

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3899 of 2019

Arising Out of PS. Case No.-286 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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SUNIL KUMAR Son of Late Hari Shankar Prasad Resident of Village-
Vishunpur Patti, P.S.- Sahebganj, District- Muzaffarpur, presently residing at
in the Campus of Head Office, Patna Zila Khadi Gramodhyog Sangh,
Muradpur, Patna- 800001.

... .. Appellant/s

Versus

1. The State of Bihar
2. Chitranjan Ravidas Son of Late Chaitu Ravidas Resident of Village-
Bhakhari, P.S.- Dhanarua, District- Patna, presently residing a the Branch of
Patna Zila Khadi Gramodhyog Sangh, Sadar Bazar, Danapur Cant, P.S.-
Danapur, District- Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Vinay Kumar Mishra
For the Respondent/s	:	Mr.Sadanand Paswan
For the Respondent No. 2 :		Mr. Vinod Murari Mishra

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 07-01-2025 Heard learned counsel for the appellant and learned

Special Public Prosecutor for the SC/ST Act as well as learned

counsel for the Respondent No. 2.

2. The present application has been filed against the

Order dated 16.07.2019 passed by Additional Session Judge-
XIII-cum-SC/ST Patna in Special Case No. 286 of 2017 by
which the application preferred by the appellant under section
227 of Cr. P.C seeking discharge was rejected.

3. The prosecution case in brief is that one Chitranjan
Ravidas son of Late Chaitu Ravidas filed a complaint case in the
court of special Judge, Patna vide Special (Complaint) case no.



286 of 2017 alleging therein that the complainant is Manager of Patna Zila Khadi Gramodhyog Sangh, Sadar Bazar Branch, Danapur and on 05.03.2017 at 05:00 PM and on 06.04.2017 at 04:00 PM while he was in his shop, the accused persons entered into the shop and demanded Rs 13000/- as *Rangdari* and the complainant when refused and asked as to why he should give money of *Sangh* to the accused persons, the accused Sunil Kumar hurled caste-based abuses and also instigated other accused persons to hit the complainant. It is further alleged that all accused persons indiscriminately assaulted the complainant with leg, fists and slaps and the accused Sunil Kumar took out Rs 5000/- from the pocket of the complainant. It is further alleged that the accused Lalan Kumar Mishra also abused by calling caste name and snatched the wrist watch worth Rs. 1500/- from the complainant which was witnessed by the witnesses. It has further been alleged that earlier also Sunil Kumar had taken Rs. 10,000/- as *Rangdari* and further that it is also been alleged that accused persons have committed such type of offence on multiple occasions at Khadi Store and have threatened the complainant to give Rs.10,000/- per month as *Rangdari*.

4. Learned counsel for the appellant submits that after



institution of the said complaint case the complainant was examined on S/A under section 200 Cr. P.C and two witnesses were produced by the complainant namely (1) Laxmi Devi wife of Complainant and (2) Pankaj Kuamr, posted at Dakbunglow Centre of the *Sangh* working as Manager and who was running the Dakbunglow centre on the alleged date and time of the occurrence.

5. The Learned Counsel for the appellant submits that under the Chairmanship of Khadi Village Industries Commission, Patna a meeting was held on 24.05.2017 in order to resolve the ongoing disputes among the organization, in which the complainants along with other concerned persons of Patna Zila Khadi Gramodhyog Sangh had participated. The learned counsel submits that in the aforesaid meeting the complainant had given in writing that he would withdraw all the cases instituted by him against the appellant.

6. It is further submitted on behalf of the appellant that in the background of this prevailing grudge and enmity between the complainant and appellant an Information Petition bearing No. 899 of 2017 under section 39 of Cr.P.C. had been filed in the Court of Chief Judicial Magistrate, Patna by one Lalan Kumar Mishra.



7. The Learned counsel has also submitted that the correct factual position is that the appellant is the then Chairman of the Patna Zila Khadi Gramodyog Sangh. The learned counsel has also submitted that Lalan Kumar Mishra was the member of *Niyamak Mandal* and Manager of Muradpur Branch and at present Secretary of the Sangh; Umakant Thakur was the Member of the Niyamak Mandal of the Sangh and Manager of Barh Branch, Patna and Lalan Prasad was the Member of the Niyamak Mandal. Therefore, it is submitted that all are members as well as office bearers of the Patna Zila Khadi Gramodhyog Sangh.

8. The learned counsel for the appellant has pointed out that the genesis of the present case is that appellant, Sunil Kumar, who was the then Chairman of the *Sangh*, wrote a letter on the demand of certain members and workers to call a meeting which was ignored by the then Secretary, Ram Vinod Chaubey. Therefore upon consistent demand of workers an emergency meeting was called by the appellant, wherein the then secretary Ram Vinod Chaubey being in minority created a faction, which was supported by the complainant and one of the witness namely Pankaj Kumar. However in the aforesaid Emergency meeting, co-accused Lalan Kumar Mishra was



nominated as the Secretary, Executive Committee which was confirmed on 17.03.2017 in the meeting of Niyamak Mandal of the Sangh. The learned counsel submits that in the meantime on 16.03.2017 Sri Ram Vinod Chaubey in collusion with others including the complainant illegally declared himself as the Secretary and one Parikhan Paswan as Chairman without fulfilling the coram of the meeting.

9. Therefore the thrust of the argument advanced by the learned counsel for the appellant is that the organization had become a ring of political boxing and infighting, further that there are two factions in the Patna Zila Khadi Gramodhyag Sangh and the present Complainant belongs to the supposedly minority 'Ram Binod Chaubey' faction. The learned counsel further submits that since this faction is in minority therefore even after multiple notices, the then Mantri (Secretary) Ram Binod Chaubey had failed to organize any meeting of the Niyamak Mandal for last one year which is contrary to the rules.

10. Learned counsel for the appellant further submits that on 16.02.2017, 28.02.2017 and 03.03.2017 letters were sent from Adhyaksha (Sunil Kumar, the appellant) of the Sangh to organize a meeting of Niyamak Mandal but no heed was paid by the then secretary. Thereafter on 08.03.2017 members of



Niyamak Mandal and workers of Sangh organized an emergency meeting and sacked Ram Binod Chaubey from the post of Mantri and Lalan Kumar Mishra was appointed as "*Karyakari Mantri*" and the appellant no. 1 was appointed as "*Adhyaksha*" by Niyamak Mandal.

11. On 18.03.2017 *Mantri* Lalan Kumar Mishra co-accused sent a show cause letter vide letter No. 242 and 243 to the complainant and C.W-2 including others that in the light of decision taken by "Niyamak Mandal" to show cause as to why the membership should not be cancelled on account of lending support to sack *Mantri* of the *Sangh*, Ram Binod Chaubey.

12. Learned counsel for the appellant further submits that the faction led by Ram Binod Chaubey of which complainant and the C.W. 2 are active members, had instituted the present complaint case under Special Act and also lodged one F.I.R against the appellant Sunil Kumar and other members of *Sangh* vide Kadamkuan P.S Case No. 136 of 2017 by Parikhan Paswan with a view to harass and humiliate the appellants, i.e., the members of the Niyamak Mandal and workers of the Sangh.

13. The learned counsel for the appellant has vehemently argued that the present case is a gross abuse of the



process of law, instituted with the intention to harass and intimidate the office bearers of the Sangh, the learned Counsel further draws strength to support the argument by drawing attention of this Court to the enquiry conducted on the application preferred by the newly elected Mantri and co-accused Lalan Kumar Mishra and others to S.S.P., Patna, upon which an enquiry was conducted by the A.S.I of Pirbahore P.S. In the Report dated 30.06.2017 it was clearly mentioned that Ram Binod Chaubey and members of the group/fraction do not want to run the Sangh peacefully by following the directives of the institution and further it was emphasized that the present complainant and Parikhan Paswan has already accepted to withdraw cases.

14. It is argued that the learned Special Judge had failed to appreciate that the complainant and accused persons are at loggerheads due to groupism and factionalism in the Sangh and present complaint is nothing but an outcome of the political rivalry between factions.

15. Learned counsel for the appellant further argued that though the alleged offence has occurred in broad day light during the working hours, but not a single independent witness had come forward to support the case of the complainant and



the witnesses who have come forward to support are themselves interested witnesses. The C.W I is the wife of the complainant and the C.W.2 is the Manager of Dakbunglow Centre and his presence at the place of occurrence at Danapur is itself doubtful.

17. Learned counsel for the appellant lastly submitted that the present complaint case is merely an outcome of groupism, factionalism and infighting among the members and office bearers of the Sangh.

18. Learned Special P.P. and the learned counsel for the Respondent No. 2 have supported the prosecution case and have argued that this is not a fit case for discharge.

19. I have considered the submissions of the parties.

20. From the reading of the complaint, it appears that a private dispute is being given the colour of a criminal case and that too under the SC/ST Act.

21. From the allegations levelled in the complaint, it appears that the accused persons and the appellant and the Respondent No. 2 are members of two different factions and they are at loggerheads. The earlier enmity between the complainant and the accused due to factionalism and infighting in the Sangh appears to be the root cause. Further the incident as alleged took place during the broad daylight during the



working/business hours and not even one independent witness has come forward to corroborate the allegations. It therefore could not be established that the incident as alleged took place with an intention that the victim belongs to the Scheduled Caste category. Even from the reading of the complaint it did not reveal any intention to humiliate on the basis of caste or that caste had any direct nexus with the alleged assault. It is settled law that when the basic ingredients of the offences are itself missing, then permitting such a complaint to continue and compel the appellant to face criminal trial would be totally unjustified and lead to blatant abuse of the process of law. The Law cannot be used an instrument to wreak vengeance or harass or intimidate. The actions as alleged in the complaint fail to bring out the intent to humiliate a member of the Scheduled caste or Scheduled Tribe by a member of non-Scheduled caste and non-scheduled tribe. The grounds for proceeding against the accused must be based on relevant material and the Court should be satisfied that the accusation is not frivolous.

22. From the reading of the complaint, it appears that it is a *malafide* prosecution launched by the Respondent No. 2 and in view of the law laid down by the Hon'ble Supreme Court in the case of State of *Haryana Vs. Bhajan Lal reported in*



1992 Supp(1) SCC 335, such *malafide* prosecution cannot be permitted to continue.

23. In view of the above, this application is allowed.

24. Accordingly, the order dated 16.07.2019 passed by Additional Session Judge-XIII Cum SC/ST Patna in Special Case No. 286 of 2017 is quashed.

(Sandeep Kumar, J)

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