

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4567 of 2018

Arising Out of PS. Case No.-614 Year-2010 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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1. Amarendra Kumar Singh @ Dadan Singh
 2. Dharmendra Kumar Singh Both are sons of Late Brijnandan Singh, Resident of Mukundpur Bhath, Police Station- Jandaha, District- Vaishali.

... .. Appellant/s

Versus

1. State Of Bihar
2. Savitri Devi Late Lauki Paswan R/o Vishannpur Silauthar, p.s.- Jandaha, Dist.- vaishali

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shravan Kumar, Sr. Advocate Mr. Dinesh Maharaj, Advocate Ms. Monika Singh, Advocate Ms. Muskan Singh, Advocate
For the Respondent/s	:	Mr. Sri Sadanand Paswan
Amicus Curiae	:	Ms. Shashi Priya

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 13-11-2025

Heard Mr. Shravan Kumar, the learned Senior Counsel for the appellants, the learned counsel for the State and the learned Amicus Curiae.

2. This Appeal is directed against the order dated 15.10.2018 passed by 1st Additional Session Judge cum Special Judge Vaishali at Hajipur in Tr. No. 217/15 arising out of C1 No. 614/10, by which learned court below dismissed the application of the appellants filed under section 228 of the Criminal Procedure Code, where under the appellants prayed for



discharge from the Offences Under Section 3(i)(x) of the SC/ST Prevention of Atrocity Act.

3. The prosecution case in short is that, the complainant of this case namely Lauki Paswan (O.P. No. 2) filed complaint Case No. 614/2010, before the learned Chief Judicial Magistrate, Vaishali at Hajipur on 16.03.2010 alleging inter alia that he belongs from the Schedule Caste Category and has been residing since long at the plot of Late Nagendra Prasad Singh (Freedom Fighter), and the government have also sanctioned subsidy for construction of INDIRA AAWAS at the said plot. It is further alleged that on the date of occurrence, the Appellant No. 1 came at his house and asked to do labour work, on which the Complainant demanded Fifty rupees per day as his labour charge, on which the Appellant No. 1 allegedly started abusing him by calling his caste name and after giving threat, he returned. It is further alleged that after one hour, he along with other accused person armed with iron rod, *danda* and knife again came back and started abusing him by his caste name. He was allegedly assaulted by them. When his wife came to rescue, she was also subjected to assault. The accused persons allegedly destroyed the kitchen and utensils causing loss of Rupees Three thousand only. It is further alleged that the Appellants assaulted



him by means of iron rod. He further alleged that one Hasuli amounting to Rs 3000/- has been taken out by them. It is further alleged the appellant No. 1 threatened them.

4. The learned Senior counsel for the appellants has submitted that the aforesaid complaint was enquired under Section 202 of the Criminal Procedure Code and thereafter, the learned lower Court took cognizance under section 323, 379 and 504 of the Indian Penal Code *vide* Order dated 01.06.2010. The Opposite Party No. 2 challenged the order dated 01.06.2010, passed in Complaint Case No. 614/2010, by filing Criminal Revision No. 154/2010, without impleading the Appellants as party. The learned Sessions Judge Vaishali at Hajipur, without hearing the appellants and without giving any opportunity to them, allowed the Revision application filed by the Opposite Party No. 2 and by setting aside the order dated 01.06.2010, the learned Sessions Judge Vaishali at Hajipur, by order dated 04.08.2010, directed the learned Court below to make further enquiry in the matter and to pass fresh order.

5. He further submits that in compliance of the aforesaid order, the learned Court below relying upon the earlier witnesses examined in the matter along with one new witness namely Mahesh Paswan and passed the order dated 30.09.2010,



and took cognizance for offences under section 323,452,324, of the Indian Penal Code and Section 3(x) of the SC/ST Act.

6. The learned counsel for the appellants has submitted that on 7.3.2019, the appellant was assaulted by iron rod causing grievous injuries and abused by the family of the complainant with aid and abetment of his cousin said Dilip Singh while he was protesting the encroachment on the said land in the area owned by him. The appellant lodged police case *vide* Jandaha Police Station Case No 21 of 2010 dated 07.03.2010 under Sections 147, 148, 149, 341, 323, 325, 379, 427,504 and 506 of the Indian Penal Code against accused persons namely Krishna Raman Prasad Singh @ Dilip Singh, Balbeshar Manjhi, Pankaj Manjhi Son of Balbeshar Manjhi, Jasia Devi wife of Balbeshar Manjhi, Bijali Manjhi, Mogal Manjhi.

7. It has been submitted by the learned counsel for the appellants that the appellants have committed no offence and they have falsely been implicated in the present case due to malicious motive. It is next submitted by the learned counsel for the appellants that the appellants neither abused the respondent no. 02 by taking his caste name nor assaulted him as has been alleged in the FIR against appellant rather allegations levelled in



the FIR against the appellants are false, fabricated and concocted merely with view to harass the appellants. He further submits that the present case filed by the respondent no. 02 against the appellants is a malicious prosecution and he is taking benefit of being SC/ST caste rather no such type of occurrence has ever taken place as alleged in the FIR.

8. He further submits that except the *mala fide* intention of respondent No.2, no other evidence came against the appellant and from the perusal of facts of the case, no case U/s 341,323,504, 506/34 of the I.P.C. and 3(i)(r) of SC/ST (PoA) Act, 1989 is made out against the appellants. The Court below took cognizance U/s 341, 323, 504, 506/34 of the I.P.C. and 3 (i)(r) of SC/ST (PoA) Act, 1989 against the appellants and has acted without any cogent material in most arbitrary manner. The Court below did not consider all these materials which are available on the record and the impugned order has been passed without application of mind in a mechanical manner.

9. The learned counsel for the appellants has relied upon the various judgments of the Hon'ble Supreme Court in the case of ***Gorige Pentaiah V/s State of A.P. & Ors.***, reported in ***(2008) 12 SCC 531***, ***Hitesh Verma V/s State of Uttarakhand & Anr.***, reported in ***(2020) 10 SCC 710***.



10. The learned counsel for the State has vehemently opposed the prayer of the appellants and has submitted that the impugned order taking cognizance is a reasoned order and the same should not be interfered with.

11. I have heard and considered the submissions of the parties and have also gone through the records of the case.

12. The Hon'ble Supreme Court has repeatedly held that *mala-fide* prosecution should be quashed at the very initial stage when the prosecution amounts to abuse of the process of the court.

13. The Hon'ble Supreme Court in the case of ***Hitesh Verma (supra)*** has held that mere insulting or intimidating a person belonging to the Scheduled Castes or Scheduled Tribes shall not constitute an offence under the Act unless such insult or intimidation is shown to have been committed specifically because of the victim's caste status. The Court emphasized that the Act is intended to protect vulnerable sections from caste-based atrocities and indignities and that prosecution under the Act must satisfy this essential threshold.

14. The Hon'ble Supreme Court in the case of ***Gorige Pentaiah (supra)*** has held that for invoking the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 1989, the complaint must disclose essential ingredients clearly, including that the accused is not a member of the Scheduled Castes or Scheduled Tribes and that the offence has been committed with an intent to humiliate, intimidate, or cause harm specifically because of the victim's caste status.

15. Summarising the principles on discharge under Section 227 Cr.P.C, in ***Dipakbhai Jagdishchandra Patel vs. State of Gujarat & Anr.*** reported as (2019) 16 SCC 547, the Hon'ble Supreme Court had held as under :-

“23. At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the court is expected to do is, it does not act as a mere post office. The court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting is not to be meticulous in the sense that the court dons the mantle of the trial Judge hearing arguments after the entire evidence has been adduced after a full-fledged trial and the question is not whether the prosecution has made out the case for the conviction of the accused. All that is required is, the court must be satisfied that with the materials available, a case is made out for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be



such as can be translated into evidence at the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge that here is a case where it is possible that the accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence.” (emphasis supplied)

16. The Hon’ble Supreme Court in **M.E. Shivalingamurthy vs. CBI**, reported as **(2020) 2 SCC 768** had culled out the principles and held as under :-

“Legal principles applicable in regard to an application seeking discharge

17. This is an area covered by a large body of case law. We refer to a recent judgment which has referred to the earlier decisions viz. *P. Vijayan v. State of Kerala* [*P. Vijayan v. State of Kerala*, (2010) 2 SCC 398 : (2010) 1 SCC (Cri) 1488] and discern the following principles:

17.1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the trial Judge would be empowered to discharge the accused.

17.2. The trial Judge is not a mere post office to frame the charge at the instance of the prosecution.

17.3. The Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the police or the



documents produced before the Court.

17.4. If the evidence, which the Prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, “cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial.

17.5. It is open to the accused to explain away the materials giving rise to the grave suspicion.

17.6. The court has to consider the broad probabilities, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This, however, would not entitle the court to make a roving inquiry into the pros and cons.

17.7. At the time of framing of the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

17.8. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused.

18. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged under Section 227 CrPC (see State of J&K v. Sudershan Chakkar [State of J&K v. Sudershan Chakkar, (1995) 4 SCC 181 : 1995 SCC (Cri) 664 : AIR 1995 SC 1954]). The expression, “the record of the case”, used in Section 227 Cr.PC, is to be understood as the documents and the articles, if any, produced by



the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. At the stage of framing of the charge, the submission of the accused is to be confined to the material produced by the police (see State of Orissa v. Debendra Nath Padhi (2005) 1 SCC 568.”

17. The Hon’ble Supreme Court in the case of *State of Gujarat vs. Dilipsinh Kishoresinh Rao* reported as (2023) 17 SCC 688 has held as under:-

“10. *It is settled principle of law that at the stage of considering an application for discharge the court must proceed on an assumption that the material which has been brought on record by the prosecution is true and evaluate said material in order to determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offence alleged.*

11. This Court in *State of T.N. v. N. Suresh Rajan* adverting to the earlier propositions of law laid down on this subject has held: (SCC pp. 721-22, para 29)

29. *We have bestowed our consideration to the rival submissions and the submissions made by Mr Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order*



to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

12. The defence of the accused is not to be



looked into at the stage when the accused seeks to be discharged. The expression "the record of the case" used in Section 227 CrPC is to be understood as the documents and articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency." (emphasis supplied)

18. In *Kanchan Kumar vs. State of Bihar* reported in (2022) 9 SCC 577 the Hon'ble Apex Court has held as follows:-

"19. The third objection relates to the inclusion of Rs. 1,58,562/- as the value of the articles found during a search conducted in Appellant's house on 21.02.2000, twelve years after the check period of 1974 to 1988. There is nothing to indicate, even prima facie, that these articles found during the search in the year 2000 were acquired during the check period. In the absence of any material to link these articles as having been acquired during the check period, it is impermissible to include their value in the expenditure. We are therefore of the opinion that the Appellant's objection about inclusion of this amount in the list of expenditure is fully justified. Unfortunately, even this objection, which did not require much scrutiny of the



material on record, was not considered by the Special Judge (Vigilance) or the High Court.

20. The three heads of expenditure discussed hereinabove must be excluded from Appellant's total alleged expenditure during the check period. First, the Appellant's actual balance amount reflected in the Bank Passbook, i.e., Rs.11,998, as against the purported account balance of Rs. 55,000, must be taken into account. Further, the second and third amounts, as indicated above, must be excluded from Appellant's total expenditure mentioned in the chargesheet. Accordingly, the total expenditure comes only to Rs. 2,69,355, and not Rs. 5,24,386, which is based on certain mistakes that we have indicated hereinabove. It is this expenditure of Rs. 2,69,355 which is to be contrasted with the income of Rs.3,01,561/- during the check-period. These facts clearly demonstrate that there is no prima facie case made out by the prosecution and therefore the Appellant was entitled to be discharged."

19. In the present case, from perusal of the complaint petition and the FIR instituted by the appellants, it appears that the FIR predates the complaint petition and there is also a land dispute amongst the parties. The complainant in the present case has launched this mala-fide prosecution in order to



wreck vengeance upon the appellants.

20. Considering the aforesaid, the order rejected discharge is unsustainable and accordingly, the order dated 15.10.2018 passed by the 1st Additional Session Judge cum Special Judge Vaishali at Hajipur in Tr. No. 217/15 is hereby set aside.

21. The appellants are discharged from the offences under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in connection with Vaishali Complaint Case No. 614/2010, as no prima facie case is made out against them based on the material on record.

22. In view of the discussions made above, the appeal stands allowed.

(Sandeep Kumar, J)

Shishir/-

AFR/NAFR	NAFR
CAV DATE	N/A
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