

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4617 of 2024

Arising Out of PS. Case No.-9 Year-2020 Thana- SC/ST District- Sheikhpura

Sunil Kumar @ Sunil Singh Son of Mudrika Prasad Singh Village- Birupur
PS -Birupur District -Lakhisarai

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Saket Ram son of Prabhu Ram Village- Kusumbha, Ps- Korma, Dist-
Sheikhpura,

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S.B.K. Manglam, Adv. Mr. Kumar Gaurav, Adv. Mr. Vikas Kr. Singh, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, APP
For the informant	:	Mr. Abhimanyu Deo, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 17-02-2025 Learned counsel for the appellant(s) undertake(s) to
remove the defect(s) pointed out by the office.

2. Heard Mr. S.B.K. Manglam, learned Senior
Counsel for the appellant, State as also the informant.

3. The present appeal has been filed:

against the order dated
10.10.2021 passed by the learned Additional
District Judge-1", Sheikhpura in SC/ST Case
No. 31 of 2020 arising out of Sheikhpura
SC/ST P.S. Case No.09 of 2020 dated
30.03.2020 registered for the offences under



Sections 341, 323, 379, 504,506, 34 of the Indian Penal Code and Section 3 (1) (r) (s) and 3 (2) (va) of the SC/ST Act, whereby and where under the learned Additional District Judge- I, Sheikhpura was pleased to take cognizance against the appellant under Sections 341, 323, 379, 504 of the Indian Penal Code and Section 3 (1) (r) (s) and 3 (2) (va) of the Schedule Caste, Schedule Tribe (Prevention of Atrocities) Amendment Act, 2015 (hereinafter referred to SC/ST Act).

4. With the consent of the parties, both the Cr. Appeal as also the I.A. has been taken up for final hearing.

5. As per the prosecution story, the informant alleged that his cow went in the field of the appellant. Infuriated, taking caste name, he was assaulted. As the brother of the informant who was in the adjoining agricultural field rushed to his rescue, he too was assaulted causing injuries. This led to the FIR and they went to the Sadar Hospital for the treatment.

6. The Police investigated the matter and found the case to be untrue. However, the Court concerned after perusing



the record/case diary/injury reports came to the conclusion that a case under Section 341, 323, 379, 504, 506, 34 of the IPC and Section 3(1)(r)(s) and 3(2)(va) of the SC/ST Act is/are made out and thus vide an order dated 10.10.2021, cognizance was taken and the summons issued.

7. Aggrieved, the present appeal after two years.

8. Learned counsel for the appellant submits that in the absence of the incorporation of the words that it was in public view, the SC/ST Act is not made out. He has taken this Court to **Section 3(r)(s) of the SC/ST Act (Prevention of Atrocities Act, 1989** (henceforth, for short ‘**the 1989 Act**’)) in support of his contention.

9. **Section 3(r)(s) of ‘the 1989 Act’** read as follows:

3(r): intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

3(s): abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

10. His next submission is that the Police found the



case to be untrue but the same was not taken note by the Court concerned while taking cognizance in a mechanical manner forcing him to knock the doors of this Court. He has cited a judgment of learned Single Judge of Patna High Court in the case of **Anil Kumar Singh Vs. the State of Bihar and Ors. (Cr. Misc. No. 44641 of 2009)** to support his case with specific reference to paragraph 18 to support his case. **Paragraph 18** of the order read as follows:

18. The legal position is that mere accusation of chiding a member of a Scheduled Caste/Scheduled Tribe community by his caste name would not suffice to constitute an offence under the S.C./S.T. Act until it is specifically attributed to a person, who is not a member of the Scheduled Caste/Scheduled Tribes category and has been made to insult of undermine the dignity of a member of the said category and at a place, within full public view.

11. He, as such, submits that it is a fit case in which interference is required.

12. Learned Spl. P.P., on the other hand, submits that



the appellant himself has attached Annexure 2 and 2/1 to show that the Doctor of a Government Hospital has given injury reports to both the informant as also his brother. He submits that it clearly shows that an occurrence took place. The further submission is that the place of occurrence is an agricultural field which is a public place and merely because some words are missing, it cannot falsify the entire prosecution story. He has also drawn attention of this Court to the names of two witnesses which found incorporated in the bottom of the FIR to support his contention.

13. Learned Spl. P.P. has taken this Court to Section **3(2)(va)** which read as follows:

3(2)(va): commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;

14. He has also taken this Court to the **Section 8(c)** of



‘the 1989 Act’ which read as follows:

8(c): the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.

15. He submits that abuse/assault theory is there, the Sections incorporated in ‘the 1989 Act’ clearly shows that if the accused having knowledge of the informant belonging to lower strata of the society, abuses, certainly, SC/ST Act is attracted.

16. So far as the judgment of the **Anil Kumar Singh (supra)** is concerned, he has taken this Court to **paragraph 16 and 17** of the said order to show that in that case, on identical accusation, the Court had allowed the discharge petition and four months later, another set of allegation was made and in that background, the High Court came to the conclusion that it is an abuse of the process of law.

17. Learned counsel for the informant also echoes the sentiment of the learned Spl. P.P. and submits that the injury report and the abuse theory on agricultural land clearly shows that it is in public view and an occurrence took place.



18. Having gone through the facts of the case and the materials on record besides the submissions of the parties, clearly Annexure-2 and 2/1 shows the injuries sustained by the informant/his brother which supports the the prosecution story. The reason has also been assigned, the cow having moved in the agricultural land of the appellant causing damage to his crops after which abusing and taking caste name, they were assaulted with the butt of the rifle which resulted into injury to the informant/his brother.

19. As rightly pointed out by learned Spl. P.P., a conjoint reading of Section 3(2)(va) and Section 8(c) of 'the 1989 Act' would show that when knowingly an abuse is made, the SC/ST will be attracted.

20. So far as the order of **Anil Kumar Singh** (supra) is concerned, **paragraphs 16 and 17** of the said order read as follows:

16. The records of the case in hand manifest that an earlier case with identical accusation had been instituted by the informant opposite party no. 2 in the year 2003 giving rise to Panapur P.S. Case No. 98 of 2003 and in which the charge-



sheet had been submitted against the accused of the present case including the petitioner under the provisions of the Penal Code as well as the S.C./S.T. Act. The discharge petition filed under Section 227 of the Code was allowed on 20.2.2007 (Annexure-3) holding that no case was made out against the petitioner under the provisions of the said Act. The startling feature of the matter is that within four months thereafter, the present case came to be instituted on 6.6.2007. The allegation against the accused is of using almost the same abusive language as in the previous case. The accused are common in the two cases, the manner of occurrence is identical and even the utterances are more or less similar.

17. Apart from the aforesaid facet another important aspect of the matter is that the accusation of use of abusive and intimidating language by the accused



persons has been made in a sweeping manner without identifying the individual. The allegation set out in the first information report interestingly attributes one of the accused of Instigating the others to take away the Gumti of the informant and while saying so, he allegedly uses abusive language. It is obvious that command must have been given by any one of them and not all of them collectively to each other. The informant does not clarify who issued the command to take away the Gumti and to whom. The explanation of the learned counsel for the informant that each one of the accused persons had used the abusive language, is not borne out from the first information report. The reference to the context is absent.

21. Each and every case has different facts and circumstances. In that case, earlier an accusation was made, though charge-sheet was submitted, the discharge petition thereafter under Section 227 of the Cr.P.C. was allowed stating



that no case is made out. However, within four months, another case came to be instituted.

22. Taking into account the aforesaid facts, the Court concerned came to the conclusion that it is only to intimidate the accused person that another case has been filed and further, it was a sweeping accusation and not specific to any individual. However, contrary to the said order of **Anil Kumar Singh (supra)**, in this case, neither it is a second set of accusation nor sweeping remarks has been made against the appellant, it is appellant specific in which allegation is that firstly, he abused and then assaulted which is supported by the Doctor's injury report. As it has been issued by a Government Hospital, the same cannot be ignored.

24. In that background, the appeal fails and as such, both the **Cr. Appeal (SJ) No. 4617 of 2024** as also the **I. A. No. 01 of 2024** stand dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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