

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1721 of 2025

Arising Out of PS. Case No.-42 Year-2022 Thana- SC/ST District- Gaya

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Dilip Prasad Singh S/o Late Suresh Prasad Singh Resident of ST. No 87 Qrs
No. 15D, PO and PS- Chittaranjan. Dist- Paschim Burdwan, W.B.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Smt. Rajrani Devi W/o Arun Manjhi R/o vill and Post - Amwan, P.S.- Bodh
Gaya, Distt.- Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar Sharma, Advocate
For the State	:	Mr. Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Krishna Prabhat, Advocate

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 30-10-2025

Heard learned counsel for the appellant, learned
counsel for the informant and learned Special Public Prosecutor
for the State.

2. The present appeal is directed against the order
dated 09.09.2024 passed by the learned Special Judge SC/ST
Act, Gaya in connection with Gaya SC/ST P.S. Case No. 42 of
2022, registered under Sections 354(A)/504 of the IPC and
Section 3(i)(r)(s) (w) of SC/ST (Prevention of Atrocities) Act
whereby and whereunder cognizance for the offences
punishable under Sections 354 (A)/504 of the IPC and Section
3(i)(r)(s)(w) of SC/ST (Prevention of Atrocities) Act has been
taken against the appellant.



3. The prosecution story, in brief, is that informant was said to have proceeded from Gaya to Bodh Gaya on tempo. A person was riding in the same tempo who disclosed his name Dilip Prasad Singh (appellant) and he made query to the informant regarding informant's name and her caste. Thereafter, appellant assured the informant that he would arrange a job for her. It is alleged that appellant has made indecent behavior with the informant and when the same was protested appellant is said to have abused the informant by calling her caste name. It is further alleged that two persons namely Ashok Kumar Manjhi and Jitendra Manjhi, who were sitting in the same tempo, stopped the tempo near water tank and tried to get the appellant out of the said tempo and during the scuffle one paper was found from bag of appellant. It is alleged that tempo driver of the said tempo is said to have ran away with the appellant. On the basis of written statement, FIR bearing Gaya SC/ST P.S. Case No. 42 of 2022 for the offence under Sections 354(A)/504 of the IPC and Section 3(1)(r)(s)(w) of the SC/ST Act was registered against the appellant.

4. Learned counsel for the appellant has submitted that from the bare perusal of FIR, the allegation as alleged in the FIR by the informant is without any basis and the allegation as



alleged by the informant does not reflect any offence as no prudent person can even think about the allegation made by the informant. He further submits that it is very absurd that a person who is said to have committed such occurrence of indecent behavior, he can disclose his name to the person against whom he is said to have committed the said occurrence. He further submits that appellant is an employee of Indian Railway, presently posted as the OC Programmer at Chitranjan, Asansol (West Bengal) and on the day of alleged occurrence, appellant was not present at the place of occurrence, as evident from attendance sheet which is annexed as Annexure A/3. He further submits that appellant never went to Gaya in his life time prior to the institution of the present case. He further submits that the reason behind the filing of the present case is that a person namely Shailesh Kumar Maurya working as the office of Superintendent in Rail Wheel Plant, Bela P.S.- Dariyapur, District – Chapra where daughter of the appellant was working as peon under Personnel department of Rail Wheel Plant, Bela, Chapra and daughter of the appellant has filed complaint against Shailesh Kumar Maurya as she has been threatened by the Shailesh Kumar Maurya for dire consequences and threatened to defame her parents. He further submits that Shailesh Kumar



Maurya is said to have committed the some indecent behavior in the office and the daughter of the appellant filed complaint case also against said Shailesh Kumar Maurya . He further submits that Saran Mahila Thana P.S. Case No. 09 of 2021 (Annexure A/5) was registered against Shailesh Kumar Maurya and the case is found to be true.

4(a) He further submits that the occurrence took place on 18.09.2022 in the present case and the FIR was registered on 15.10.2022 and there is inordinate delay of about twenty seven days which has not been explained in the prosecution story. In the light of the aforesaid facts and circumstances of the present case, allegation made by informant is totally absurd and beyond the stretch of imagination even by the prudent person who cannot presume such allegation in given facts and circumstances of the case. In the light of the facts and circumstances of the case, no offence is made out against the present appellant. He further submits that if any learned trial court differs from the finding of Investigating Officer, then, the concerned court has to pass speaking or reasoned order but in the present case, the case is found untrue by the Investigating Officer against the appellant. He further submits that final form has been submitted in the present case and the learned trial court



by differing from the opinion of Investigating Officer, has taken cognizance against the present appellant. He further submits that the learned trial court has also not assigned any reason as to why cognizance has been taken. Learned counsel for the appellant submits that informant of the present case in connivance with the said Sailesh Kumar Maurya as both are resident of Gaya/Bihar and approached higher authority for lodging false criminal case against the appellant and another case was falsely lodged under SC/ST Act vide Nayagaon P.S. Case No. 103 of 2022 against the appellant and his wife by projecting dummy complainant, namely, Sonu Chaudhary and on the basis of said complaint FIR was registered and both cases i.e. Nayagaon P.S. Case No. 103 of 2022 and the present case are found false against the appellant.

5. Learned counsel for the appellant has relied upon decision of *Manish Kumar Jha Vs. State of Bihar and Ors.* (Cr. Misc. No. 3487 of 2018) passed by the Co-ordinate Bench of this Court. He has also relied upon decision of *Kailash Yadav @ Basant Yadav & Ors. Vs. State of Bihar and Anr.* (Cr. Appeal (SJ) No. 1446 of 2024) in which at para 9 of the said decision it has been held as follows:-

“ 9. In the decision in *State of Haryana Vs.*



Bhajan Lal, a two Judge Bench of this Court considered the statutory provisions as also the earlier decisions and held as under:-

(1) *Where the allegations made in the first information report or 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 a case against the accused.*

(2) *Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

(3) *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

(4) *Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as*



contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

6. Learned counsel for the State and learned counsel for the informant submits that informant has made specific allegation against the appellant that he has made indecent behavior with the informant which is quite evident from the first information report. They further submit that while passing the



order of cognizance the learned trial court has taken into account the material available on record and passed reasoned order on the basis of material on record and cognizance has been taken with due care and caution and no interference is needed.

7. After hearing arguments of both parties and perusing the material available on record, it is necessary to articulate the allegation made by the present informant where it is mentioned that the appellant has made indecent behavior with the informant while proceeding through the tempo and the allegation as stated by the informant is beyond the stretch of imagination and a man of prudent approach cannot presume such allegation in given facts and circumstances of the case and the contention of the learned counsel for the appellant is justified and legal as raised in foregoing paragraph. The learned trial court while taking cognizance has not asserted any reason as to why the learned trial court is differing from the final form submitted by Investigating Officer. In the present case, the learned trial court has not assigned any reason as to why the concerned court has differed from the opinion of investigating officer. The impugned order dated 09.09.2024 is non speaking order as the learned trial court has not assigned any reason and



hence, the said order is nothing but nullity.

8. The learned trial court has passed order of cognizance and in such case where final form has been submitted, the learned trial court has to assign reason but in the present case, the learned trial court has not assigned any reason while passing the order of cognizance.

9. In the light of the aforesaid facts and circumstances of the case and discussions made above, cognizance order dated 09.09.2024 is fit to be quashed and, accordingly, the same stands quashed.

10. Accordingly, the appeal stands allowed.

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(Alok Kumar Pandey, J)

AFR/NAFR	AFR
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