

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3622 of 2022

Arising Out of PS. Case No.-175 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. Ram Narayan Yadav, Son of Late Raghuni Yadav, Resident of Village And P.O.- Jhajhara, P.S.- Kusheshwar Asthan, District- Darbhanga
 2. Shiv Narayan Yadav, Son Of Late Meghu Yadav, Resident of Bhairso, P.S.- Singhiya, District- Samastipur
 3. Dinesh Yadav, Son of Debu Yadav, Resident of Village- Dhatta, P.S.- Rosera, District- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Lila Devi, Wife of Ranjit Pasman, Resident of Village- Dhanho, Tole Bangthaiya, P.S.- Singhiya, District- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mrs. Shama Sinha, Advocate
For the State : Mrs. Usha Kumari No.1, Special P.P.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 08-08-2025

Heard Mrs. Shama Sinha, learned counsel appearing for the appellants and Mrs. Usha Kumari No.1, learned APP for the State.

2. The instant criminal appeal has been filed under Section 14A(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the 'SC/ST (POA) Act') against the order dated 17.09.2019 passed by the court of the learned Special Judge (SC/ST Act), Samastipur, in Complaint Case C.R. No. 175 of 2019, whereby



the learned trial court has taken cognizance of the offences punishable under Sections 323, 341, and 354(B) of the Indian Penal Code (hereinafter referred to as the 'IPC') and also under Sections 3(1)(s), 3(1)(r), and 3(1)(w) of the SC/ST (POA) Act against the appellants and others.

3. Mrs. Shama Sinha, learned counsel appearing for the appellants, submits that the order of cognizance, which is impugned herein, was passed on 17.09.2019, thereafter, summons in compliance with that order were issued on 28.06.2022, and subsequently, this Court stayed the further proceedings in connection with Complaint Case C.R. No. 175 of 2019 vide order dated 29.01.2024. It is submitted by the appellants' counsel that respondent No. 2 filed her complaint against five persons, including the appellants, and in the entire complaint, she has not attributed any specific role to the appellants in the commission of the alleged abuse and assault upon her. Though she has made specific allegations against the co-accused, Dharmendra Jha and Kalpana Jha, revealing their distinct roles in the commission of the alleged occurrence, but the allegations levelled against the present appellants are entirely general and omnibus in nature. Respondent No. 2 has admitted that a civil dispute is ongoing between her and accused Dharmendra Jha regarding the transfer



of a particular piece of land through a registered instrument, for which, according to her, she had paid some earnest money. If the averments made in the complaint are taken into account, it is clearly evident that she has filed her criminal complaint mainly to settle a civil dispute as well as personal score and has invoked the provisions of the SC/ST (POA) Act by alleging offences under the said Act with the intention of harassing the appellants. In support of this submission, learned counsel has placed reliance upon the judgment of the Hon'ble Apex Court passed in the case of ***Konde Nageshwar Rao vs. A. Srirama Chandra Murty and Another*** reported in ***2025 SCC OnLine SC 1499*** and she has referred to paragraph Nos. 23, 24, and 25 of the said judgment, which are reproduced as under:

“ 23. In *Masumsha Hasanasha Musalman v. State of Maharashtra*¹, this Court has emphasized that merely because the complainant belongs to the Scheduled Castes or Scheduled Tribes cannot be the sole ground for prosecution. The offences alleged must have been committed solely on the basis of the victim's caste status. Misuse of the statute to settle personal scores or to harass individuals cannot be permitted if it is apparent. The Court should in such situation be not hesitant to step in and stop the said misuse. Prosecution needs to be quashed at an early stage to prevent undue harassment of the accused where there is clear legal infirmity in the prosecution case, such as the allegations, even if taken at their face value, do



not disclose an offence or the entire case is a bad faith exercise weaponized to settle personal scores, rather than seeking justice (*Ravinder Singh v. Sukhbir Singh*²).

24. This court in *Dr. Subhash Kashinath Mahajan v. State of Maharashtra*³ had also observed that there has been an alarming increase in false complaints under the SC/ST Act, particularly against public servants and judicial officers with an oblique motive to settle personal scores or to harass individuals. Such acts cannot be allowed to be perpetuated and need to be stopped at the very outset so that there is no miscarriage of justice.

25. The observations and conclusions arrived at by the High Court are based upon the proper appreciation of the pleadings, the correct reading and application of law and thus, cannot be faulted with. The impugned order dated 15.10.2014 as passed by the High Court being in accordance with law does not call for any interference.”

4. No one is present on behalf of respondent No. 2, while Mrs. Usha Kumari No.1, learned Special P.P. for the State, appears on behalf of the State and has opposed this appeal.

5. Heard both sides, perused the impugned order as well as the complaint petition of respondent no. 2, her S.A., and the statements of the enquiry witnesses. In this appeal, the appellants have challenged the order dated 17.09.2019 passed by the court of the learned Special Judge, SC/ST Act, Samastipur, in Complaint Case C.R. No. 175 of 2019.



6. When a complaint is filed, the cognizance-taking court has to examine the complainant and any present witness on oath if the court proceeds on the complaint. After the examination of the complainant and any of his/her witnesses, it is only to be looked into whether the allegations levelled in the complaint establish a *prima facie* case of an offence for issuing process or not. Though this power conferred upon the Magistrates or Special Court is a discretionary power but while exercising such power, it should be kept in mind that the person who is to be summoned for an offence will have to face the trial of the alleged offence/offences for a long time, which often takes several years to be completed. Therefore, some alertness is required on the part of the cognizance-taking court while exercising the said power conferred under B.N.S.S. or any Special Act. Such alertness is more necessary when there is constant misuse of the penal provisions of a Special Act like the SC/ST Act.

6.1. While dealing with the cases relating to offences punishable under the SC/ST Act, we often come across failure of prosecution resulting in acquittals, discharges, or quashings of such criminal proceedings. Though while taking cognizance, the materials available before the court are required to be looked into only to the extent of finding whether from the alleged act the commission of an offence is *prima facie* attracted or not, however,



some brief reasons for justifying the taking of cognizance must be mentioned in the cognizance order.

6.2. Keeping in mind the misuse of the penal provisions of the SC/ST Act, in my opinion, the following circumstances should be taken into consideration which may help in passing a justifiable order of cognizance so that an innocent person can be saved from harassment, mental agony, litigation costs, and social stigma meeting to him during the course of trial relating to an offence of which commission has been alleged with *malafide* intention or revengeful attitude or to settle personal score or civil dispute :

(i) When a complaint is filed, it should be looked into whether the complainant had reasonably tried to approach the police or any competent authority for taking legal action in respect of the alleged cognizable offences, if he/she had sufficient time for the same. If no reasonable effort was taken to approach the police or any competent authority without any explanation then it may be taken against the complainant to some extent.

(ii) If an allegation of physical assault causing injuries, in addition to the allegation of abusing on caste basis, is made, then it should be seen whether there is any medical evidence in support of the alleged physical assault or not. If the aggrieved party states that he/she was not examined by a doctor, then reasonable reasons for the same should be provided.



(iii) When an offence punishable under the SC/ST Act is alleged to have been committed at a public place in full public view, and the complainant fails to provide the details of any independent person belonging to a caste other than Scheduled Caste/Scheduled Tribe in his/her complaint, then reasons for the same should be given. If the complainant fails to provide such reasons then the cognizance-taking court should ask the complainant relevant questions under Section 168 of the Bharatiya Sakshya Adhiniyam (in short ‘ B.S.A.’) regarding the existence of such reasonable reasons.

(iv) When there is past enmity between the complainant and the proposed accused, either due to a land dispute or otherwise, then greater care is required on the part of the cognizance-taking court to ascertain whether the complainant has filed the complaint to settle his/her personal score or to create pressure upon the other side to settle the civil dispute which was admittedly ongoing between both parties on the date of the alleged occurrence. In this regard, the narration of the prosecution story in the complaint, surrounding facts and circumstances of the occurrence, the independency of the witnesses, and the details of supporting evidence in the complaint may be taken into consideration. If these materials are not sufficient to reach a proper conclusion for taking



cognizance of the alleged offence, then the power conferred under Section 168 of the B.S.A. should be exercised.

(v) When an offence punishable under the SC/ST Act is investigated by a competent police officer and after investigation he concludes that the allegation is false and accordingly submits a final report in favour of the accused without sending him up for trial, and thereafter, if a protest petition is filed by the informant and the same is converted into a complaint by the trial court, and the trial court proceeds with the complaint, then, though at the time of passing the order on the point of cognizance the trial court is mainly bound by the complaint, the complainant's statement (S.A.), and the statements of the enquiry witnesses, if any, however it should still be kept in mind as an assisting one of the factors that the police did not find substance in the allegations levelled by the informant/complainant in his FIR unless a prejudicial approach on the part of the investigating officer during the investigation is demonstrated by the complainant. Such an approach may assist the cognizance taking court in passing a justifiable order on the point of cognizance, particularly in cases involving offences under the SC/ST Act.

7. The Hon'ble Apex Court, in the case of *Masumsha Hasanasha Musalman vs. State of Maharashtra*, reported in (2000) 3 SCC 557, observed that merely because the complainant



belongs to the Scheduled Caste or Scheduled Tribe cannot be the sole ground for prosecution. It should be kept in mind that the offences alleged must have been committed solely on the basis of the victim's caste status. Misuse of the statute to settle personal scores or to harass individuals cannot be permitted if it is apparent.

8. Further, in the case of ***Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and Another***, reported in ***(2018) 6 SCC 454***, the Hon'ble Apex Court observed that there has been an alarming increase in false complaints under the SC/ST Act, particularly against public servants and Judicial Officers, with the oblique motive of settling personal scores or harassing individuals. Such acts cannot be allowed to be perpetuated and must be curbed at the very outset so that there is no miscarriage of justice. These principles have been reiterated by the Hon'ble Apex Court in the recent case of ***Konde Nageshwar Rao (Supra)***.

8.1. The aforesaid principles must be kept in mind while taking cognizance of the offences punishable under the SC/ST Act.

9. Now, I come to the present matter. From a bare perusal of the complaint of respondent no. 2, it is clearly evident that there is no specific allegation against the appellants with regard to the commission of the alleged occurrence, particularly in respect of the the allegation of abusing the respondent no. 2 by calling her caste name and also of assault. Further, it appears that there is a civil



dispute between respondent no. 2 and co-accused Dharmendra Jha and Kalpana Jha regarding the transfer of a particular piece of land through a registered instrument. The alleged occurrence is said to have been committed at a public place, i.e., west of Pansalla Chowk near Bhanwra, during the daytime. Despite this, the complainant/respondent no. 2 has not provided the details of any independent person belonging to a caste other than Scheduled Caste/Scheduled Tribe as having witnessed the occurrence. Though the names of three persons belonging to the Scheduled Caste have been mentioned in the complaint as witnesses, they have been included in a completely formal manner, in the complaint, without justifying the reasons of their presence at the alleged place of occurrence. Furthermore, in the narration of the prosecution story, the complainant remained silent about the presence of the said witnesses as well as their witnessing of the occurrence. These circumstances create a serious doubt about the *bona-fides* of the allegations levelled by the complainant in her complaint against the appellants. The aforesaid circumstances suggest that the complainant filed her complaint only with a view to settle her civil dispute, which was ongoing between her and co-accused Dharmendra Jha and Kalpana Jha at the time of the alleged occurrence. Furthermore, in the impugned order, the learned trial court did not mention any reason for taking cognizance of the



alleged offences against the appellants. It is clearly evident that the said order was passed in a mechanical manner, without applying judicial mind. If, in the aforesaid circumstances, the appellants are subjected to face trial for the alleged offences, then it would amount to a complete abuse of the process of the court. Therefore, I find substance in this appeal, and the impugned order taking cognizance of the alleged offences is not sustainable with respect to the appellants. Accordingly, to that extent, it stands set aside, and the present appeal stands allowed.

(Shailendra Singh, J)

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AFR/NAFR	AFR
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