

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4428 of 2023

In
CRIMINAL REVISION No.442 of 2023

Arising Out of PS. Case No.-15 Year-2020 Thana- SC/ST District- Rohtas

ANITA DEVI, wife of Anil Ram, R/o- Singuhi P.O.- Sikariya, Sasaram ,Dist-
Rohtas, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Kapil Singh, son of Late Katwaru Singh, Village- Singuhi P.S.- Darigaon Dist- Rohtas.
3. Pradeep Singh son of Kapil Singh Village- Singuhi P.S.- Darigaon Dist- Rohtas.
4. Shyam Bihari Singh, son of Kapil Singh Village- Singuhi P.S.- Darigaon Dist- Rohtas.
5. Manako Devi wife of Kapil singh Village- Singuhi P.S.- Darigaon Dist- Rohtas.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Priyadarshi Pankaj Raj Anand, Advocate
For the State	:	Mr.Binay Krishna, APP
For the Respondents	:	Md. Fazle Karim, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

8 08-02-2024 1. Heard learned counsel appearing on behalf of the parties.

2. This appeal has been filed by the appellant against the order dated 17th April, 2023 passed by the Special Court of SC/ST Act, Rohtas in connection with Regd. No. 34/2020 arising out of SC/ST P.S. Case No. 15/2020, whereby and



whereunder learned SC/ST court framed the charges against appellant under Sections 341 and 323 of the Indian Penal Code and imposed fine of Rs. 500/- for each section and in default of fine, two months of civil imprisonment.

3. It is submitted by learned counsel that the finding of trial court as case does not fall under the ambit of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as 'Caste Certificate' was not produced is bad in eyes of law, as learned trial court should call for said certificate, whether appellant belongs to scheduled caste category or not. It is submitted that the appellant suffered in this case out of unfair investigation.

4. Learned counsel appearing on behalf of accused/respondents submitted that the impugned order is very reasoned, where it is categorically stated that the scuffle in issue was started for blockage of drainage (Nali) and same not appears out of facts that informant/appellant belongs to schedule caste community, which is the prime consideration to make out a case under SC/ST Act.

5. Availability of certificate was only considered as an additional conditions. This was only issue which raised through argument by learned counsel appearing on behalf of the



appellant. The rest of the fact, where respondents were charged under Sections 341 and 323 of the Indian Penal Code were not disputed, where they **“pleaded guilty”** and sentenced accordingly for fine of Rs. 500/- for each of the offences.

6. For the better convenience, it would be appropriate to the quote impugned order, which runs as under:-

“The present case is fixed for framing of charge. Accused persons namely Kapil Singh, Pradeep Singh, Shyam Bihari Singh, and Manako Devi, are present before the Court.

On perusal of the record including F.I.R. and case diary. It appears that the accused persons abused and assaulted the informant Anita Devi. On the further perusal of the record it transpired that SC/ST Act not made out as the abusing, if any was done due to scuffle started for blockage of drainage(Naali) but not due to fact that informant belongs to SC/ST Category. Even other wise there is no document in support of the fact that informant belongs to SC/ST category. Considering the same, this court is of the view that prima facie case is made out against the accused persons u/ss. 341 and 323 of the I.P.C. only.

Charges under the said sections explained to the accused persons in hindi to which they pleaded guilty.

Considering the plea and guilt, all the four accused persons namely Kapil Singh, Pradeep Singh, Shyam Bihari Singh, and Manako Devi are hereby found guilty and convicted for the offences punishable u/ss. 341 and 323 of I.P.C.

The Counsel for learned Spl. P.P. as well as defence were heard on the point of sentence. Considering the poor condition of the accused persons and they are first time offenders, following sentence imposed on the accused persons Kapil Singh, Pradeep Singh, Shyam Bihari Singh, and Manako Devi for the offence us. 341 fine of Rs. 500/- on each of the offenders and for section 323 of



I.P.C, fine of Rs. 500/- on each of the offenders. On non payment of fine accused person shall be liable to serve two months civil imprisonment. Accused persons are on bail. They and their bailors are also discharged from the liabilities of their respective bail bonds. Accordingly, case is disposed off.

Office is directed to deposit the case record to the Record Room as per rule.”

7. It is settled law that if no insult caused to complainant on basis of caste, no offence made out as held in the matter of ***Ramesh Chandra vaishya Vs. State of Uttar Pradesh and Another***, reported in ***2023 SCC OnLine SC 668***, where para-18 speaks as under:-

“That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge- sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract



section 3(1)(x) unless such words are laced with casteist remarks. Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under section 438, Cr. P.C. and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognisance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial."

8. In this context, it is apposite to re-produce the relevant part of FIR, to understand the allegation in context on face, which is as under:-

"नाली जाम होने से नली को साफ करने के लिए कहीं की जादा कचरा हो गया है तो इसी बात को लेकर हमारे साथ सभी ने मिलकर जाती सुचक गाली देते हुए मुझ से लात मुक्का फैंट एवं डंटा से मारने लगे मार पिट के क्रम में बाएँ हाथ के कलाई पर चोट लगी है"

9. In view of aforesaid factual and legal submissions, impugned order as discussed above, does not bears any illegality on its face, accordingly, present appeal stand dismissed.

10. Let a copy of this order be sent to the learned trial



court, immediately.

11. TCR (Trial Court Record) if any, be sent back to
the learned trial court along with the copy of this order.

(Chandra Shekhar Jha, J)

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