused persons/respondents came over there and abused him by caste name. It appears from his statement that one Title Suit No. 76/2020 was lodged by Shri Braj Kishore. Accused Sweet and Shilpi Kanth abused him. He stated that occurrence was witnessed by Yogeshwar Mahto (EW-1), his wife Guriya Devi (EW-2) and his daughter Varsha Kumari (EW-3). It appears from his statement that the house in issue was given to him on rent as per agreement executed by Shri Braj Kishore Pratishthan on 28.05.2023. It is also stated that accused persons are working with Bihar Vidyapeeth Ashram. A Title Suit also said to be pending between Brij Kishore Ashram and Bihar Vidyapith. It also appears from the statement that Awadesh Narayan, Pramod Kumar and Pramod Karn



collectively caught hold his hand, whereafter Awadesh K. Narayan assaulted him and when his wife came to rescue him, Pramod Kumar pushed her by putting his hand on her chest.

8. Referring to aforesaid submission, it appears that complainant statement appears contrary to his complaint petitions as he did not arrayed Ranvijay Sinha, Shilpi Kanth, Urmila Kumari, Sweety Kumari, Ajay Chaudhary, Shubham Kumar as an accused in this case. He did not mention even in accused list, the constable of BMP-15 and on this score, his statement appears completely contrary qua complainant petition.

9. Secondly, it appears that he specifically stated on oath through his S.A. that abusive words was used by accused Sweet and Shilpi Kanth only but both of them were not arrayed as accused in this case. No allegations of abusing by caste name was raised against any of the accused persons who are named in complaint petition contrary to the submission recorded on essay as discussed



aforesaid. The pendency of Title Suit No. 76 of 2020 is an admitted position.

10. EW-1 is Yugeshwar Mahto, who stated that this complaint was lodged by complainant namely Pappu Chaudhary against Vijay Prakash, Rana Awadesh, Awadhesh K. Narayan, Vivek Ranjan, Pramod Kumar, fruit seller other employees of *Vidyapeeth*. He stated to be an employee of Sadakat Ashram. He made a general and omnibus statement regarding abusing in caste name against all accused persons/respondents. Though, he stated about the presence of SHO, Patliputra on spot but did not stated anything that any abusive or derogatory words was used by him against complainant.

11. EW-2, who is Guriya Devi stated that this case is against Vijay Prakash, Rana Awadesh, Awadhesh K. Naryan, Pramod Kumar, Vivek Ranjan, Pramod Karn, Sweety, Urmila and other employee. This statement also appears contrary to the complaint petition as Sweety and Urmila and other employee were not arrayed as an



accused through complaint petition. It also appears contrary that she made herself as chance witness as she was coming to her home after obtaining her dengue report. She did not stated like complainant that Pramod Kumar pushed her by putting his hand on her chest. It appears out of her statement that the accused persons/respondents came over there to evict room from them where they were residing under agreement.

12. EW-4 is Varsha Kumari. She also stated that the complaint case was lodged by his father, namely, Pappu Chaudhary against the officer and employee of Bihar Vidyapeeth namely, Vijay Prakash, Rana Awadhesh, Awadhesh K. Narayan, Vivek Ranjan, Pramod Karn, Pramod Kumar, Shilpi Kanth, Sweety Kumari, Urmila Kumari, Pushkar Kumar, Ajay Chaudhary, Ranvijay, Shubham Kumar, SHO, Patliputra and the constables of BMP. Upon perusal of complaint petition it appears that Shilpi Kanth, Urmila Kumari, Sweety Kumari, Pushkar Kumar, Ajay chaudhary and Shubham Kumar not arrayed



as accused persons making complaint false on its face. She also supported the factum of land dispute and pending Title Suit between the parties. She also raised allegations against co-accused, namely, Pramod Kumar as to behave in indecent manner and to push her by abusing with caste name without specifying any name of caste.

13. It would be apposite to reproduce the impugned order for the sake of convenience:-

"Complainant has been filed attendance Case record is fixed for order of point of summoning order.

Perused the case record as well as S.A of complainant and witnesses examined under section 202 Cr.P.C Complainant filed this against proposed accused persons namely Vijay Prakash, Rana Awadhesh, Awadhesh K. Narayan, Vivek Ranjan, Pramod Karn, Pramod Kumar and the then S.H.O. Patliputra Police Station and five unknown persons. During his S.A., complainant namely Pappu Chaudhary has stated that occurrence took place on 19.09.2023, On that day, he was in the office of Shri Brijkishore Sadakat Ashram and he has been working in the office since 2004 and he lived in the same Ashram with his family. Accused persons came to vacate the place, where he reside in that institution and accused persons abused him by calling caste name Pasi. He has further stated that a title suit No. 76/2020 has filed by the Brij Kishore Sansthan, which is pending in the court He has further stated that accused persons are working in Bihar Vidhyapit, Ashram and title suit is going on between Brij Kishore Ashram and Bihar Vidyalaya Vidyapit. He has also stated that on dated 28.05.2023 the building was allotted to him on rent through agreement between him and Shri Brij Kishore Pratishtan.



Inquiry witness No. 1. Yogeshwar Mahto has stated that he has employee in the Sadaqat Ashram. Complainant namely Pappu Chaudhary lives in two room on rent in the premises of Brij Kishore Sansthan. He has further stated that officers and staff of Vidhyapit came there and abused the complainant with caste name and told him to vacate the house. He has further stated that the officers and staffs of Vidyapit said that the said room belong to Vidyapit, therefore they will not let the complainant to live there. He has further stated that at the time of incident the S.H.O. of Patliputra was also present there.

Inquiry witness No. 2, Guriya Devi, who is the wife of complainant, she has stated that occurrence took place two months ago on or about 04-05 O'clock in the evening. She has further stated that he was suffering from Dengue, she was coming to take report of Dengue, then she saw that there was a lot of crowd at her gate, she went there and saw that her husband was being assaulted by some people, then she rescue her husband, Pramod Kumar, Rana Awadesh used caste based word and abused her after that pulled her, thereafter she became unconscious He further stated that accused persons came there to vacant her house. She has not received any notice to vacate the house. She has further stated that they are living there for five years with according to agreement.

Inquiry witness No. 3 Barsha Kumari, she is the daughter of complainant, she has stated that occurrence took place on 19.09.2023. She was in the her house at third floor situated at Brij Kishore Memorial Foundation. She further stated that after hearing noise, she came and saw that officers and employees of Bihar Vidyapeeth and SH.O of Patliputra police station and BMP force were present there She further stated that Awadesh K. Naryan and Vivek Ranjan holding her father's collar and Pramod Kumar and Pramod Karan were holding her father's arm and Vijay Prakash with S.H.O was assaulting and threatening her father with caste related words. She stated that when her mother came to recuse her father, then Pramod Kumar placed his hand on her mother's chest with wrong intention and pushed her and also abused her mother with Pashi word, at that time her mother was suffering from



dengue. She has further stated that officers and employees of Bihar Vidyapeeth wants to forcefully usurp the Brij Kishore memorial Foundation, although both institution are separate. She has further stated that a title suit has been filed by the Brij Kishore Memorial Foundation in the court, which is still pending.

From perusal of complainant petition, S.A of complainant and inquiry witness and documents filed by the complaint with list of documents, it is clear that at the date of occurrence complainant was living in the house of Brij Kishore Memorial Foundation with an agreement and complainant and all witnesses admitted the fact that a title suit is still pending between the both institution Brij Kishore Memorial Foundation and Bihar Vidyapeeth.

*In recent Judgment, Hon'ble Supreme Court observed in **Gulam Mustafa Vs The State of Karnataka on 10 May 2023**, "This Court would indicate that the officers who institute an F.I.R, based on any complaint, are duty-bound to be vigilant before invoking any provision of a very stringent statute, like SC/ST Act, which imposes serious penal provision consequences on the concerned accused. The officer has to be satisfied that the provisions he seeks to invoke prima facie apply to the case at hand. We clarify that our remarks, in no manner are to dilute the applicability of special/Stringent statutes, but only to remind the police not to mechanically apply the law, de hors reference to the factual position."*

Having considered the facts and circumstance as well as the material available on case record, I find that the complainant is residing at the Brij Kishore Memorial Foundation and proposed accused persons are officers and staffs of Bihar Vidyapeeth and a title suit is still pending between both institution, and complainant is also employee of Brij Kishore Memorial Foundation, therefore, it does not seem credible that there would be a dispute because he belongs to schedule caste. It appears that this case been filed against the proposed accused persons, which is the officers and staff of Bihar Vidyapeeth regarding the dispute of possession over the premises, for already title suit is pending between the parties. It appears that the case is purely civil nature given the colour of



criminal offence. There is no prima facie case is made out under the provisions of Sc/St Act against proposed accused persons of the complaint petition and there is no sufficient ground to initiate proceeding against them. Therefore, this complaint is dismissed under the provision of section 203 Cr.P.C. "

14. Hence from aforesaid discussions, statement of witnessess *qua* complaint petition, it would be apposite to discuss legal report as available through ***Gulam Mustafa Vs The State of Karnataka and Anr.*** reported in ***2023 SCC Online SC 603***, which read as under:-

"34. Insofar and inasmuch as interference in cases involving the SC/ST Act is concerned, we may only point out that a 3-Judge Bench of this Court, in Ramawatar v. State of Madhya Pradesh, 2021 SCC OnLine SC 966, has held that the mere fact that the offence is covered under a 'special statute' would not inhibit this Court or the High Court from exercising their respective powers under Article 142 of the Constitution or Section 482 of the Code, in the terms below:

"15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The SC/ST Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the SC/ST Act has been enacted keeping in view the



express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily civil or private where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the SC/ST Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr. P.C."

15. Aforesaid judgment also appears to be discussed in impugned order. There is lot of contradictions regarding name of accused persons as stated during inquiry *qua* complaint petition. It appears *prima-facie* that the root cause of occurrence is dispute *qua* possession of premises for which Title Suit is pending. The learned trial court rightly held that it is a case of civil nature which has been given the color of criminal offence and, therefore, the



complaint petition was dismissed as no *prima-facie* case was made under section SC/ST Act. It also appears that the occurrence in issue not occurred out of atrocities as defined within the meaning of SC/ST (PoA) Act, 1989.

16. Hence in view of aforesaid, this Court did not find any infirmity in order under challenge, wherein the complaint petition of complainant/appellant was dismissed under section 203 of Cr.P.C.

17. Accordingly, the present appeal stands **dismissed** at admission stage itself.

18. Copy of this judgment be sent to learned trial court, henceforth.

(Chandra Shekhar Jha, J)

Suruchi
Kumari/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.10.2024
Transmission Date	30.10.2024

