

Arising Out of PS. Case No.-1190 Year-2019 Thana- COMPLAINT CASE District- Jamui

- Appellant/s

Versus

- ... Respondent/s

For the Appellant/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

6 18-03-2025 Heard Mr. Sanjay Kumar, learned counsel for the
appellant and Mr. Sadanand Paswan, learned Spl. PP
representing the State.

2. The present appeal has been preferred:-

“for setting aside the order dated 07-05-2024 passed in SC/ST Case No. 211/2019 by the learned Additional Sessions Judge 1st Jamui



whereby and whereunder discharge petition filed by the appellants was rejected and further date for framing of charge has been fixed.”

3. As per the prosecution story, the informant alleged that he was to solemnize the marriage of his daughter and thus wanted to transfer his land. The appellant nos. 1 and 3 herein came and informed that they want to install a petrol pump and thus needed the land of the respondent no.2. The amount for 96.5 Decimal was fixed as Rs. 22 Lakhs to be paid through bank cheques. Accepting the words of the accused persons, the land was executed in the name of appellant no.2, the wife of the appellant no.1 as also the appellant no.3. Though, he was not given the true consideration amount in the deed, it was recorded that he has received the entire amount. Two cheques were issued by the appellant no.1 on 25.01.2019 and 25.03.2019 for Rs. 9 Lakhs and Rs. 8 Lakhs respectively which bounced. Upon confronting, he was abused, caste name. Left with no alternative, the complaint.

4. The court concerned considered the matter and having recorded the version of the complainant took cognizance on 05.12.2019 and summons issued thereafter.

5. The appellants belatedly preferred discharge



petition which came to be rejected on 07.05.2024 by a reasoned order in which the learned court has recorded the entire facts for rejecting the said petition.

6. Aggrieved, the present appeal.

7. It is the case of the appellant that the respondent no.2 executed his land in their favour of appellant nos. 2 and 3 at the behest of appellant no.1 and entire amount was paid which reflects from the sale deed itself. Further, as he wanted increased price of the land, the two cheques were issued and in case of its bouncing, he should have resorted to the Negotiable Instrument Act instead of incorporating the same in the present case. The last submission is that when the foundation of non-issuance of notice in case of bouncing of cheque is there, the court should not have taken cognizance/rejected the discharge petition.

8. Mr. Sadanand Paswan, learned Spl. PP representing the State, according to him, the appellants are trying to separate the issues in different categories, the fact remains that for want of money to solemnize the marriage of his daughter, the respondent no.2 negotiated with the appellant nos.1 and 3 who wanted to install a petrol pump. He being illiterate accepting the words and executed the sale deed but he was not provided the



amount which later did by issuing two cheques of Rs. 9 Lakhs and Rs. 8 Lakhs as recorded above.

9. Further submission is that this clearly reflects that the story of the respondent no.2 is correct as they issued two cheques for the consideration amount of the land which they ensured not to be encashed. In that background, when the case is of cheating the person concerned by getting the land transferred without making payment, upon confrontation, he was not only abused by taking caste name but was also assaulted. Thus, the entire story cannot be separated, in that background, his submission is that both the cognizance order as also the order rejecting the discharge petition needs no interference.

10. Having heard the parties and perusing the record, the submissions put forward by learned Special PP is worth consideration. The uncontroverted fact remains that the land belonged to the respondent no.2, the appellants wanted installation of a petrol pump, the transfer of land took place, the appellants issued cheques, it bounced, in that background, the respondent no.2 approached them. Instead, he received abuse/assault as also taking caste name. Considering all the facts, the learned Trial Court in the year 2019 itself took cognizance of the matter and five years later rejected the



discharge petition.

11. In that background, it would be appropriate that the appellants face trial, both the order dated 05.12.2019 taken cognizance and 07.05.2024 by which discharge petition rejected need no interference.

12. Accordingly, the appeal stands dismissed.

13. The interim protection granted to appellants stand vacated.

14. Office to communicate the order to the learned Trial Court.

(Rajiv Roy, J)

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