

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1091 of 2024

Arising Out of PS. Case No.-25 Year-2020 Thana- SC/ST District- Samastipur

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1. KUNJ BIHARI SINGH S/O SACHIDANAND SINGH R/O VILLAGE-KALE NARPAT NAGAR, P.S- HASANPUR, DISTT.- SAMASTIPUR.
 2. NILESH KUMAR SINGH S/O KUNJ BIHARI SINGH R/O VILLAGE-KALE NARPAT NAGAR, P.S- HASANPUR, DISTT.- SAMASTIPUR.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. RAM SAKHI DEVI W/O BABALU DAS R/O VILLAGE- KALE NARPAT NAGAR, P.S- HASANPUR, DISTT.- SAMASTIPUR.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kundan Kumar, Adv.
For the Respondent/s : Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 28-01-2025 Mr. Kundan Kumar, learned counsel for the appellant undertakes to remove the defects.

2. Heard the parties.

3. With the consent of the parties, the matter has been taken up for consideration.

4. The present application has been filed for quashing of the order dated 26.03.2021, passed by the Learned Court of Special Judge (SC/ST), Samastipur, in Trial No. 1382 /2021 arising out of Samastipur SC/ST P.S. Case No. 25 of 2020, dated 10.06.2020, whereby the cognizance has been taken against the appellants namely Kunj Bihari Singh and Nilesh Kumar Singh



under sections 341, 323,354, 504, 506 and 34 of the Indian Penal Code and Section 3 (1) (s) (w)/3(2) (va) of the Schedule Caste and Schedule Tribes Prevention of Atrocities Act 2015. As no case is made out under the provision of Schedule Caste and Schedule Tribes Prevention of Atrocities Act as the informant does not belongs to Schedule Caste as per latest notification of Government of India and offences under the provision of Indian Penal Code are ornamental in nature.

5. As per the prosecution story, the informant alleged that she is/was the Up-Mukhiya of the areas and was monitoring the Chief Minister's Nal Jal Yojana when firstly Saraswati Devi abused her and as she retreated, both these appellants (Kunj Bi-hari Singh and Nilesh Kumar Singh) besides Saraswati Devi came, abused, took caste name. Further allegation is that Nilesh Kumar Singh hit on her head with bamboo causing injury, she became unconscious due to head injury and they also took away the ornaments/the amount that was with her. When the husband and daughter came to the rescue, they were also beaten. It was only due to timely intervention of the villagers that they could be saved, taken to Government Hospital for treatment and later to Sadar Hospital, Samastipur whereafter, the FIR.

6. It is the case of the appellants that earlier they had



made a complaint against the informant which resulted into the present case. It is his further submission that the caste (Tatama) was in the SC/ST category of the State Government for some time but after the order passed by Hon'ble Apex Court in **SLP (CIVIL) No. 18294 of 2021** on 15.07.2024, the same has gone out. It was never in the Central Government list and as such, the cognizance taken under SC/ST Act has to go.

7. Learned APP, Mr. Sadanand Paswan on the other hand opposes the prayer submitting that a perusal of the FIR would show that alleged occurrence took place, the lady was shifted firstly to the Government Hospital and later to the Sadar Hospital. It is his further submission that so far as the claim of SC/ST category is concerned, on the date of occurrence (01.06.2020), the lady was under the ST/ST category which came out of the said ambit only after the passing of the order by the Hon'ble Apex Court on 15.07.2024. He as such, submits that there is nothing wrong in the cognizance order and the appellants who are on bail should face the trial.

8. Having gone through the facts of the case and the materials on record as also the submission of the parties, this Court is in full agreement with the submission put forward by learned Spl. PP. An occurrence has taken place, the informant



has made allegation against the appellants, she was taken to the hospital whereafter the FIR was lodged. Regarding the claim that she does not belong to SC/ST category on the date the occurrence took place, she was under the said category as per the State Government resolution, it has been removed only after the Hon’ble Apex Court order, as stated above, in that background, in the occurrence of 01.06.2020, the Court concerned has rightly taken cognizance under Section 341, 323, 354, 504, 506 and 34 of the IPC and Section 3(1)(s)(w)/3(2)(va) of the SC/ST Act.

9. In that background, it would be appropriate that the appellants face trial. No case of interference is required.

10. Accordingly, Cr. Appeal (SJ) No. 1091 of 2024 stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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