

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79437 of 2024

Arising out of PS. Case No.-38 Year-2024 Thana- SC/ST District- Nawada

Archana Kumari, Wife of Niranjan Kumar Posted as Superintendent of Post, Nawadah Division, P.S.- Nawadah Town, Distt.- Nawadah, Permanent Resident of Village- HarraKh, Post Office and Police Station and District- Begusarai.

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Ram Krishna Prasad, Son of Sri Ram Chandra Prasad Resident of Village- Bhadauni, P.S.- Nawadah Town, Distt.- Nawadah.

... .. Opposite Party/s

Appearance :
For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Arun Kumar, Advocate
For the Informant : Mr. Ranjeet Kumar, Advocate
Mr. Harsh Vardhan, Advocate
For the State : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 28-07-2025

Heard Mr. Ramakant Sharma, learned senior counsel for the petitioner assisted by Mr. Arun Kumar, learned counsel, Mr. Ranjeet Kumar, learned counsel for the Informant assisted by Mr. Harsh Vardhan, learned counsel and Mr. Binay Krishna, learned Additional Public Prosecutor for the State.

2. Petitioner seeks quashing of the FIR of Nawada SC & ST P.S. Case No. 38 of 2024 pending before the Exclusive Special Judge, SC & ST, Nawadah registered for the offences under



Sections 323, 504 and 506 of the Indian Penal Code and Sections 3(1)(r)(s)(w), 3(2)(va) of SC & ST (Prevention of Atrocities) Act.

3. On 15.05.2025, the Spl. PP, SC & ST Act was directed to inform the Informant of this case through concerned S.P./S.H.O. regarding present pending proceeding in view of Section 15(3)A of the SC/ST Act and the informant has appeared before this Court through his counsel.

4. The prosecution case is to the effect that the Informant Ram Krishna Prasad, who is posted as Divisional Accountant in the Divisional Office of Superintendent of Post, Nawadah submitted written report before Police alleging that he belongs to scheduled caste category and accused Archana Kumari (Petitioner), who is Superintendent of Post, Nawadah Division used to call their names by caste names like Paswan/Dusadh, which pertains to scheduled caste category and used to threaten the employees of the SC & ST category for their transfer and suspension and she is in the habit of demanding illegal gratification for any kind of official work and on account of refusal of the informant for making payment of the same, he has been transferred from Divisional Office to Sub Post Office, Orhanpur against which he approached the Central Administrative Tribunal from where status quo order has been passed in his favour. It is further alleged that the petitioner



used to speak filthy abusive language to the employees of SC & ST category and one Kajal Kumari, who also belongs to scheduled caste and was posted as Multi Tasking Staff in Divisional Office was compelled to do personal manual work and even she was forced to clean toilet at her quarter and when she refused in the presence of the informant, the Petitioner abused, spitted on her body and threatened to dismiss her and as such the present First Informant Report was lodged against the petitioner.

5. Mr. Ramakant Sharma, learned senior counsel for the petitioner submits that the petitioner is innocent and the present case is based on a false and concocted story. Learned senior counsel for the petitioner further submits that the petitioner was Superintendent of Post, Nawadah Division and the informant was Divisional Accountant in her Office and after his transfer to Sub Post Office, Orhanpur from Divisional Office, Nawadah, he has lodged this false and concocted case against her to tarnish her image. It is also submitted by learned senior counsel for the petitioner that all the three witnesses of FIR were only those persons against whom departmental proceeding was going on and with *mala fide* intention this malicious prosecution has been instituted against her. It is next submitted by learned senior counsel for the petitioner that the present FIR has been lodged against the petitioner only to create



pressure upon her since she is the disciplinary as well as controlling authority of the informant and the witnesses of the FIR in the garb of their category of SC & ST used the tools of their creed or caste with ulterior motive. Learned senior counsel for the petitioner lastly submitted that the case under the provision of SC & ST Act is not made out against the petitioner and has also drawn attention of this Court towards the provisions of Sections 3(1)(r) and 3(1)(s) of the SC & ST Act, which reads thus:-

"3. Punishments for Offences of atrocities:- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -----

(a).....

(b).....

xxx xxx xxxx

(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:*

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

6. Learned senior counsel for the petitioner has drawn attention of this Court towards the judgment of Hon'ble Supreme Court in the case of **Swaran Singh & Ors. vs. State through Standing Counsel & Anr.** reported in **(2008) 8 SCC 435** by which the Hon'ble Supreme Court in para 28 has held as under:-



"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by appellants 2 and 3 (by calling him a 'Chamar') when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression 'place within public view' with the expression 'public place'. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

7. Learned senior counsel for the petitioner has further referred to the judgment rendered in the case of **Hitesh Verma vs. State of Uttarakhand and Anr.** reported in **(2020) 10 SCC 710** and also towards the recent decision of Hon'ble Supreme Court in the case of **Karuppudayar vs State Rep. by the Deputy Superintendent of Police, Lalgudi Trichy & Ors** decided on



31.01.2025 in **Special Leave Petition (Criminal) No. 8778-8779 of 2024** by which the Hon'ble Supreme Court has reiterated its both the earlier decisions in the case of **Swaran Singh & Hitesh Verma** (supra), wherein the Hon'ble Supreme Court has held in Para 10 as under:-

*"10. The term "any place within public view" initially came up for consideration before this Court in the case of **Swaran Singh and others v. State through Standing Counsel and another**. This Court in the case of **Hitesh Verma v. State of Uttarakhand** and another referred to **Swaran Singh** (supra) and reiterated the legal position as under:*

*"14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as **Swaran Singh v. State** [**Swaran Singh v. State**, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from **Swaran Singh**, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: "Also, even if the remark is made inside a building, but some members of*



the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”] .

8. Learned counsel for the informant as well as learned Additional Public Prosecutor for the State has opposed the contentions raised by learned senior counsel for the petitioner. Learned counsel for the informant has submitted that all the aforesaid judgments do not relate to the facts of the present case and hence has no relevance in the present fact and circumstances.

9. Considering the aforesaid submissions and legal proposition cited by learned senior counsel for the petitioner and the settled position of law, I am of the view that the present prosecution has been filed with an ulterior motive and the incident has not taken place at a public place which can be termed to be a place within public view, therefore, the offence would not come under the provisions of either Section 3(1)(r) or Section 3(1)(s) of the SC & ST Act. Further, I am of the view that the present FIR has arisen out of a dispute wherein the petitioner in her official capacity has initiated action against the official of the post office and in retaliation to such action the present case has been lodged making it obvious to be malicious in nature. Therefore, the continuation of criminal proceeding in such circumstances would amount to an abuse of the process of law and would result in miscarriage of jus-



tice in the light of Hon'ble Supreme Court decision in the case of **State of Haryana and Ors. Vs. Bhajan Lal and Ors [(1992) Supp (1) SCC 335]**, wherein the Hon'ble Supreme Court in paragraph 102 has held as under:-

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the ev-



idence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. In view of the aforesaid legal and factual submissions and also taking note of the aforesaid legal proposition of Hon'ble Supreme Court, the continuation of criminal proceeding in such circumstances would amount to an abuse of the process of law and would result in miscarriage of justice, as this Court finds



the present case has been lodged with an ulterior motive due to personal grudge being carried by the informant and others.

11. Accordingly, the FIR of Nawada SC & ST P.S. Case No. 38 of 2024 pending before the Exclusive Special Judge, SC & ST, Nawadah registered for the offences under Sections 323, 504 and 506 of the Indian Penal Code and Sections 3(1)(r)(s)(w), 3(2) (va) of SC & ST (Prevention of Atrocities) Act qua the above named petitioner is hereby quashed. Pending Interlocutory Application(s), if any, stands disposed of.

12. In the result, the present quashing application stands allowed.

(Sourendra Pandey, J)

Vikash/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

