

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40739 of 2015

Arising Out of PS. Case No.-244 Year-2013 Thana- PRANPUR District- Katihar

Nand Kumar Thakur @ Nando Jha Son of Late Shilakant Jha resident of
Mohalla - Mangal Bazar, P.S. - Nagar, District - Katihar.

... .. Petitioner/s

Versus

1. State of Bihar.
2. Dhirendra Ravidas Son of Late Lakhan Ravidas resident of Village - Bastol,
P.S. - Pranpur, District - Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shambhu Sharan Singh, Advocate Mr. Rohit Singh, Advocate
For the State	:	Mr.Ambika Bhagat, Spl. PP
For the O.P. No. 2	:	Mr. Sanjeev Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-02-2024

1. Heard counsel appearing on behalf of the petitioner
learned APP appearing on behalf of the State and learned
counsel appearing on behalf of opposite party no. 2.

2. The present petition has been filed for quashing of
order dated 13.04.2015 passed by learned A.C.J.M., Katihar in
Pranpur P.S. Case No. 244 of 2013, G.R. No. 3863 of 2013
whereby and whereunder the court has taken cognizance of the
offence under Sections 341, 323, 448, 504/34 of the Indian
Penal Code and Section 3(i)(x) of the SC and ST (Prevention of
Atrocities) Act.

3. The prosecution case in brief is that the informant



Dhirendra Ravidas gave a written complaint that on 25.12.2013/ 26.12.2013 at 12 in the night that petitioner alongwith three other persons entered into his house and started abusing him by caste name and asked the informant as to why he has cut the crops from his agriculture plots and also asked the informant to remove his temporary dwelling house. On protest, being made by the informant, accused persons started assaulting the informant and snatched the Silver Chain and other ornaments from his wife and also assaulted the daughter of the informant and thereafter fled away.

4. The root cause of the institution of present case is dispute related with Plot Nos. 789, 790 and 795 under R.S. Khata No. 3 of Village- Kashiari, P.S.- Pranpur, District- Katihar, which belonged to one Bhaldeo Das, who had died long before the R.S. operation and hence the lands were recorded jointly in the name of Mansaro Devi widow of Late Bhaddo Das and his daughter-in-law Ajani Devi widow of Late Narayan Das. One Ghotai Ravidas was recorded as Sikmidar under both the abovementioned ladies. After the Revisional Survey operation, the maternal grandfather of the petitioner namely Late Ganesh Kant Choudhary purchased the above noted lands from Ajani Devi widow of Late Narayan Das vide registered sale deed and



as Mansaro Devi had no share in the said lands as Bhaddo Das has died long before 1973. Some other lands were also purchased by Late Ganesh Kant Choudhary but the said lands are not in question.

5. After purchasing the said lands, said Ghotai Ravidas failed to divide the produce with the said Late Ganesh Kant Choudhary, who filed a Rent Suit no. 33/67 before the court of Munsif, Katihar and got the Sikmi interest auction sold vide Execution Case No. 1/68. After the said Auction Sale, said Ganesh Kant Choudhary became the absolute owner of the above noted lands.

6. Most. Ajani Devi, daughter-in-law of Late Bhaddo Das filed a Title Suit No. 3891/1964 at Katihar for declaration of her title to the exclusion of Most. Mansaro Devi and during pendency of the said suit Most. Ajani Devi died and her daughter Anandi Devi after getting herself substituted in the said suit continued the said suit in which judgment and decree was passed in her favour declaring her as absolute owner.

7. It is worth to be mentioned that the said land was purchased by Late Ganesh Kant Choudhary who confirmed his absolute title by virtue of the said judgment and decree, but one Purni Devi widow of Late Chotai Ravidas during Chakbandi



operation got her name recorded as owner in respect of the above noted lands against the auction sale documents in favour of Late Ganesh Kant Choudhary. After the above noted Chakbandi entry in respect of the above noted lands and order of the Chakbandi Officer widow of Ganesh Kant Choudhary and his only daughter Chandrawati Devi came before this Hon'ble Court for quashing of the Chakbandi entry vide CWJC No. 2745/1983 and this Hon'ble Court was pleased to quash the entire Chakbandi order and directed the Chakbandi Officer to enter the name of the Revisionist Petitioner, the legal heirs of Late Ganesh Kant Choudhary, but in the meanwhile the Chakbandi operation was abolished by the Government of Bihar and the order of this Hon'ble Court was advised to be carried out on one pretext or the other.

8. In the meanwhile daughter and son-in-law of Purvi Devi started alienating and selling out the above noted disputed lands and even earlier while the Ghotai Ravidas was alive, he executed a gift deed in favour of his son-in-law, Dharendra Ravidas a portion of the suit land on 21.12.1998 which was without any authority as Ghotai Ravidas was left with no interest in the above noted lands as his Sikmi rights were already auction sold and was purchased by the Ganesh Kant



Choudhary. While the sale of above noted lands were in full swing by the legal heirs of Late Chotai Ravidas, the legal heirs of Late Ganesh Kant Choudhary, namely, Chandrawati Devi, the only daughter brought a Title Suit bearing T.S. No. 28/2005 for declaration of her title over the said lands and also for declaration of deed of gift in favour of Dharendra Ravidas and after-sale as void but the learned court below while hearing the injunction petition disposed of the said title suit under the influence of the other side holding that the suit stands abated as there was no closer of Chakbandi operation vide order dated 04.03.2013.

9. It is also pertinent to mention here that daughter of said Ganesh Kant Choudhary, mother of the petitioner, namely, Chandrawati Devi preferred CWJC No. 9892/2013 challenging the said order dated 04.03.2013 and this Hon'ble Court ordered for maintaining status quo at the spot and the learned court below after receiving the order of this Hon'ble Court issued direction to the C.O., Prampur and the local police for maintenance of status quo and through notices, said Dharendra Ravidas and others were restrained from going upon the suit lands or further cutting the paddy crops vide Letter No. 80 dated 13.11.2013 issued from the court of Sub-Judge-III, Katihar.



10. In view of aforesaid factual background, learned counsel appearing on behalf of petitioner submitted that as per FIR, abuse by caste name took place inside the house and not in public view. It is further submitted that entire occurrence is founded over land disputes between the parties, where even Hon'ble High Court quashed the wrong Chakbandi entry in favour of opposite party no. 2 vide C.W.J.C. No. 2745/1983, where parties were directed to maintain the status quo through C.W.J.C. No. 9892/2013. In support of his submission, learned counsel relied upon the legal report of this Court as reported through **2011(3)PLJR 281** in the matter of **Rinku Yadav Vs. State of Bihar**, emphasizing para -8 of the aforesaid report, which is as under:-

“8. Considering that the first information report itself states that the occurrence took place within the house and not in public view, it cannot be said that the allegations made out cannot come within the purview of section 3(x) of the S.C. and S.T. (Prevention of Atrocities) Act.”

11. Learned counsel further relied upon the report of Hon'ble Supreme Court in the matter of **Hitesh Verma Vs. State of Uttarakhand** reported through **2020(4)PLJR SC 345**, emphasizing para -23 of the aforesaid report, which is as under:-

“23. This Court in a judgment reported as Ishwar Pratap Singh & Ors. v. State of Uttar Pradesh & Anr.10 held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to



examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under:

“9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed.”

12. It is further submitted by learned counsel that despite of status quo, the opposite party no. 2, harvested the paddy crops from the suit land, for which on the instance of Circle Officer (C.O.) police lodged a case against opposite party no. 2, which has been registered as Pranpur P.S. Case No. 220/2013 and to counter all such previous litigations, present false case was lodged apparently on the face of land dispute as submitted above.



13. Learned counsel appearing on behalf of the opposite party no. 2 opposes the present application.

14. In view of aforesaid factual and legal submission, it is apparent that present FIR was lodged in background of long standing land disputes, where the occurrence alleged to be took place in mid night inside the house of informant, where abuse in caste is not appears *prima facie* in public view, accordingly to continue with such proceedings would amount to abusing the process of law.

15. Accordingly, present application for quashing is hereby allowed by quashing the impugned order dated 13.04.2015 alongwith all consequential proceedings.

16. Let a copy of this order be sent down immediately to trial court.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2024
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