

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1655 of 2019

Arising Out of PS. Case No.-71 Year-2019 Thana- ASHOK PAPER MILL District-
Darbhanga

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SHAMBHU SAH Son of Jitu Sah Resident of Village-Amar, Pethia Gachhi,
P.S.-Ashok Paper Mill, Singhouli, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Home (POLICE), Patna.
2. The Superintendent of Police, Darbhanga.
3. The Station House Officer, A.P.M. Police Station, Darbhanga.
4. Nageshwar Das Son of Late Haruni Das Resident of Village-Pethia Gachhi, P.S.-APM, District-Darbhangha.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prahalad Kumar Bhagat, Adv.
For the State : Mr. Deepak Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 02-04-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The petitioner is an accused in connection with
A.P.M. Police Station Case No. 71 of 2019, under Sections
341/323/504/506/34 of the I.P.C. and Section 3 (i) (r) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act.

3. He has filed the instant writ petition for quashing of
the F.I.R. on the ground that the informant, respondent no. 4



belongs to Tantwa Caste. Tantwa Caste is not recorded within Scheduled Castes or Scheduled Tribes. However, the State Legislature of Bihar by a notification treated Tantwa Caste as belonging to Scheduled Castes community. The said Legislation/notification is under challenge before the Hon'ble Supreme Court in Special Leave to Appeal (c) No(s). 18294 of 2021.

4. Under such factual backdrop, the petitioner has approached this Court to quash the F.I.R.

5. It is submitted by the learned counsel for the State, on the other hand, that the Police submitted charge-sheet against the petitioner for the offence punishable under Sections 341/323/504/506/34 of the I.P.C. read with Section 3 (i) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

6. It is also stated by the learned counsel for the State that the accused was never arrested as he was given protection under Section 41(A) of the Cr.P.C. during investigation of the case.

7. Since, charge-sheet has been submitted, it is contended by the learned counsel for the State that F.I.R. cannot be quashed.



8. The question as to whether, the accused is obliged to face trial under the charge of Section 3 (i) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act or not, can be finally decided only on disposal of the Special Leave to Appeal (c) No(s). 18294 of 2021.

9. If Tantwa caste is considered to be a Scheduled Castes, the petitioner is liable to face trial under the charge of Section 3 (i) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

10. If, on the other hand, Tantwa Caste is recorded as a non Scheduled Castes, prosecution against the petitioner will automatically be quashed.

11. However, in connection with A.P.M. Police Station Case No. 71 of 2019, the Police submitted charge sheet against the accused/petitioner is under Sections 341/323/504/506/34 of the I.P.C. Since charge-sheet has been filed, the petitioner can not escaped from the trial under the penal provision of the I.P.C.

12. For the reasons stated above, I do not find any merit in the instant writ petition, therefore, the instant writ petition is dismissed.

13. However, the trial court is at liberty to split the case and keep the case under the charge under Section 3 (i) (r) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act pending till the disposal of the Special Leave to Appeal (c)
No(s). 18294 of 2021.

14. The trial under the penal provision of I.P.C. shall
continue.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

