

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1039 of 2025

Arising Out of PS. Case No.-75 Year-2023 Thana- SC/ST District- Darbhanga

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1. Dharmendra Yadav @ Dharbindar Kumar Son of Suresh Yadav Resident of Village-Dudhiya, P.S.-Keoti , Distt.-Darbhanga
 2. Jitendra Yadav Son of Suresh Yadav Resident of Village-Dudhiya, P.S.-Keoti , Distt.-Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Phul Mehtar Son of Suresh Mehtar Resident of Village-Pathra, P.S.-Keoti , Distt.-Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Girish Chandra Jha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 04-11-2025

Heard learned counsel for the appellants and learned
Special Public Prosecutor for the State.

2. The present appeal is directed against the order dated 08.10.2024 passed by the learned Exclusive Judge SC and ST (POA) Act, Darbhanga in connection with SC/ST Case No. 49 of 2024 arising out of SC/ST P.S. Case No. 75 of 2023 registered under 341, 323, 324, 354(B), 379, 504, 506, 34 of the IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) SC/ST (POA) Act, 1989 whereby and whereunder cognizance for the offences punishable under 341, 323, 324, 504, 34 of the IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) SC/ST (POA) Act, 1989 has been taken



against the appellants.

3. The prosecution story, in brief, is that appellants runs a Chola Bhatura shop at Chhotu Market (Khirma). On 12.09.2023, appellants abused the informant by calling his caste name and told him to clean the room of ATM upon which the informant reacted to the appellants about the manner of speaking. Thereafter, appellants again abused the informant by his caste name. It is alleged that appellant no. 2 wearing iron fighter assaulted the informant upon his head and nose as a result of which informant sustained injury upon his head and nose. When the informant's mother came to rescue the informant, then, the appellant no. 2 also assaulted the informant's mother and tore the blouse of the informant's mother. It is further alleged that appellant no. 1 undressed the informant's mother and assaulted her. It is further alleged that appellant no. 2 snatched Rs. 2,500/- from the pocket of the informant. It is further alleged that appellant no. 1 is said to have snatched gold *mangalsutra* worth Rs. 8,000/- from the neck of the informant's mother. It is further alleged that appellants threatened the informant that if he files the case, he would be killed.

4. On the basis of written statement of informant,



SC/ST Case No. 49 of 2024 arising out of SC/ST P.S. Case No. 75 of 2023 has been registered under 341, 323, 324, 354(B), 379, 504, 506, 34 of the IPC and Section 3(1)(r), 3(1)(s), 3(2) (va) SC/ST (POA) Act, 1989.

5. Learned counsel for the appellants submits that appellants are not in any way connected with the ATM. He further submits that the place of ATM does not belong to the appellants. He further submits that from the perusal of FIR, it is clear that appellants run shop of *Chhola Bhatura* at Chhotu Market and informant always came at the shop of appellants and used to eat *chhola bhatura* in credit. He further submits that when the appellants demanded their due money, then, the informant and his family members registered a false case against the appellants. He further submits that no case of SC/ST is made out against the appellants. Learned counsel for the appellants submits that appellants are shopkeepers and they have not committed any offence as alleged in the FIR and the allegation levelled against the appellants are absurd and improbable on the basis of which no offence is made out against the appellants. He further submits that the alleged occurrence has not taken place in public view.

6. Learned counsel for the appellant has relied upon



decision of Rakesh Kumar and Ors. *Vs. State of Bihar and Anr.* (Cr. Misc. No. 29902 of 2016) passed by the Co-ordinate Bench of this Court in which at para 17, 20, 25, 26, 27 and 28 of the said decision it has been held as follows:-

“17. In *Pepsi Foods Limited & Anr. Vs. Special Judicial Magistrate and Ors.* reported in (1998) 5 SCC 749, Hon’ble Supreme Court has observed as follows:-

"28. *Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or*



otherwise and then examine if any offence is prima facie committed by all or any of the accused."

20. In ***Indian Oil Corpn. Vs. NEPC India Ltd.*** reported in (2006) 6 SCC 736, Hon'ble Supreme Court has observed as follows:-

"12. ...The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have



been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil



proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and



discouraged..."

25. In ***Shashikant Sharma Vs. State of U.P.*** reported in ***2023 SCC Online SC 1599***, Hon'ble Supreme Court has observed as follows:-

"14. From a bare perusal of the provision, it is crystal clear that for the above offence to be constituted, there must be an allegation that the accused not being a member of Scheduled Caste or Scheduled Tribe committed an offence under the IPC punishable for a term of 10 years or more against a member of the Scheduled Caste or Scheduled Tribe knowing that such person belongs to such 'community'."

26. In ***Gorige Pentaiah Vs. State of A.P.*** reported in ***(2008) 12 SCC 531***, Hon'ble Supreme Court has observed as follows:-

"6. In the instant case, the allegation of Respondent 3 in the entire complaint is that on 27-5-2004, the appellant abused them with the name of their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the appellant-accused was not a



member of the Scheduled Caste or a Scheduled Tribe and he (Respondent 3) was intentionally insulted intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate Respondent 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law."

27. In ***Dinesh Vs. State of Rajasthan*** reported in **(2006) 3 SCC 771**, Hon'ble Supreme Court has observed as follows:-

"15. Sine qua non for application of Section 3(2)(v) is that an offence must have been committed against a person on the ground that such person is a member of the Scheduled Castes or the Scheduled



Tribes. In the instant case no evidence has been led to establish this requirement. It is not the case of the prosecution that the rape was committed on the victim since she was a member of a Scheduled Caste. In the absence of evidence to that effect, Section 3(2)(v) has no application. Had Section 3(2)(v) of the Atrocities Act been applicable then by operation of law, the sentence would have been imprisonment for life and fine."

28. In ***Khuman Singh Vs. State of M.P.*** reported in **(2020) 18 SCC 763**, Hon'ble Supreme Court has observed as follows:-

"14. 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."

7. Learned counsel for the State submits that accusation as alleged in the FIR reflects that occurrence took place in public gaze as ATM is always situated at public place and place of occurrence clearly indicates that it is a public place and hence, public view cannot be ruled out and in the light of the aforesaid facts and circumstances of the case, the contention of the learned counsel for the appellants that the alleged occurrence has not taken place at public view is neither tenable nor sustainable. He further submits that from the perusal of FIR, it appears that the informant, who belongs to a particular community, was abruptly abused by the appellants in a filthy language and appellants specifically abused the informant by denoting his caste name and when the same was protested by the informant, appellant no. 2 assaulted the informant by means of iron fighter as a result of which informant sustained injury upon his head and nose. He further submits that informant's mother was assaulted by appellant no. 2 and her blouse was also torn by him. He further submits that appellant no. 1 undressed the



informant's mother and assaulted her. Appellant no. 2 also snatched *mangalsutra* from the neck of informant's mother. He further submits that after completion of investigation, charge sheet has been submitted against the appellants under Sections 341, 323, 324, 504, 34 of the IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST (POA) Act. He further submits that in the present case, the learned trial court while passing the order of cognizance has recorded the finding that from the perusal of FIR, charge sheet, case diary and statement of witnesses recorded under Section 161 of Cr.P.C., *prima facie*, case is made out against the appellants, who are FIR named accused and the learned trial court has found that there is sufficient material to proceed the case against the appellants under Sections 341, 323, 324, 504, 34 of the IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST (POA) Act. He further submits that the learned 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.

8. After hearing arguments of both parties and perusing the material available on record, it is crystal clear that there is specific allegation against the appellants that they abruptly abused the informant, who belongs to a particular



community, in a filthy language and appellants specifically abused the informant by denoting his caste name. The appellant no. 1 assaulted the informant's mother and undressed her and also snatched *mangalsutra* from her neck. The appellant no. 2 assaulted the informant by means of iron fighter as a result of which informant sustained injury upon his head and nose. Appellant no. 2 also assaulted the informant's mother and her blouse was also torn by him. The contention of the learned counsel for the State is quite relevant as per accusation made in the FIR. The investigating officer has conducted investigation on all points and after completion of the investigation submitted charge sheet under Sections 341, 323, 324, 504, 34 of the IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST (POA) Act.

9. 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.'

10. The decisions cited by the learned counsel for the appellants has no similarity with the facts and circumstances of the case as the present case has different factum which has no relevancy with the facts and circumstances of the case which has been cited by the learned counsel for the appellants.

11. From the perusal of order dated 08.10.2024 passed by the learned Exclusive Judge SC/ST (POA) Act, Darbhanga in connection with SC/ST Case No. 49 of 2024 arising out of SC/ST P.S. Case No. 75 of 2023, it appears that the order of cognizance has been passed upon due consideration of the FIR, charge sheet, case diary coupled with material available on record.

12. 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 08.10.2024.

13. Keeping in view all the aspects and discussions



made above, I find no reason to differ from the finding of the trial court.

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

(Alok Kumar Pandey, J)

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AFR/NAFR	AFR
CAV DATE	N/A
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