

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2941 of 2023**

Arising Out of PS. Case No.-214 Year-2021 Thana- RAFIGANJ District- Aurangabad

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ALI KHAN @ BABU KHAN S/O SIPAHIJI @ MUSHTKEEM KHAN @
MD. MUSHTKEEM KHAN RESIDENT OF RAJA NAGAR POLICE
STATION- RAFIGANJ, DIST. AURANGABAD

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. RAJANTI DEVI W/O RAM PRAVESH CHOUDHARY RESIDENT OF
NONIA TILHA, RAFIGANJ, PS. RAFIGANJ, DIST. AURANGABAD

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Pravesh Nath Tiwari, Adv.
For the Respondent/s : Mr. Usha Kumari 1, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 04-02-2025 Heard the parties.

2. The present appeal has been preferred:

*“for setting aside the cognizance
order dated 04.01.2023 passed by the
learned Additional District Judge I -cum-
Special Judge, SC/ST (Prevention of
Atrocities) Act, Aurangabad in connection
with Rafiganj Police Station Case No.
214/21 dated 18.07.2021 whereby the
learned Judge has taken cognizance against
the petitioner under section 341, 354, 504,
509, 379 of the Indian Penal Code and*



section 3(i) (r)(s)/3(2)(va) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, 1989 and issued notice for his appearance on improper grounds.”

3. As per the prosecution story, the lady alleged that while she was returning home, the appellant on the sight of her, not only abused but also tried to outrage her modesty and further snatched the gold ear ring causing injury in her ear. She was also slapped. Upon raising voice, as the people came, she was saved. The further allegation is that the appellant was in the habit of teasing her/abusing with bad intention regularly. This led to the FIR.

4. Subsequently, the police investigated the matter and submitted charge-sheet whereafter cognizance has been taken under Section 341, 354, 504, 509, 379 of the Indian Penal Code and section 3(i)(r)(s)/3(2)(va) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, 1989.

5. Aggrieved, the present case.

6. It is the case of the appellant that in the FIR, nowhere it is stated that the appellant took caste name necessitating incorporation of different Sections of SC/ST Act. He further submits that in absence of recovery of the ear ring,



Section 379 of the IPC is also not made out.

7. Mrs. Anita Singh representing the State has taken this Court to Section 3(2)(va) of the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, 1989 (henceforth for short, 'the 1989 Act') to show that when the accused knowingly assault/abuse a member of the Schedule Case/Schedule Tribe, even if name has not been taken, 'the 1989 Act' gets attracted.

8. Having heard the parties and perusing the cognizance order dated 04.01.2023, it is important to incorporate Section 3(2)(5A) of the 1989 Act which read as follows:

3. Punishments for offences atrocities –

Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, –

(2)(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;

9. A perusal of the prosecution story would show that not only she was abused/assaulted, ear ring snatched, the fact



remains that she has alleged that the abuse/teasing was continuing by him whenever she used to come in front of her. This clearly show that the appellant was in the know of the lady/her caste and was not a stranger. In that background, the Section 3(2)(5A) of 'the 1989 Act' definitely gets attracted. The Court concerned was fully justified in taking cognizance under the aforesaid Sections besides the different Sections of IPC.

10. In that background, no interference in required. The appeal stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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