

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43938 of 2021

Arising Out of PS. Case No.-298 Year-2020 Thana- GARKHA District- Saran

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1. Ankit Kumar Sharma, S/o Shailendra Kumar Sharma
 2. Shailendra Kumar Sharma S/o Late Shrikant Sharma
 3. Abhinash Kumar Sharma S/O shailendra Kumar Sharma
 4. Shalini Kumari Sharma W/O Manish Kumar, Daughter of Shailendra Kumar Sharma
All Resident of P. No. 33, Lalpura Colony, Vanasthali Marg, Near Sindhi
Camp Bus Stand, Jaipur (Rajasthan), PIN Code- 302001.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava, Advocate
For the State	:	Mr. Binay Krishna, APP
For the O.P. No.2	:	Mr. Gajendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 04-01-2024 1. Heard learned counsel for the petitioners, learned
APP for the State along with learned counsel for the O.P. No.2.
2. Learned counsel for the O.P. No.2 at the outset
submit that police after investigation submitted charge sheet
under various provision of the IPC and the SC, ST Act and the
special court has taken cognizance of the offences under the IPC
and the SC, ST Act.
3. It is next submitted that since cognizance has been
taken under the SC, ST Act as such the present quashing
application for the present has become infructuous. It is next
submitted that the Hon'ble Division Bench of this Court in Cr.



Appeal (SJ) No.4792 of 2018 (Suman Mahto Vs. The State of Bihar) along with another analogous cases at para-13 has held that- the decision rendered in the case of Girish Kumar Soneja (Supra) clearly lays down that the an order taking cognizance is not an interlocutory order rather an intermediate order.

4. Taking a que from Girish Kumar Soneja, we have no hesitation in coming to a definite conclusion that an order taking cognizance passed under the Act is not an interlocutory order rather is an intermediate order and therefore appeal-able under Section 14(a) of the Act.

5. It is thus submitted that since cognizance has been taken by the Special Court as such the said order is now appeal-able under Section 14(a) of the SC, SC Act.

6. The learned APP vehemently opposes the submission of the learned counsel for the petitioner and submits that a frivolous case has been instituted by the O.P. No.2 herein who is none other than servant of one Manish Kumar who is husband of petitioner no.4 herein. It is further submitted that name of the mother of Manish Kumar is Meera and from persual of the allegation as alleged in the FIR it would manifest that the O.P. No.2 herein has stated that she works for Meera which amply demonstrates that she is working for Meera and



Manish. It is further submitted that since petitioner no.4 on account of matrimonial dispute had instituted Jaipur Mahila P.S. Case No.08 of 2020 against Manish, Meera and others, as such Manish Kumar got the present false case instituted against petitioner no.4 and her entire family members. It is next submitted that the date of occurrence as alleged was the period of lock-down under Covid, as such it was just not possible for the petitioners herein to come from Rajasthan to Bihar and abuse and assault the informant. It is next submitted that the SC, ST Act was legislated with a view to prevent the commission of offences of atrocities against the members of SC/ST, but with passage of time it appears that the act is being used as a tool in hands of wily litigants like Manish and the informant.

7. The learned counsel for the petitioners is not in a position to rebut the submission of the learned counsel for the opposite party no.2 that charge sheet has been submitted and cognizance has been taken. Thus the learned counsel seeks permission to withdraw the quashing application with liberty to move before this Court in an appropriate jurisdiction.

8. The learned counsel next submits that since SC, ST Act prescribe limitation for filing appeal hence the appeal may not be entertained. It goes without saying that since petitioner



was pursuing his remedy before this Court as such he can raise this issue before the appropriate jurisdiction.

9. Permission is accorded.

10. Accordingly, the quashing application is dismissed as withdrawn.

(Satyavrat Verma, J)

Prakash Narayan

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