

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3984 of 2024

Arising Out of PS. Case No.-22 Year-2014 Thana- RIVILGANJ District- Saran

-
1. Chandraket Singh Son of Late Ram Pujan Singh Village- Khairwar, P.S. -Revilganj, Dist.-Saran
 2. Bhuneshwar Singh Son of Late Ram Pujan Singh Village- Khairawar, P.S. -Revilganj, Dist.-Saran
 3. Prabhunath Singh Son of Ramkhatin Singh Village- Khairawar, P.S. -Revilganj, Dist.-Saran
 4. Pintu Kumar Singh Son of Late Lallan Singh Village- Khairawar, P.S. -Revilganj, Dist.-Saran
 5. Rahul Kumar Singh Son of Chandra Shekhar Singh Village- Khairawar, P.S. -Revilganj, Dist.-Saran
 6. Rohit @ Gogal Kumar Singh @ Rohit Kumar Singh Son of Chandra Shekhar Singh Village- Khairawar, P.S. -Revilganj, Dist.-Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Vijay Kumar Ram Son of Lakhi Chandra Ram Village- Khairwar, P.O. and P.S. -Revilganj, Dist.-Saran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs. Archana Sinha, Sr. Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.P.P.
For the Informant	:	Mr. Tej Pratap Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 15-02-2025 Learned counsel for the appellant undertakes to remove the defect(s).

2. Heard Mrs. Archana Sinha, learned Senior counsel for the appellant duly assisted by Ms. Komal and Mr. Tej Pratap Singh representing the informant as also Mr. Sadanand Paswan, learned Spl.P.P. representing the State.

3. The present appeal has been preferred for:

“setting aside the cognizance order dated



17.04.2017 passed by learned A.D.J-III, SC/ST Special Court Saran at Chapra by which the cognizance has been taken under Section 147/148/323/325 of the Indian Penal Code (henceforth for short 'the I.P.C.') and under Section 3(1)(x) of SC/ST Act in Revilganj P.S. Case No. 22 of 2014."

4. With the consent of the parties, both the appeal as well as Interlocutory application are taken up for final hearing.

5. As per the prosecution story, the informant alleged that he owns a certain land and when he went to harvest the crop, the appellants came, armed variously and assaulted them. They also abused and took the caste name. This led to recording of the *fardbayan* on 09.03.2014 at Emergency Ward, Sadar Hospital, Saran and the FIR lodged as Saran (Rivilganj) P.S. Case No. 22/2024 dated 13.03.2014 under Section 147/148/323/325 of 'the I.P.C.', under Section 3(1)(x) of SC/ST Act and 27 of the Arms Act.

6. Subsequently, cognizance was taken in the matter on 17.04.2017 whereafter the appellants journey to Patna High Court started with the filing of the Cr. Writ Jurisdiction Case No. 473 of 2017 which was dismissed on 13.02.2024



(Annexure-1 to the petition).

7. Later, the present appeal has been filed for setting aside the cognizance order dated 17.04.2017 passed by the Court of learned A.D.J-III, SC/ST Special Court, Saran at Chapra.

8. It is the case of the appellants as submitted by learned Senior counsel that there is admittedly, land dispute between the parties in which, there is counter-case. Also, the same being earlier to the present case being Rivelganj P.S. Case No. 21 of 2014.

9. According to her, 144 Cr.P.C. was also initiated with respect to the land in question and presently, a Title Suit No. 824 of 2013 is pending before a competent Court. It is her submission that only as an afterthought and to put pressure on the appellants, the present case, in which interference is required.

10. Learned Senior counsel further submits that when there is a civil dispute, even the Hon'ble Apex Court has held that "*the criminal proceeding in such cases is an abuse of the process of law*".

11. In support of the said submission, she has produced a un-reported Judgment of the Hon'ble Apex Court in



the case of **B. Venkateswaran & Ors. vs. P. Bakthavatchalam** in **Cr. Appeal No. 1555 of 2022** with specific reference to paragraph-3 which reads as follows:

3. We have heard Shri Nagamuthu, learned senior counsel for the appellants – original accused and the respondent appearing in person. We have also gone through the complaint and considered the allegations in the complaint made against the accused. Having considered the allegations in the complaint and the material on record, it appears that initiation of the criminal proceedings by the respondent against the appellants – original accused for the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is nothing but an abuse of process of law and the court and also provision of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. It appears that a private dispute was going on between the parties with respect to the illegal construction. As per the allegations in the complaint, the original complainant had purchased the vacant land and constructed the building. It is alleged that adjacent to his house and on the common pathway, the accused have unlawfully encroached upon the pathway and started constructing the temple and thereby have put



up illegal construction on his water pipeline, sewage pipeline and EB Cable. In the entire complaint, there are no allegations that the complainant is obstructed and / or interfered with enjoyment of his right on his property deliberately and willfully knowing that complainant belongs to SC/ST. From the material on record, it appears that a civil dispute is converted into criminal dispute and that too for the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Prior to filing of the complaint, it appears that the temple was already in existence since many years. The complainant, who resides adjacent to the temple, filed WP No. 1272 of 2007 before the Madras High Court. Pursuant to the order passed by the High Court, the Commissioner of Corporation, Chennai conducted the inspection and found that there was absolutely no encroachment by the temple. It appears that thereafter the complainant filed another Writ Petition No. 30326 of 2013 before the Madras High Court. The High Court directed the official respondent to proceed with the inquiry against both the parties. At this stage, it is required to be noted that it was the case on behalf of the original accused that in fact complainant had violated all building norms and had constructed a building in blatant violation of



the set-back rules and had also put-up unauthorized construction on the ground floor and first floor. That thereafter, the Temple filed writ petition being No.3322 of 2017 before the High Court. The Division Bench of the High Court vide order dated 10.2.2017 stayed the proceedings against temple. It appears that thereafter the complainant filed a private complaint for the aforesaid offences under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. From the aforesaid, it seems that the private civil dispute between the parties is converted into criminal proceedings. Initiation of the criminal proceedings for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, therefore, is nothing but an abuse of process of law and Court. From the material on record, we are satisfied that no case for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, even prima facie. None of the ingredients of Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out and/ or satisfied. Therefore, we are of the firm opinion and view that in the facts and circumstances of the case, the High Court ought to have



quashed the criminal proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure. The impugned judgment and order passed by the High Court, therefore, is unsustainable and the same deserves to be quashed and set aside and the criminal proceedings initiated against the appellants deserves to be quashed and set aside.

12. She submits that in that background, the appeal is fit to be allowed and the cognizance order dated 17.04.2017 be set aside.

13. Mr. Tej Pratap Singh representing the informant has taken this Court to the FIR to show that the same has been recorded in the Emergency Ward of the Sadar Hospital, Saran. He submits that a perusal of the FIR would show that the accused-appellants not only assaulted the informant but also took the caste name, the injured was rushed to the Hospital where the Police recorded the *fardbayan*.

14. He submits that the *fardbayan* was recorded on 09.03.2014 but deliberately and to put pressure, firstly, the appellants case was lodged as Rivelganj P.S. Case No. 21 of 2014 whereafter only, the present case was lodged.

15. So far as the order of the **Hon'ble Apex Court in B. Venkateswaran & Ors. (supra)** is concerned, he has taken



this Court to the facts of the case where for a dispute regarding to the Temple, the allegation was that the informant was criminally intimidated, he submits that the said case in no way is applicable in the present case where an assault theory is incorporated.

16. Learned Spl.P.P. also echoes the submissions put forwarded by the learned counsel for the informant and submits that *prima facie*, case has been made out and having been satisfied, the cognizance order.

17. Having heard the parties and perusing the record, this Court is in full conformity with the submissions put forwarded by the learned counsel for the informant/learned Spl.P.P.

18. The case and counter-case itself signifies that an occurrence took place. Both sides have their different versions, this Court cannot ignore that and so far as the present case is concerned, the same was recorded by the Police in the Emergency Ward, Sadar Hospital, Saran. In that background, the Court concerned having taken a look of the FIR as also the investigation that took place and charge-sheet submitted thereafter, rightly was pleased to took cognizance on 17.04.2017.



19. So far as the order of the **Hon’ble Apex Court in B. Venkateswaran & Ors. (supra)** is concerned, learned counsel for the informant has rightly pointed out that the story of both the cases are entirely different. Each case has different facts and circumstances which has to be looked into to see whether any order of Hon’ble Supreme Court or High Court is applicable in the particular case or not. Unlike the said case, in which there was allegation of criminal intimidation, in the present case, assault theory is there and the appellants have also lodged a counter-case and as such, they cannot deny that no occurrence took place.

20. In that background, this Court having distinguished the present case with that of the case as enumerated by the learned counsel for the appellants in **B. Venkateswaran & Ors. (supra)**, is of the opinion that no relief can be extended to them.

21. Both the appeal as also the Interlocutory Application stand dismissed.

(Rajiv Roy, J)

Adnan/-

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

