

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2557 of 2022

Arising Out of PS. Case No.-18 Year-2021 Thana- SC/ST District- Kaimur (Bhabua)

Saroj Singh Yadav, Son of Ramjee Yadav, Resident of Village - Karma, P.S.-
Kudra, Distt.- Kaimur.

... .. Appellant

Versus

1. The State of Bihar
2. Dhana Kunwar, W/o Late Dinesh Nut, Resident of Village - Karma, P.S.-
Kudra, Distt.- Kaimur.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Pawan Kumar Singh, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

For the Informant : Mr. Lakshmi Kant Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 05-12-2024

The present application has been filed for quashing of the order dated 21.05.2022 passed by learned Additional District and Sessions Judge-1-cum-Special Judge, SC/ST, Kaimur at Bhabhua in SC/ST Reg. No.32 of 2022 arising out of SC/ST Bhabhua P.S. Case No.18 of 2021, whereby the learned trial court has taken cognizance for the offences punishable under Sections 341, 323, 354-B, 504, 506 of the Indian Penal Code (for short 'I.P.C.'), Sections 3(1)(r)(s)(w) and 3(2)(va) of the Scheduled Castes and the Scheduled



Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') and issue summons against him to face trial.

2. The notice was served upon the informant/respondent no.2, in furtherance of which, Mr. Lakshmi Kant Tiwary, learned counsel appeared on behalf of respondent no.2/informant.

3. The prosecution case is based upon the written statement of informant/respondent no.2, namely, Dhana Kunwa before the S.H.O., SC/ST Police Station, Bhabhua stating therein that she is a widow of scheduled caste community and the accused persons used to threatened for dire consequences. On 29.06.2021 at about 5.50 P.M., when she was at the door of her house, the appellant abused by her caste name. The co-accused Vikesh Yadav caught her hair and pull down on the ground, due to which, she became unveiled, when protest was raised, then Ranjan Yadav, Kamlesh Yadav, Subhash Yadav came there and used filthy language and assaulted her. It is further stated that the matter was convened for compromise but no compromise was made.

4. It is submitted by learned counsel that the



impugned cognizance order *qua* appellant is bad in the eyes of law for the reason that as per face of FIR, appellant was not involved or named for the occurrence dated 29.06.2021, which took place at about 5:50 P.M. It is submitted that the police after investigation, submitted final form against the appellant and did not sent up his name for facing the trial. Despite of that, through impugned order, by taking a different note, the learned trial court took cognizance against the appellant without assigning any reason. It is submitted that while taking cognizance, only the incriminating statement as available under para Nos. 2, 6, 7, 8 and 9 of the case diary was taken into consideration, who are the relatives of the informant and they are interested witnesses being family members. It is submitted that the learned trial court has completely overlooked para Nos.-55 and 56 of the case diary, where statement of independent witnesses are recorded, whereby the involvement of appellant in crime in question was negated completely.

5. It is also submitted that Annexure-3 of the present petition, which was issued form the office of Junior



Executive Engineer, Electric Supply Unit, Pusauli, it appears that the appellant was on duty on the date of occurrence. Same also appears corroborated from para Nos.80 and 81 of the case diary, which was completely overlooked by the learned trial court.

6. It is submitted that the informant is a ward member and due to certain neighbourhood and local political issues, this present false implication was raised, which is not out of atrocities as defined within the meaning of the Act.

7. In view of submissions as made above, the impugned order taking cognizance dated 21.05.2022 passed by learned Additional District and Sessions Judge-1-cum-Special Judge, SC/ST, Kaimur at Bhabhua in SC/ST Reg. No.32 of 2022 arising out of SC/ST Bhabhua P.S. Case No.18 of 2021 *qua* appellant is hereby quashed and set aside and learned trial court is directed to pass a fresh reasoned order *qua* appellant by taking into consideration the aforesaid discussed materials within two weeks from the date of receipt of this order.

8. With aforesaid observation, the present appeal



stands disposed of.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06-12-2024
Transmission Date	06-12-2024

