

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.461 of 2024

Arising Out of PS. Case No.-28 Year-2020 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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Rahul Kumar Son of Mahesh Paswan R/O Villl.- Mustufapur Harsher,
Mustafapur, P.S.- Goraul, Dist.- Vaishali.

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... .. Petitioner/s

Versus

1. The State Of Bihar Patna
2. Jitendra Kumar Pandey Son of Late Shambhu Pandit @ Shambhu Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
3. Ashwini Kumar Pandey Son of Late Shambhu Pandit @ Shambhu Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
4. Ravindra Kumar Pandey Son of Umashankar Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
5. Sanjeet Pandey Son of Umakant Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
6. Umakant Pandey Son of Late Vishundev Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
7. Umashankar Pandey Son of Late Vishundev Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
8. Santosh Kumar Tiwary @ Mantosh Kumar Tiwary Son of Late Yogendra Tiwary R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
9. Subodh Kumar Pandey Son of Harikant Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
10. Shubham Kumar Pandey Son of Sujeet Kumar Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
11. Ravi Ranjan Kumar Pandey Son of Ashwini Kumar Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.
12. Feku Pandey Son of Late Ramnaresh Pandey R/O Villl.- Mustufapur Harsher, Mustafapur, P.S.- Goraul, Dist.- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravish Mishra, Advocate Mr. Ravish Mishra, Advocate Ms. Keertika Sakshi, Advocate
For the State	:	Md. Matloob Rab, APP
For the O.P.s	:	Mr. Anil Kumar, Advocate Mr. Akash Kumar Mishra, Advocate Mr. Samir Kumar, Advocate



CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 15-07-2025 On 04th July 2020, one Nisha Kumari, daughter of O.P. No. 3, namely, Ashwini Kumar Pandey was missing and it was alleged that she was kidnapped by the petitioner, namely, Rahul Kumar along with Indresh Paswan. Over the said incident of kidnapping, it was alleged by the present petitioner (Rahul Kumar) that he was called by the opposite parties, 12 in numbers on 04.07.2020 to their house and the accused persons assaulted them as well as abused him in the name of the cast which offends Section 3(1)(r)/3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The complaint was lodged on 11th July 2020. Since there was an allegation under Section 3 of the SC/ST(Prevention of Atrocities), Act, 1989. The act was transferred to the learned Special Judge SC/ST Act, Vaishali at Hajipur. The learned Special Judge fixed the date of examination of the witnesses on behalf of the complainant under Section 200 of the CrPC on 20th March, 2021. On that date only, the complainant was examined. On the basis of the evidence of the complainant, he did not issue process against the accused. He went on recording evidence of five more witnesses on 31st March 2021, 02nd February 2022, 10th March 2022, 23rd June 2022 and 25th August 2022. Thus, if



this Court holds that the evidence of AW-1 to AW-5 was recorded on the basis of provisions contained in Section 202 of the CrPC, such inquiry was done by the learned Special Judge, for a period of about three years. After conclusion of inquiry on 25th August 2022, he did not pass any order. He passed the order refusing to take cognizance and postponement of issue of process under Section 203 of the CrPC on 19th March 2024. Thus, the learned special Judge took about four years to conclude an initial inquiry and postponement of process.

2. *Sine quo non* of criminal administration of justice is speedy disposal to preserve right to life. If both the complainants and accused persons depend on the mercy of the courts after filing of a complaint and wait for four years to see the ultimate fate of such complaint, it is a perversity of justice delivery system for which the concerned Judge should face appropriate action.

3. However, this Court proposes that in all the complaint cases, filed before the magistrates or the Special Judges as the case may be, initial inquiry on S.A. and under Section 202 of the CrPC are required to be concluded within one month from the date of registration of the complaint, if such order is violated, it would amount to criminal contempt and the



erring Magistrates and Judges would be liable to face such criminal contempt.

4. Let a copy of this order be sent to all the Magistrates and the learned Special Judges through the Registrar General of the High Court of Judicature at Patna. Let a copy of this order be also sent to the Director, Bihar Judicial Academy for information amongst the learned Magistrates and Special Judges.

5. Now comes the merit of the case. The petitioner filed an complaint on 11th July 2020, stating, inter alia that on 04th July 2020, on the issue of kidnapping of a girl of Ashwini Kumar Pandey. The accused persons called him to their house. There, he was assaulted and abused by the accused persons in the name of his caste. The petitioner has arraigned 12 persons as accused/opposite parties. From the Inquiry Report, prepared on 06th July 2020, i.e., two days after lodged incident, the medical officer only found a swelling on occipital region of the petitioner. It is surprising to note as to how 12 persons made one assault on the occipital region of the petition. Secondly, it is not in dispute that the petitioner was allegedly abused in the name of his caste inside the house of O.P. No. 3. Therefore, the place of occurrence is not within the public view and the allegation of



offence under Section 3(1)(r)/3(1)(s) of the SC/ST (Prevention of Atrocities) Act, 1989 does not arise.

6. On perusal of the statement on solemn affirmation of the complaint and evidence on oath of other witnesses, this Court finds that there are materials against the respondents no. 2 to 12 for the offence punishable under Section 323/34 of the IPC.

7. In view of this finding by this Court, the order of the learned Exclusive Special Judge SC/ST Act-cum-Additional Sessions Judge, dated 19.03.2024 is set aside.

8. Further, learned Special Judge is directed to pass an order in the light of the observation made by this Court hereinabove and transmit the case to the Court of the learned Chief Judicial Magistrate, Hajipur at Vaishali.

9. The instant revision is thus disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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