**IN THE HIGH COURT OF JHARKHAND, RANCHI**

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**W.P. (Cr.) No. 738 of 2023**

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Santosh Kumar Sinha, aged about 46 years, son of late Nand Kishor Prasad, resident of Titahi, Sindhrabo, P.O. and P.S. Hazaribagh, District Hazaribagh at present posted as Electrical Superintending Engineer, Ramgarh, P.O. and P.S. Ramgarh, District Ramgarh .... Petitioner(s)

-- Versus --

1.The State of Jharkhand

2.Anil Kumar Varma son of Deo Nandan Paswan, at present working as Executive Engineer, Central Store, Ramgarh, P.O.and P.S. Ramgarh, District – Ramgarh ……. …… .... Respondents

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**CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

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| For the Appellant(s) | :- | Mr. Nilesh Kumar, Advocate |
| For the State | :- | Mr. Binit Chandra, Advocate |
| For the Respondent No.2 | :- | Mr. Vivek Kumar Rai, Advocate |

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***5/03.12.2024*** Heard the learned counsel for the petitioner, the learned counsel for the respondent State as well as the learned counsel appearing on behalf of the respondent no.2.

*2.* This petition has been filed for quashing of the entire criminal proceeding including the order taking cognizance dated 20.05.2023 arising out of Ramgarh SC/ST P.S. Case No.2/23 corresponding to SC/ST P.S. Case No.15/23, pending in the court of learned Additional Sessions Judge-I, Ramgarh- cum- Special Judge, SC/ST (Prevention of Atrocities) Act.

*3.* The F.I.R was registered alleging therein that on 15.1.2023 the respondent no.2 (informant) has filed a criminal case as against this petitioner which has been registered by the police on 20.2.2023 in which it has been alleged that the informant is working as Executive Engineer, Central Store, Ramgarh since last four years. On 13.1.2023, this petitioner, who happens to be Superintending Engineer has called the respondent no.2 at about 4.30 p.m. but when the informant visited this petitioner was not there. Again at 5.30 p.m the

informant went to his office when this petitioner has misbehaved with him, abused him by taking name of his caste. It has also been alleged that this petitioner extended threatening to write letter against him before the department and also demanded Rs.75,000/-. It has also been alleged that since last one month he was being harassed by the petitioner. Accordingly present first informant report has been instituted.

On the complaint of the informant a case under section 385, 504, 506 of the IPC and section 3(i)(r) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was instituted.

4. Mr. Nilesh Kumar, the learned counsel appearing on behalf of the petitioner submits that the petitioner happened to be Superintending Engineer in the Jharkhand Urja Vikas Nigam Limited (JUVNL) and was posted at Ramgarh. He submits that the Executive Engineer of the same Department has filed the present case against the petitioner. He then submits that the police has investigated the matter and submitted final form saying that no case is made out against the petitioner. He submits that thereafter the learned court has been pleased to take cognizance by order dates 20.05.2023. He further submits that maliciously the present case has been filed by a junior to the petitioner. By way of inviting attention of the Court to Annexure-4, he submits that on 12.01.2023, Assistant Electrical Engineer, Ramgarh and Kuju made application before the petitioner that from Central Store meter has not been issued and the same was asked. By way of referring Annexure-5, he submits that the respondent no.2 was also not found in the office on couple of occasion, then being Head of the Department of Ramgarh, this petitioner has issued show cause dated 13.01.2023 and by letter dated 06.01.2023, contained in Annexure-6, the petitioner has directed the informant to join the post of Certificate Officer as per the direction of the concerned senior officer of the Department and in spite of that he has not joined on the said post and the

Annexure-7 is the direction of senior officer to direct the respondent no.2 to join as a Certificate Officer. He submits that in view of this background, maliciously the present case has been lodged against the petitioner and the learned court looking to certain paragraph of the case diary has taken cognizance and those paragraphs of the case diary are in favour of the petitioner. He submits that in view of that the coordinate Bench of this Court has called for the case diary which has been received. By way of referring paragraphs of the case diary, on which reliance has been taken by the learned court while taking cognizance, he submits that the witnesses have not supported the case. On this ground, he submits that the entire criminal proceeding may kindly be quashed. He submits that particularly in paragraph no.7 one of the witnesses has stated that the respondent no.2 has torned the dispatch register by which the show cause was said to be issued and he has taken away the same. On this ground, he submits that the entire criminal proceeding may kindly be quashed.

5. Learned counsel appearing on behalf of the respondent State submits that police has investigated the matter and submitted final form and the petitioner has not been sent up for trial saying that no cognizable case is made out, however, the learned court has been pleased to take cognizance.

6. Learned counsel for the respondent no.2 has vehemently opposed the prayer and submits that this Court may not exercise its power of quashing at this stage and what has been argued by the learned counsel for the petitioner that can be the subject matter of trial only. He submits that in paragraph no.5 of the case diary, one of the witnesses has supported the case and the police has investigated the matter in its right direction and as such, the learned court has rightly taken cognizance. He submits that this writ petition may kindly be dismissed.

7. In view of the above submission of the learned counsels appearing on behalf of the parties, the Court has gone through the materials on record. It

is an admitted position that the respondent no.2 is Executive Engineer of Jharkhand Urja Vikas Nigam Limited (JUVNL) and was posted at the time of incidence in Ramgarh. The document contained in Annexure-4, 5 and 6, clearly suggest that the petitioner has taken certain action against the respondent no.2 and thereafter the case has been lodged which further suggest that maliciously the present case has been lodged against the petitioner who happened to be senior officer of the respondent no.2. The charge sheet is annexed as Annexure-2 wherein the police has submitted final form saying that no cognizable case is made out against the petitioner. From the nature of the allegation made by the respondent no.2, it appears that he is in inimical terms with the appellant and in view of that, all insults or intimidations to a member of scheduled castes and scheduled tribes will not amount to an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. A reference may be made to the case of ***Shajan Skaria v. State of Kerala and Another,*** reported in ***2024 SCC Online SC 2249***, wherein at paragraph nos.59, 60 and 61, it has been held as under:

> "***59.*** *In the aforesaid context, we may refer to and rely upon a three-Judge Bench decision of this Court in Hitesh Verma (supra). The relevant observations are reproduced below:*
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> *"13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure*

*established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.*

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*17. In another judgment reported as Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P., (2020) 18 SCC 763], this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:*

*"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar" Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."*

*18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out." (Emphasis supplied)*

***60.*** *Thus, the dictum as laid aforesaid is that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or*

*Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.*

***a. Meaning of the expression "intent to humiliate" appearing in Section 3(1)(r) of the Act, 1989***

***61.*** *The words "with intent to humiliate" as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the "upper castes" over the "lower castes/untouchables", the notions of 'purity' and 'pollution', etc. that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989."*

8. The Court has perused the case diary. Nilima Sushma Toppo was examined in paragraph no.6 of the case diary and she has stated that she has heard about the incident. In paragraph no.7 of the case diary, Ibrar Hassan who was working in the office of the petitioner as dispatcher has stated that respondent no.2 has cut the column of issuance of the show cause and torned it and he has taken the said register. Mr. Anjani Kumar who has been examined as in paragraph no.8 of the case diary has stated that he has got no knowledge and in paragraph no.9 one Sinku Kumar was examined and has clearly stated that no such occurrence has taken place and the witnesses at paragraph no.21 of the case diary has stated that informant was quarreling with the petitioner. Relying on all these paragraphs, the learned court has been pleased to take cognizance on the case diary and the statement of the witnesses are otherwise.

9. So far as the argument of the learned counsel for the respondent no.2 with regard to the paragraph no.5 of the case diary is concerned, one witness has also stated that he has heard about the incidence and he was hear-say person. The Court is in agreement with the argument of the learned counsel for the respondent no.2 with regard to the quashing of the entire

criminal proceeding. It is well-settled that the High Court is required to go slowly in a proceeding of quashing of the entire criminal proceeding and with all circumspection and if the case of quashing is made out then only High Court will exercise that power.

10. Coming to the facts of the present case, what has been discussed hereinabove, it is crystal clear that maliciously the present case is lodged and the petitioner who happened to be Superintending Engineer of Jharkhand Urja Vikas Nigam Limited (JUVNL) at the relevant time posted in the district of Ramgarh and the informant is Executive Engineer in the said Department and he has lodged the case. Further once the complainant or informant decides to implead anybody in a false case, every care is being taken in drafting of the complaint and the F.I.R so that the ingredients be made out and if such a situation is there, the High Court is having more responsibility to read the things in between the lines so that any innocent person may not face the criminal trial. A reference may be made to the case of ***Haji Iqbal alias Bala Through S.P.O.A v. State of U.P. and others*** reported in ***2023 SCC OnLine SC 946*** wherein at paragraph no.15 it has been held as under:

> "***15.*** *At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to*

*constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."*

11. In view of the above reasons and analysis, to allow the present proceeding to continue will amount to abuse of process of law. As such, entire criminal proceeding including the order taking cognizance dated 20.05.2023 arising out of Ramgarh SC/ST P.S. Case No.2/23 corresponding to SC/ST P.S. Case No.15/23, pending in the court of learned Additional Sessions Judge-I, Ramgarh- cum- Special Judge, SC/ST (Prevention of Atrocities) Act are hereby quashed.

12. This petition is allowed and disposed of.

13. Pending petition, if any, also stands disposed of accordingly.

**( Sanjay Kumar Dwivedi, J.)**

SI/
A.F.R.