

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.459 of 2024

Arising Out of PS. Case No.-490 Year-2020 Thana- MAHUA District- Vaishali

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1. Vinay Kumar Singh @ Abhishek Singh S/o Late Ram Chandra Singh R/o vill - Supaul Tariya, P.S. - Mahua, Distt. - Vaishali
 2. Ravi Kumar S/o Vinay Kumar Singh @ Abhishek Singh R/o vill - Supaul Tariya, P.S. - Mahua, Distt. - Vaishali

... .. Appellants

Versus

1. The State of Bihar
2. Durgeshwari Devi W/o Awdhesh Paswan R/o vill - Supaul Tariya, P.O. - Salempur Dumariya, P.S. - Mahua, Distt. - Vaishali

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Ravish Mishra, Adv.
For the State	:	Mr. Binay Krishna, Special P.P.
For Respondent No. 2	:	Mr. Y.C. Verma, Sr. Adv.
		Ms. Priyanka Singh, Adv.
		Mr. Adarsh Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 07-10-2025

Heard both sides.

2. The present appeal is directed against the order dated 23.05.2022 passed by the learned Special Judge, SC/ST, Vaishali at Hajipur in connection with Mahua P.S. Case No. 490 of 2020, SC/ST G.R. No. 169 of 2020 registered under Sections 341, 323, 325, 506, 504, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act whereby and whereunder cognizance for the offences punishable under Sections 341, 323, 325, 504, 506, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act has been taken against the appellants.



3. The prosecution story, in brief, is that respondent no. 2/ informant submitted her written statement before the SHO of Mahua Police Station, Vaishali stating therein that on 25.08.2020 informant's son/ Sujit Kumar and Dharmendra Paswan were passing through the road situated in front of informant's house. It is alleged that appellant no. 2/ Ravi Kumar came on road from north side in front of gate of Ganaur Paswan and pointed pistol on ear-pit of informant's son/ Sujit Kumar and while abusing by calling his caste name appellant no. 2 threatened the informant's son to be killed. Thereafter, informant's son raised alarm upon which nearby people began to assemble there. Thereafter, appellant no. 2 fled away. It is further alleged that before reaching the informant and her husband at the place of occurrence, the appellant no. 2 had fled away. It is further alleged that when appellant no. 1/ Vinay Kumar Singh @ Abhishek Singh was informed on phone regarding the conduct of his son, he came there and made abusive language indicating caste name and also assaulted the informant's husband. It is further alleged that appellant no. 2 and 10-12 unknown persons armed with weapon came there and began to assault and threatened to kill and also abused by calling caste name. It is further alleged that appellant no. 1



assaulted the informant's elder son by means of lathi due to which he sustained fracture injury on his hand. It is apprehended by the informant that if any incident takes place against the informant and her family members, it would be presumed that appellants might have committed the said occurrence.

4. On the basis of said written statement, Mahua P.S. Case No. 490 of 2020 has been registered for the offences punishable under Sections 341, 323, 325, 506, 504, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act.

5. Learned counsel for the appellants has submitted that appellants, who are father and son, are innocent and have committed no offence as alleged in the F.I.R. Learned counsel further submits that appellant no. 1 is Government Prakhanda Teacher in Utkarmik Higher School, Supaul and appellant no. 2 is working in Delhi in a private firm. He further submits that prior to the present case, appellant no. 1 lodged Mahua P.S. Case No. 489 of 2020 under Sections 341, 323, 353, 379, 427, 385, 504, 34 of the IPC against the informant's husband and her two sons and the present case is nothing but counter blast of said Mahua P.S. Case No. 489 of 2020. He further submits that alleged occurrence has not taken place in public place and hence, in the light of ingredients of SC/ST Act, no offence is



made out against the appellants. Learned counsel further submits that there is two days delay in lodging the FIR as the alleged occurrence took place on 25.08.2020 and FIR has been lodged on 27.08.2020 and no plausible explanation has been given regarding the said delay. He further submits that the present case has been lodged by the informant just to misuse the privilege of SC/ST Act. He further submitted that investigation conducted by the police is faulty and charge sheet has been submitted under the provision of SC/ST Act just to implicate the appellants. He further submitted that informant's son has not sustained any injury which falsifies the allegation made in the FIR. Learned counsel further submits that without application of mind, the concerned court accepted the charge sheet in toto and took cognizance under Sections 341, 323, 325, 504, 506, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act against the appellants without having any specific material against them. In the light of aforesaid fact, order passed by the concerned court is not justified and legal and same is fit to be set aside.

6. Learned Special Public Prosecutor for the State and learned counsel for the respondent no. 2 submitted that appellants and informant are resident of same village and appellants are well aware of the fact as to which caste the



informant and her family members belong to. Learned counsels further submitted that as per prosecution case, there is allegation against appellant no. 2/ Ravi Kumar that he came on road from north side in front of gate of Ganaur Paswan and pointed pistol on ear-pit of informant's son and used abusive language indicating caste name and also threatened to kill. On raising alarm, people of nearby came and after having seen the people of nearby, appellant no. 2 fled away. The FIR clearly indicates that the occurrence took place on road and other persons were also present at the place of occurrence which attracts the mandate of SC/ST Act. There is allegation against appellant no. 1 that he reached at the place of occurrence and used similar abusive language denoting caste name and also assaulted the informant's husband and her elder son. It is also alleged that appellant no. 2 and 10-12 unknown persons armed with weapon again came there and used abusive language indicating caste name and began to assault. Learned counsels further submitted that the accusation as alleged in the FIR clearly reflects that occurrence took place in public gaze and hence, contention of learned counsel for the appellants is neither tenable nor sustainable in the light of the accusation made in the FIR. Learned counsels further submitted that F.I.R. has been lodged



under Sections 341, 323, 325, 506, 504, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act. Learned counsels further submitted that the investigating officer has conducted investigation on all points as alleged in the FIR and after completion of investigation submitted charge sheet under Sections 341, 323, 325, 504, 506, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act. He further submits that the learned trial court has found that sufficient material is available against the appellants and concerned court took cognizance against the appellants under Sections 341, 323, 325, 504, 506, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act on the basis of, *prima facie*, material available on record. In this way, the trial court has applied its judicial mind and after going through all the material available on record, the court has passed the reasoned order and hence, no interference is needed.

7. After hearing the parties concerned as well as material available on record, it is crystal clear that contention of appellant's counsel is neither tenable nor sustainable in the light of verbatim of the informant, who has specifically stated that appellants assaulted the informant's husband and her son and also used abusive language indicating caste name. The contention of learned counsel for the State as well as learned



counsel for the informant is quite relevant that as per accusation made in the FIR, the occurrence took place in public gaze. The Investigating Officer has conducted investigation on all points and after completion of investigation submitted charge sheet under Sections 341, 323, 325, 504, 506, 34 of the IPC and Section 3(i)(r)(s) of SC/ST Act.

8. It is necessary to cite decision rendered by the Hon'ble Supreme Court in the case of ***Sonu Gupta vs. Deepak Gupta and Others*** reported in ***(2015) 3 SCC 424*** in which at para 8 it has been held as follows:-

'8. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether a prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.'

9. From perusal of the order dated 23.05.2022 passed by Special Judge, SC/ST, Vaishali at Hajipur in connection with Mahua P.S. Case No. 490 of 2020, SC/ST G.R. No. 169 of 2020, it appears that order has been passed with due application of mind on the basis of case diary and column 11 of



the charge-sheet where name of appellants have been mentioned. In the light of aforesaid fact, the court has found that a *prima facie* case is made out against the appellants.

10. Considering the facts and circumstances of the case and also that a *prima facie* case has been found against the appellants having regard to the accusations made in the First Information Report and the material available on the record, this court is not inclined to interfere with the impugned order dated 23.05.2022.

11. Keeping in view all the aspects and discussions made above, I find no reason to differ from the finding of the trial court.

12. Accordingly, the present appeal is dismissed at the stage of admission itself.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	AFR
CAV DATE	N.A.
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