

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1175 of 2024**

Arising Out of PS. Case No.-5 Year-2021 Thana- SC/ST District- Rohtas

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1. Heera Seth @ Heera Lal Seth S/O Late Lal Mohar Seth R/O Village- Kaniyari, P.S- Dinara (Bhanas), Distt.- Rohtas, Bihar.
 2. Mohan Seth S/O Late Mohar Seth R/O Village- Kaniyari, P.S- Dinara (Bhanas), Distt.- Rohtas, Bihar.
 3. Rajesh Seth S/O Late Lal Mohar Seth R/O Village- Kaniyari, P.S- Dinara (Bhanas), Distt.- Rohtas, Bihar.
 4. Dharmendra Seth S/O Late Lal Mohar Seth R/O Village- Kaniyari, P.S- Dinara (Bhanas), Distt.- Rohtas, Bihar.
 5. Sudama Seth S/O Mohan Seth R/O Village- Kaniyari, P.S- Dinara (Bhanas), Distt.- Rohtas, Bihar.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. INDRAJEET PASWAN S/O MURLI PASWAN R/O VILLAGE- KANIYARI, P.S- DINARA (BHANAS), DISTT.- ROHTAS, BIHAR.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Harsh Vardhan, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 10-02-2025 Heard learned counsel for the appellant, the informant
as also the State.

2. The present application has been filed:

*for setting aside (quashing) of the
order of cognizance dated 27/01/22 passed by
the Learned Court of Special Judge SC/ST,
Sasaram, Rohtas in connection with SC/ST
Dehri P.S. Case No. 05/2021 dated
07/01/2021 whereby and where under learned
court took cognizance for the offence U/s
147,149,341,323,354,504,506 of I.P.C. and
Section 3(i) (r) (s) of SC/ST Act against the*



above named appellants.

3. As per the prosecution story, the informant alleged that when he returned home, came to know that the appellants had come and abused/assaulted his mother. Upon requesting the appellants to refrain from doing so, the allegation is that the informant and his brother were assaulted by rod by the appellants herein. Specific allegation is against appellant no. 2 of giving blow on the head causing injury to the informant.

4. Many persons assembled at the place, he was confined for the day and the reason that has been assigned is that the appellants took their trailer by force on their private land. Before leaving the place, they took the caste name and threatened that if FIR is lodged, they will be killed. This led to the FIR on 07.01.2021.

5. There is a counter version to this occurrence lodged a day later (08.01.2021) by the appellants herein in which it has been alleged that they wanted to get their paddy crops taken on a trailer but the accused (the informant of the first case) said that no trailer will go through their private land. In the meantime, they started assaulting/abusing and in the process, snatched chain/loket from his son/nephew and also threatened to kill them. This led to the counter/second FIR.

6. The police investigated the matter in the case of the



present case and submitted charge-sheet whereafter the cognizance was taken for the offence under Section 147, 149, 341, 323, 354, 504, 506 of I.P.C. and Section 3(i)(r)(s) of SC/ST Act on 27.01.2022. Two years later, to be precise on 21.02.2024, the appellants preferred this appeal alleging that cognizance has been wrongly taken under SC/ST Act and there is no examination of the independent witness to confirm the fact that the informant's side was abused by taking the caste name.

7. Another ground has been taken that only after summon, they came to know about the cognizance order and the third ground is that the informant are anti-social elements and are facing trial under Section 302 of the IPC amongst other in connection with Dinara (Bhanas) P.S. Case No. 182/2021 and were in jail at the time of the filing of the petition.

8. It is the case of the appellants through the learned counsel that admittedly, the mother was alone in the home and as such, any abuse inside the house, SC/ST shall not be attracted.

9. The further submission is that so far as the allegation of taking caste name later on is concerned, it is an exaggerated version. The fact remains that the informant's side are criminals and did not allow the trailer to move through their private land and further assaulted them and took away chain/loket.

10. In support of his case that the SC/ST Act shall not



be attracted in the present case, learned counsel has taken this Court to an order of the Hon'ble Apex Court in the case of **Hitesh Verma Vs. the State of Uttarakhand and Anr. reported in 2020(4) PLJR (SC) 345** with specific reference to paragraph 17 and 18 which read as follows:

17. In another judgment reported as [Khuman Singh v. State of Madhya Pradesh](#)⁶, 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.

11. He submits that mere calling of caste name does not



constitute a case under SC/ST Act unless the Court is convinced that this led to the humiliation of the person belonging to SC/ST category in the public view.

12. Learned counsel for the informant is appearing in the case and he has made multifold submissions which is/are as follows:

(i) there is a case and counter case which clearly shows that an occurrence took place;

(ii) even in counter case, the accused-appellant alleged that the present informant did not wanted the trailer not to move through their private land which led to the occurrence;

(iii) the counter version was lodged a day later after the present case was lodged;

(iv) the caste name has been taken twice, firstly, to the mother in the house and secondly, to the informant/his brother in full public view;

(v) the assault part is fully supported by the medical report.

13. So far as the order of the Hon'ble Apex Court is



concerned, learned counsel for the informant submits that each case has different facts and circumstances. In that case, a civil suit was pending between the parties, the same was taken note of the Hon'ble Apex Court, in that circumstance, it was recorded that there is nothing to show that they were humiliated only because they belong to a member of the SC/ST and accordingly, the observation.

14. However, in this case, it is submitted that in this case, it is clear that knowingly besides the assault, the informant side was humiliated and the last couple of lines of the FIR clearly show that taking the caste name, the appellants threatened them of dire consequences if the FIR is lodged. He submits that the Hon'ble Apex Court order as such is not applicable in the present case.

15. Learned Spl. P.P. also echoes the same sentiment and submits that the contents of the FIR of the present case clearly constitute the different Sections of the IPC as also the SC/ST Act. The assault is proven, the humiliation of the informant's side by taking caste name is/are also reflected twice in the FIR, by lodging counter version a day later, the appellants have virtually accepted the occurrence that took place a day later.

16. Having gone through the facts of the case, the materials on record as also the submissions of the parties, clearly



by reading the FIR itself, the different Sections of the IPC and the SC/ST Act stands attracted. The allegation is that the appellants wanted their trailer to move through the private field.

17. The informant objected to it whereafter the assault and the caste name took place. This Court would not like to comment on the counter version. Save and except that in the second FIR also, the appellants have recorded that they wanted their trailer to go through respondent's land which led to occurrence. So far as the order of the Hon'ble Apex Court in **Hitesh Verma (supra)** is concerned, this Court accepts the submissions put forward by learned counsel for the informant. In that case, the civil dispute was pending, the FIR version was taken note of by Hon'ble Apex Court and held that to attract the SC/ST Act, the evidence must be there to show that the offence has been committed only on the ground that the victim was member of the Scheduled Caste.

18. Here, from the contents of the F.I.R., it is clear that the appellants wanted the trailer to go to their agricultural field, this was objected, they were attacked in full public view, the humiliation took place by taking the caste name. They were also threatened of dire consequences, if the FIR is lodged. In that background, the SC/ST Act is fully attracted in the present case and the order of Hon'ble the Apex Court shall not attract in the



present case.

19. This takes the Court to the only one conclusion, the order dated 27.01.2022 passed by the learned Spl. Judge SC/ST, Sasaram, Rohtas in Connection with SC/ST Dehri P.S. Case No. 05 of 2021 needs no interference.

20. The same is accordingly dismissed. The interim protection granted to the appellant vide 08.05.2024 stands vacated.

20. Let the office communicate the order to the Court of Special Judge SC/ST, Sasaram, Rohtas in connection with SC/ST Dehri P.S. Case No. 05/2021.

(Rajiv Roy, J)

Vijay Singh/-

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