

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.507 of 2024**

Arising Out of PS. Case No.-65 Year-2017 Thana- SC/ST District- Gaya

Syed Sharim Ali, S/O Saukat Ali, R/O Mohalla-Abgilla, P.S.-Mufassil, Distt-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunita Devi, Wife of Veera Manjhi, R/O Bhisand Bangla, P.S.- Wazirganj, Dist.- Gaya- 805131

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Atal Bihari Pandey, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER**

9 09-07-2025 1. The petitioner has approached this Court in revisional jurisdiction under Section 397 read with Section 401 of the Cr.P.C., challenging an order of cognizance of offence, punishable under Sections 341, 323, 324, 354, 427, 436, 504, 506 and 34 of the IPC read with Section 27 of the Arms Act and Sections 3(1)(r)(s)(w)(1)(2)(IV) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. It is contended on behalf of the petitioner that on 2nd of December, 2017, Wazirganj P. S. Case No. 523 of 2017 was registered under Sections 147, 148, 149, 504, 387, 307, 506 and 427 of the IPC on the basis of a written complaint submitted by



one Arun Kumar against one Nagendra Singh, Lambu Pathak, Manoj Kumar Singh, Lalan Paswan and other unknown persons. Subsequently, on 7th of December, 2017, Wajirganj P.S. Case No. 523 of 2017 was registered for the offence punishable under Sections 147, 148, 149, 323, 324, 337, 338, 307, 435 and 353 of the IPC on the basis of a written complaint submitted by one Mukesh Kumar against Satyendra Paswan, Krishna Manjhi, Binda Manjhi, Umesh Manjhi, Chandra Manjhar, Arjun Manjhi, Devraj Manjhi, Kashi Manjhi, Binod Saw, Kameshwar Manjhi, Raho Manjhi, Jamun Manjhi, Yogendra Manjhi, Kala Manjhi, Kaleshwar Manjhi, Mahendra Manjhi, Ganesh Manjhi, Kapil Manjhi, Ramnavi Manjhi and 25-30 unknown persons.

3. Both the above-mentioned cases were instituted basically on some dispute relating to landed property, where one Ashok Singh @ Ashok Dada wanted to raise construction. It was alleged that the FIR named accused persons in the above-mentioned two cases and his associates obstructed the construction raised by the said Ashok Kumar Singh.

4. It is submitted by the learned Advocate for the petitioner that in both cases charge-sheet was filed by the police.

5. Subsequently, on 13th of December, 2017, one Sunita Devi lodged a complaint before the SC & ST Police



Station, Gaya, being FIR Case No. 65 of 2017 for the offences punishable under Sections 341, 323, 324, 354, 427, 436, 504, 506 and 34 of the IPC and Sections 3(1)(r)(s)(w)(i)(2)(iv) of the SC & ST Act. It was alleged by the said Sunita Devi that on 7th of December, 2017, at about 4/5 P.M., when she was coming with other villagers after performing agricultural work in their respective lands, Ashok Kumar Singh @ Ashok Dada, Syed Sharim Ali, Arun Kumar and Ravi Kumar abused her and other villagers with filthy language. Hearing the sound of hue and cry, the family members of the *de facto* complainant and other villagers came to the spot, thereafter the accused persons assaulted them, causing fractured injury to right leg of one Dewali Manjhi. The accused persons also assaulted one Rita Devi severely. Accused, Ashok Kumar Singh assaulted the informant, pulling her hair and abusing her in the name of her caste. He also threatened her, saying that he would destroy the cultivation and set fire in the houses of “Bhuiyas” (Members of Scheduled Caste). They also open fire from riffles in their hand. Subsequently, the FIR named accused persons entered into the room of the informant and damaged and destroyed the household articles. They set fire on the household articles and pigs which the informant reared.



6. Matter on record further shows that in SC & ST Case No. 65 of 2017, the police submitted final report on the ground that the allegation was not proved during investigation. However, vide order, dated 20th/ 22nd of April, 2019, the learned Special Judge, SC & ST Act, Gaya took cognizance of offence against the above-named accused persons under the penal provisions of the IPC as well as the SC & ST Act.

7. The said order of cognizance is under challenge in the instant criminal revision.

8. It is submitted by Mr. Gautam Kejriwal, learned Advocate for the petitioner that the alleged incident took place on 7th of December, 2017. The FIR was lodged after a lapse of 6 days on 13th of December, 2017. There is no explanation as to why there was delay in lodging the FIR by the Opposite Party No. 2. It is also submitted by the learned Advocate for the petitioner that the Opposite Party No. 2 was set up by their community to lodge a false complaint as a counter case to Wazirganj P.S. Case No. 523 of 2017.

9. It is further submitted by Mr. Kejriwal, learned Advocate for the petitioner that the FIR story submitted by the Opposite Party No. 2 is concocted and the same was not supported by any witness who was examined by the I.O.



Therefore, the Investigating Officer submitted final report against the petitioner and other accused persons.

10. Lastly, it is submitted by Mr. Kejriwal that in order to attract Sections 3(i)(r)(s) of the SC & ST Act, it is incumbent for the prosecution to prove intentional insult or intimidation or abuse of any member of SC & ST by caste name to humiliate such persons in any place within public view. The FIR filed by Sunita Devi suggests that she was not insulted, intimidated, humiliated, or abused in any place within public view. Therefore, prima facie ingredients of offence under the penal provisions of SC & ST Act do not arise.

11. The learned Special Judge failed to consider such aspect at the time of taking cognizance. He took cognizance on the basis of the materials in case diary under the penal provisions of IPC and SC & ST Act.

12. In order to substantiate his argument, Mr Kejriwal refers to an unreported judgement passed by this Court in Cr. Rev. No. 200 of 2024 on 17th of February, 2025 (Mahesh Tiwari & Anr. v. The State of Bihar & Ors.).

13. In the aforesaid unreported decision, this Court took into consideration the judgement of the Hon'ble Supreme Court in the case of Rabindra Kumar Chhatoi v. The State of



Odisha & Anr. (Special Leave Petition (Crl.) No. 1608 of 2020)

decided on 5th of December, 2024.

14. Paragraph No. 13 of the aforesaid judgement is relevant for our purpose and quoted below:-

“13. On a reading of the same, it is evident that the intention to insult or intimidate with an intent to humiliate a member of the Scheduled Castes and the Scheduled Tribe must be "in any place within public view." There is no doubt that the second respondent herein, is a member of the Scheduled Caste. The question is, whether, the alleged utterances by the appellant herein, was in any place within public view. It is noted that when the second respondent sought to repair her house which is adjacent to the appellant's house along with her employees (Labourers) and went into the appellant's house without seeking his prior permission, it was objected to by the appellant herein. The place of occurrence of the alleged offence was at the backyard of the appellant's house. Backyard of a private house cannot be within the public view. The persons who accompanied the second respondent were also the employees or the labour force she had engaged for the purpose of carrying out repairs to her house which is adjacent to the appellant's house. They cannot also be termed as public in general.”

15. On the similar point, this Court also referred to the decisions of this Court in **Deo Shanker Vajpayee @ Deo**



Shankar Bajpayee & Ors. Vs. The State of Bihar & Ors, Ramesh Chandra Vaishya Vs. State of U.P. & Anr. reported in **2023 6 SCR 643** and Bombay High Court Judgement of Aurangabad Bench in Criminal Application No. 4113 of 2002 4113 of 2022, (***Afshamaskar Laikhkan Pathan Vs. The State of Maharashtra & Anr.***)

16. Under the background of above submission made by the learned Advocate for the petitioner, let me consider the legality and validity of the order, dated 20th / 22nd of April, 2019, by virtue of which the learned Special Judge, SC & ST Act, took cognizance of offence against the four accused persons.

17. In the instant case, the petitioner is Syed Sharim Ali. On careful perusal of the written complaint filed by Sunita Devi, it is ascertained that an allegation has been made only against Ashok Kumar Singh @ Ashok Dada, who caught hold of the informant by her hair and abused her with filthy language in the name of her caste. The first incident took place on the road when the informant and others were coming from their agricultural land after cultivation. It is the statement of the informant that she, along with other villagers, was coming from the agricultural land through the village road when Ashok Kumar Singh and his associates wrongfully restrained them.



18. On close reading of the FIR, this Court finds that no allegation was made against the present petitioner alleging that he insulted, humiliated and abused the informant and others, taking the name of the caste of the informant. It was only Ashok Kumar Singh against whom such allegation was made. Therefore, the learned Special Judge, SC & ST Act, Gaya, committed apparent illegality by taking cognizance of the offence against the present petitioner under the penal provisions of the SC & ST Act. The said part of the order of cognizance is liable to be quashed, and accordingly the same is quashed.

19. However, it is open for the learned Special Judge to take cognizance of offence under the IPC on the basis of the materials in case diary even if final report is submitted by the Investigating Officer.

20. Considering such aspect of the matter, this Court finds that the Trial Court did not commit any jurisdictional error in taking cognizance of offence against Ashok Kumar Singh under the penal provisions of the IPC as well as under SC & ST Act.

21. The learned Special Judge also did not commit any jurisdictional error in taking cognizance of offence under the IPC against other three accused persons.



22. I shall be failing to discharge my duty if I do not mention that factual background of ***Rabindra Kumar Chhatoi's case*** (supra) is not similar to this case.

23. In the said report, the victim was abused allegedly in the backyard of a private house and the Hon'ble Supreme Court held that backyard of private house cannot be within the public view.

24. In the instant case, the victim was allegedly abused on village road which is open for public view. Therefore, at this stage of the case, this Court is not in a position to hold that the cognizance order is absolutely bad.

25. For the reasons stated above, the order of cognizance taken against the petitioner under the penal provisions of SC & ST Act is quashed and set aside.

26. Remaining order of cognizance against the petitioner is affirmed and maintained.

27. The instant revision is, thus, disposed of.

(Bibek Chaudhuri, J)

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