

Arising Out of PS. Case No.-106 Year-2014 Thana- SC/ST District- Muzaffarpur

Arising Out of PS. Case No.-106 Year-2014 Thana- SC/ST District- Muzaffarpur

... .. Appellant/s

Versus

- Respondent/s

For the Appellant/s : Mr.Santosh Kumar, Advocate

For the Appellant/s : Mr.Santosh Kumar, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

4 18-03-2025 Heard Mr. Santosh Kumar, learned counsel for the
appellant and Mr. Sadanand Paswan, learned Spl. P.P. for the
State.

2. The present memo of appeal preferred against:

the acquittal of respondent No. 2 under sections 341, 406 & 420 of IPC and under section 3 (1) (x) of SC/ST and for enhancing the punishment awarded to respondent No. 2 under sections 323, 504 and 506 IPC against the judgment dated 02/09/2022 by which the learned Addl. Sessions Judge 1st cum Special Judge SC/ST ACT, Muzaffarpur has held guilty to the



respondents No. 2 under sections 323, 504 and 500 IPC in connection with in G.R. No. 4697/2014 and Trial No. 21/2016 arising out of SC/ST P.S. Case No. 106/2014 instituted U/Ss 341, 323, 504, 506, 420, 406 IPC and 3(1)(x) SC/ST (POA) Act but released illegally the sole accused person/the Respondent No. 2 by advancing benefits of section 3 of Probation of Offender Act without observing due process against the above named respondent No. 2.

3. As per the prosecution story, the allegation is that the respondent no.2 agreed to sell a land for the consideration amount and most of the agreed amount was paid but he delayed the process. Upon demand of money, the allegation is that taking caste name, he was assaulted. This led to the FIR.

4. The Court came to the conclusion vide an order dated 02.09.2022 that the prosecution has failed to prove charges under sections 341, 406 & 420 of the Indian Penal Code and 3(1)(x) of SC/ST (POA) Act. However, the Trial Court convicted the respondent no.2 under section 323, 504 and 506 of the Indian Penal Code but taking into account the delay in conclusion of the trial and further that there was no previous



record of the appellant of conviction amongst other, gave him the benefit under section 3 of the Probation of Offender Act, 1958 (henceforth for short 'the 1958 Act').

5. Aggrieved, the present appeal.

6. Learned counsel for the appellant submits that a perusal of the para-30 of the order would show that the Court came to the conclusion that the abusive word was used, still the respondent no.2 was not convicted under different sections of SC/ST Act and in that background, a re-look has to be done in the order dated 02.09.2022.

7. Learned Spl. P.P. opposes the prayer. He has taken this Court to the deposition of P.W.-1, Ashok Kumar to show that simply a word (caste name) which the appellant belongs to has been used which under no circumstances can be put in the category of abusive word. According to him, unless the same is prefixed and/or a complete sentence is used showing that only because he belongs to said caste, he has been abused, the different sections of SC/ST Act cannot be attracted in routine manner. He concludes by submitting that in that background, the Court was fully justified in omitting SC/ST Act while convicting the respondent no.2 under section 323, 504 and 506 of the Indian Penal Code.



8. Having heard the parties and perusing the record, this Court finds force in the submission of the learned Spl. P.P. A money dispute was there and it has been informed that the Money Suit between the parties is also pending. The scuffle took place in which though the word has been used, the context shows that it was not abusive to attract SC/ST Act.

9. The respondent no.2 has already been convicted under sections 323, 504 and 506 of the IPC though has been given the benefit under 'the 1958 Act', it would be appropriate that the appellant diligently pursue the Money Suit as much water has flown down the Ganges since the year 2012 and it is high time that the case finally stands consigned.

10. The appeal stands dismissed.

(Rajiv Roy, J)

Ravi/-

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

