

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4223 of 2018
In
CRIMINAL MISCELLANEOUS No.34769 of 2017

Arising Out of PS. Case No.-563 Year-2009 Thana- SC/ST District- Vaishali

Panna Devi

... .. Appellant/s

Versus

State Of Bihar and Anr

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Madhurendra Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, APP
		Mr. Shambhu Sharan Singh
		Ms. Neha Pallav

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

15 18-11-2025 Heard the learned counsel for the appellant, the learned counsel for the State and the learned counsel for the informant.

2. This appeal has been filed for quashing the order dated 23.06.2017 passed in SC/ST Trial No. 83 of 2016 arising out of Hajipur (SC/ST) P.S. Case No. 563 of 2009 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari by which the Court below has rejected the petition filed under Section 227 of the Cr.P.C. and directed to appear on 07.07.2017 for framing of charge.

3. As per the prosecution case, on 21.09.2009 when



the daughter of the informant Pinki Kumari was come to her house and in the way, her leg was touched with the utensil of the appellant and thereafter, all the accused persons assaulted her by taking her caste name. The accused persons also assaulted the wife of the informant.

4. The learned counsel for the appellant has submitted that the impugned order is cryptic in nature and the materials available against the appellant has not been discussed in the impugned order rejecting the discharge application.

5. The learned counsel for the appellant relying on the judgment of the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. The State of Bihar*** reported in ***2022 (9) SCC 577*** has submitted that a speaking order should have been passed after considering the materials available on record.

6. The learned counsel for the State and the informant have opposed the contention of the learned counsel for the appellant but they have not been able to defend the impugned order which has been passed without considering the materials available on record.

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

8. The impugned order/judgment is in the teeth of the



law laid down by the Hon'ble Supreme Court in the case of ***Kanchan Kumar Vs. The State of Bihar (Supra)***. The Special Judge cannot act a post office who will pass a cryptic order on a set format saying that offences are made out against the appellants rather the Special Judge is expected to consider the application of discharge, consider the materials available on record, consider the submission of the parties and thereafter give a finding with regard to the case and pass a detailed order which is missing in the present case.

9. From the perusal of the case records, it appears that the present is a *mala fide* prosecution and an abuse of the process of the Court which cannot be allowed to continue in view of the law laid down by the Hon'ble Supreme Court in the case of ***Dashrath Sahu vs. State of Chhattisgarh*** reported in ***2024 SCC OnLine SC 72*** and ***State of Haryana & Ors. Vs Bhajan Lal & Ors.*** reported in ***1992 Supp(1) SCC 335***.

10. In view of the discussions made above, the appeal stands allowed and accordingly, the order dated 23.06.2017 passed in SC/ST Trial No. 83 of 2016 arising out of Hajipur (SC/ST) P.S. Case No. 563 of 2009 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, East Champaran at Motihari and the consequent proceeding arising



out of Hajipur SC/ST P.S. Case No. 563 of 2009 is hereby
quashed.

(Sandeep Kumar, J)

Shishir/-

U		T	
---	--	---	--

