

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1072 of 2022

Arising Out of PS. Case No.-219 Year-2022 Thana- KALYANPUR District- East Champaran

SACHINDRA PRASAD SINGH Son of Late Chanar Singh Resident of Village- Phulwariya, Police Station - Kalyanpur, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through The Director General of Police, Bihar. Bihar
2. The Deputy Inspector General , Champaran Range at Bettiah. Bihar
3. Superintendent of Police, East Champaran, Motihari. Bihar.
4. Sub- Divisional Police Officer, Chakia, District East Champaran. Bihar
5. Investigating officer cum Station House officer Kalyanpur, Police Station - Kalyanpure, District - East Champaran, Bihar.
6. Vinay Paswan Son of Manik Paswan Resident of Village - Visambharapur, Police Station - Kalyanpur, District - East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Tiwari, Advocate
For the State	:	Md. Harun Quarashi, AC to SC 01
For the Respondent No. 6	:	Mr. Anshul, Sr. Advocate
		Mr. Anuj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date : 25-02-2025

The petitioner has invoked the constitutional writ jurisdiction of this Court under Article 226 of the Constitution for following relief:

“1(i) To quash the FIR of Kalyanpur P.S. Case No. 219 of 2022 (Arising out of Complaint No. 58/2022), registered in terms of Section 156(3) of the Code of Criminal Procedure, 1973, (hereinafter referred



to as the code) for the offences under Sections 294, 506, 504, and 153 of the Indian Penal Code and Sections 3(1), 3(c), 2(s) (7) (B)(c) of the SC/ST Act and Section 66 of the I.T. Act, against the petitioner, which being pending for investigation.”

2. Respondent no. 6 is the informant on whose application under Section 156(3) of the CrPC FIR came to be registered as Kalyanpur P.S. Case No. 219 of 2022 on the basis of an order passed by the learned Special Judge under SC/ST (POA) Act, East Champaran, Motihari. It is alleged by the informant that he belongs to a member of the Scheduled Castes Community named “Dushad”. He is a social worker and the State Secretary of ‘Aajad Samaj Party.’. It is alleged by the informant that an audio clip had been made viral before the social media, wherein the petitioner, an Ex-MLA of Bhartiya Janta Party and a leader while talking to another person on mobile phone used abusive comment at the informant naming his caste and calling him as the son of Ambedkar. The informant also alleged that he was threatened with dire consequences, and by such words, Dr. Ambedkar was defamed. It is further stated by the informant



that he submitted a written complaint at the local police station, but police refused to register an FIR against him on the ground that he is a leader of the ruling political party. The informant then submitted a written complaint physically to the Superintendent of Police, Motihari; a copy of the said complaint was also sent to him by post, but the FIR was not registered. As a last resort, he filed an application under Section 156(3) of the CrPC.

3. Learned Advocate appearing on behalf of the petitioner submits that no such offence has been committed by the petitioner. On the contrary, the FIR is malice and *malafide* having being registered in political vengeance with concocted and false narration that put forth for a stake of argument with the informant makes the submission and accepts that the allegation relates to a conversation allegedly made between the petitioner and the named person on a cellular phone. Therefore, any utterance, even if it is accepted in its face value, was not made in the public view, which is an essential ingredient to constitute an offence under the provision of SC/ST (POA) Act. It is also contended on behalf of the petitioner that the informant was in no way alleged that it was the petitioner who made such a recording of the alleged conversation and made it viral as an audio clip on the platform of social media, and they were posted. The al-



leged conversation in the public domain, therefore, if for the sake of argument, it is accepted that on account of making the audio clip viral, any type of humiliation or defamation of criminal intimidation was caused to the complainant, in such a case also no offence being attracted against the petitioner under Section 3 of the said Act. The entire prosecution conversation is strictly silent about the same. The informant came to know about such an audio recording and the person who shared the audio clip on the social media platform.

4. The present prosecution has been registered for the offences punishable under Section 3(1), 3(c) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is submitted so far as Section 3(1) is concerned, it does not talk about any offence rather it says that a person who, not being a member of a Scheduled Caste or a Scheduled Tribe can be prosecuted for the offence under Section 3 of the Act. So far as Section 3(1)(c) is concerned, it is attracted against a person who, with intent to cause injury, insult, or annoyance to any member of a Scheduled Caste or a Scheduled Tribe, dumps excreta, waste matter, carcasses, or any other obnoxious substance in his neighborhood.

5. In the instant case, if at all any offence is made by



making the audio clip viral against the informant, it will attract Sections 3(1)(r), 3(1)(s) of the said Act. This is a settled proposition of law which is once again being reiterated by the Hon'ble Supreme Court in the case of *Karuppudayar v. State*, reported in *2025 SCC OnLine SC 215*, that the place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where the members of the public are not present, then it cannot be said that it has taken place at a place within public view.

6. The Hon'ble Supreme Court came to the above decision on the basis of the earlier decision of the Court in the case of *Swaran Singh v. State*, reported in *(2008) 8 SCC 435*, and *Hitesh Verma v. State of Uttarakhand*, reported in *(2020) 10 SCC 710*. Paragraph 14 of *Hitesh Verma* (supra) was quoted with approval in *Karuppudayar* (supra).

7. This Court is tempted to quote the said paragraph herein below:

“14. Another key ingredient of the provision is insult or intimidation in “any place within public



view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building i.e., in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends), then it would not be an offence since it is not in the public view.”



8. It is alleged in the instant case that an ex-MLA of BJP uttered abusive language against the private respondent/informant over the phone. It is not stated in the FIR with whom the said ex-MLA was talking. It is also stated in the FIR that who made the video clip viral. Thus, the maker of the intimidating narration has not been made an accused; on the contrary, the person to whom such a statement was allegedly made has been made an FIR-named accused.

9. This Court is of the considered view that against the present petitioner, no offence under Section 3(1)(r)(s) can be attributed, as he is not the maker of the statement, and it was not made within public view.

10. For the reasons stated above, the FIR instituted against the petitioner is liable to be quashed; accordingly, the FIR being Kalyanpur P.S. Case No. 219/2022 is quashed. The instant writ petition is thus allowed on contest.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
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