

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4389 of 2024

Arising Out of PS. Case No.-105 Year-2017 Thana- SC/ST District- East Champaran

=====

Arun Singh Son of Late Mohan Singh village - Bithuna, Police Station -
Basantpur, District - Siwan

... .. Appellant

Versus

The State of Bihar

... .. Respondent

=====

Appearance :

For the Appellant	:	Mr. Parijat Saurav, Advocate
For the Respondent	:	Mr. Sarvesh Kashyap, Advocate
		Mr. Deepak Kumar, Advocate
		Ms. Kumari Aakansha Rai, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 19-09-2025

Heard both sides.

2. The present appeal is being filed on behalf of the appellant against the order dated 09.07.2024 passed in SC & ST Trial No. 337/2021 (arising out of Motihari SC/ST P.S Case No. 105 of 2017) passed by the learned Special Judge, SC/ST Act, East Champaran, Motihari, whereby the application of the appellant filed under Section 228 Cr.P.C has been rejected by the trial court.

3. The prosecution story, in brief, is that informant agreed to purchase land from the appellant for a sum of Rs. 20,000,00/- (Twenty Lakh). Reposing faith upon the appellant, informant paid Rs. 15,000,00/- (Fifteen Lakh) on 10.02.2017 and agreed to pay remaining amount of Rs. 5,000,00/- (Five



Lakh) at time of execution of the sale deed which was agreed for 10.03.2017. The appellant evaded to execute the sale deed. When informant asked for return of his money, the appellant gave post dated cheque but the same got dishonored. Informant sent legal notice but no reply was given. On 31.08.2017, appellant along with five others surrounded the informant near Hawai Adda Chowk, abused informant by caste remarks and threw spit upon him. On raising alarm, several persons came and witnessed that in public place and in public view informant has been humiliated by his caste name.

4 (i). Learned counsel for the appellant has submitted that, *prima facie*, no case under Section 3(1)(r)(s) of SC/ ST is made out against the appellant, as the informant has misused the privilege of special law. Learned counsel has argued that the concerned court has failed to appreciate that no case under the provisions of the SC/ST Act is made out against the appellant, as the allegations are exaggerated, the dispute is primarily of civil or private in nature, and the alleged offence was not committed on account of the caste of the informant. Learned counsel for the appellant submits that he has only limited grievance that the present case falls within the jurisdiction of the Magistrate and same does not fall under the ambit of SC/ST Act.



Learned counsel of the appellant has relied that provisions of the SC/ST Act has been misused and the appellant has falsely been implicated in the case.

4 (ii). In support of his submissions, learned counsel for the appellant has placed reliance upon the few judgments of the Hon'ble Supreme Court which are as follows:-

Hitesh Verma Vs. State of Uttarakhand and Another reported in ***(2020) 10 SCC 710***, relevant paragraphs are as under:-

16. There is a dispute about the possession of the land which is the subject matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

17. In another judgment reported as Khuman Singh v. State of M.P reported in (2020) 18 SCC 763: 2019 SCC OnLine SC 1104, this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the



deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2) (v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar" Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste



unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. This Court in a judgment reported as Subhash Kashinath Mahajan v. State of Maharashtra reported in (2018) 6 SCC 454: (2018) 3 SCC (Cri) 124 issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as Union of India v. State of Maharashtra (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686 of Maharashtra reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under: (Union of India case, SCC p. 797, para 52)

"52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the



members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC.

22. The appellant had sought quashing of the charge-sheet on the ground that the allegation does not make out an offence under the Act against the appellant merely because Respondent 2 was a Scheduled Caste since the property dispute was not on account of the fact that Respondent 2 was a Scheduled Caste. The property disputes between a vulnerable-section-of-the society and a person of upper caste will not disclose any offence under the



Act unless, the allegations are on account of the victim being a Scheduled Caste. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar any person to protect his rights by way of a procedure established by law.

23. This Court in a judgment reported as Ishwar Pratap Singh v. State of U.P.(2018) 13 SCC 612 : (2018) 3 SCC (Cri) 818 held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under: (SCC p. 618, para 9)

"9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in



law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed."

24. In view of the above facts, we find that the charges against the appellant under Section 3(1)(r) of the Act are not made out. Consequently, the charge-sheet to that extent is quashed. The appeal is disposed of in the above terms.

25. The FIR in respect of other offences will be tried by the competent court in accordance with law along with the criminal case FIR No. 174 of 2019, though separately initiated, for the reason that it relates to inter-party dispute and is in respect of same subject-matter of property, despite the fact that two different



dates of the incident have been provided by the parties.

Dashrath Sahu Vs. State of Chhattisgarh (arising out of SLP (Crl.) No(s). 6367 of 2023), relevant paragraphs are as under:-

6. The short point arising for consideration of this Court is as to whether the conviction of the appellant for the offence punishable under Section 3(1) (XI) of the SC/ST Act and the rejection of the application under Section 320 CrPC was justified and lawful.

8. A plain reading of the section makes it clear that the offence of outraging the modesty should be committed with the intention that the victim belonged to the the Schedules Caste category.

Ramawatar Vs. State of Madhya Pradesh reported in ***(2022) 13 SCC 635***, relevant paragraph is as under:-

17. On the other hand, where it appears to the the Court that the offence is question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. ON similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the court is



satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony is question goes unpunished, the mere fact that the offence is covered under a “special statue” would not refrain this Court or the High Court from exercising their respective powers under Article 142 of the Constitution or Section 482 CRPC.

5. Learned counsel for the State and respondent no. 2 have submitted through counter affidavit that, in para 8, it is stated that in the present case there is ample evidence which will sufficient to prove the accused guilty of offence. In para 9, it has been submitted that the informant of the present case has been subjected to cheating and fraud allegedly committed by the appellant and the present appeal has been filed to delay the trial by abusing the process of law. It is further submitted that there is no merit in the petition filed by the appellant under Section 228 of Cr.P.C and the same has been rightly dismissed. Learned counsel for the respondent no. 2 has stated that stage has already changed and charge has already been framed.

6. Learned counsel for the appellant has submitted that present case does not fall under the ambit of SC/ST Act so he has filed the petition under section 228 of Cr.P.C.

7. From perusal of the order dated 09.07.2024 passed by learned Special Judge, SC/ST Act, East Champaran in



connection with SC and ST Trial No. 337 of 2021 arising out of Motihari SC/ST P.S. Case No. 105 of 2017, it appears that same has been passed with due application of mind. There is no specific averment made by the learned counsel for the appellant as to what is the contention with regard to the petition filed under Section 228 (1-a) CrPC as contended by him that no offence is made out against the appellant under Section SC/ST Act. There is neither any specific averment nor any petition is attached. Learned counsel has relied on the contention of the impugned order where his submission is mentioned. The concerned court while elaborately discussing matter, has recorded that there is sufficient material available on record to proceed against the appellant. The petition of the appellant was dismissed on the basis that the informant has clearly stated that the appellant abused him by his caste name, insulted and assaulted him.

8. At the stage of Section 228 CrPC, the concerned court has only to see:-

“Whether the informant has made a specific allegation against the appellant regarding abusive caste remarks?

9. From the version of FIR, it is quite evident that appellant has made abusive word against the informant by



making caste remark and he has also alleged how he has spat over the informant and the said occurrence took place at public place in public gaze. The concerned court has recorded that all the witnesses and informant have stated that appellant abused the informant by caste name, insulted and assaulted him.

10. The decisions cited by the learned counsel for the appellant are not applicable in the facts and circumstances of the present case and it cannot be taken into account. In the present case, there is specific allegation against the appellant who has abused the informant of a particular caste with the specific remarks in public gaze at public place.

11. Hon'ble Supreme Court has given clear cut guidelines how to treat the allegations in the FIR. It is necessary to cite the judgment delivered by Hon'ble Supreme Court in the case of ***Swaran Singh & Ors. Vs. State through Standing Counsel & Anr*** in **Criminal Appeal No. 1287 of 2008 (arising out of Special Leave Petition (Criminal) No. 987 of 2007)**, para 25, reads as under:-

A perusal of the FIR clearly shows that, prima facie, an offence is made out against the appellants 2 and 3. As already stated above, at this stage we have not to see whether the allegations in the FIR are correct or not. We have only to see whether treating the FIR allegations as



correct an offence is made out or not. In our opinion, treating the allegations in the FIR to be correct an offence under section 3(1)(x) of the Act is prima facie made out against the appellants 2 and 3 because it prima facie seems that the intent of the appellants was to insult or humiliate the first informant, and this was done with the public view.

12 . It is necessary to cite few judgments pronounced by the Hon'ble Supreme Court in the light of facts and circumstances of the present case.

(1) *State of Bihar and Ramesh Singh reported in (1977)*

4 SCC 39, relevant extract of the paragraph is as under:

4. (b) But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused.

(2) *State of M.P. v. S.B. Johari*, reported in (2000) 2 SCC 57,
relevant paragraph is as under:-

4. It is settled law that at the stage of framing the charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate the evidence and arrive at the conclusion that the materials produced are sufficient or not



for convicting the accused. If the court is satisfied that a prima facie case is made out for proceeding further, then a charge has to be framed.

(3) **Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya** reported in (1990) 4 SCC 76, relevant paragraph reads as under:-

6. The next question is what is the scope and ambit of the 'consideration' by the trial court at that stage. Can he marshal the evidence found on the record of the case and in the documents placed before him as he would do on the conclusion of the evidence adduced by the prosecution after the charge is framed? It is obvious that since he is at the stage of deciding whether or not there exists sufficient grounds for framing the charge, his enquiry must necessarily be limited to deciding if the facts emerging from the record and documents constitute the offence with which the accused is charged. At that stage he may sift the evidence for that limited purpose but he is not required to marshal the evidence with a view to separating the grain from the chaff. All that he is called upon to consider is whether there is sufficient ground to frame the charge and for this limited purpose he must weigh the material on record as well as the documents relied on by the prosecution,

(4) **M.P. v. Mohanlal Soni** reported in (2000) 6 SCC 338, relevant paragraph reads as under:-

7. The crystallised judicial view is that



at the stage of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

(5) ***Union of India v. Prafulla Kumar Samal*** reported in (1979) 3 SCC 4, relevant paragraph reads as under:-

10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against



the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

13. From the perusal of the order dated 09.07.2024, the concerned court has recorded that upon the perusal of the FIR, charge sheet and case diary, there are sufficient material to proceed ahead against the appellant under section 341, 323, 406, 420, 504, 34 of IPC and 138 N.I Act and section 3(1)(r)(r)(s) of SC & ST (POA) Act. While recording the finding, the court has discussed all the materials for which court has negated the contention on behalf of the appellant and court has rightly observed that materials produced are sufficient to proceed against the appellant/accused. The court cannot go into the probative value of the material. At the stage of framing of charge, court is not required to appreciate the evidence and court is also not required to conclude whether materials produced are



sufficient or not for convicting the accused.

14. Keeping in view all the aspects and discussion made above, I find no reasoning to differ from the finding of the concerned court.

15. Accordingly, the present appeal is dismissed at the stage of admission itself.

16. It is made clear that any observation made by this Court shall not prejudice the trial of the case.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2025
Transmission Date	NA

