

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.5231 of 2023**

Arising Out of PS. Case No.-292 Year-2022 Thana- DURAULI District- Siwan

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1. Mukti Nath Pandey Son of Sawaliya Pandey R/O Village- Dubwa, P.O.- Darauli, P.S.- Darauli, Dist.- Siwan
  2. Krishna Mohan Pandey @ Sintu Pandey Son of Mukti Nath Pandey R/O Village- Dubwa, P.O.- Darauli, P.S.- Darauli, Dist.- Siwan
  3. Krishna Kant Pandey @ Golu Pandey Son of Mukti Nath Pandey R/O Village- Dubwa, P.O.- Darauli, P.S.- Darauli, Dist.- Siwan
  4. Kanhaiya Pandey Son of Mukti Nath Pandey R/O Village- Dubwa, P.O.- Darauli, P.S.- Darauli, Dist.- Siwan
  5. Sarita Devi Wife of Mukti Nath Pandey R/O Village- Dubwa, P.O.- Darauli, P.S.- Darauli, Dist.- Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Rina Baitha Wife of Amit Pandey R/O Village- Dubwa, P.O.- Darauli, P.S.- Darauli, Dist.- Siwan

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Chandra Kant, Adv.  
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL JUDGMENT**

**Date : 26-09-2025**

Heard both sides.

2. The present appeal is being filed on behalf of the appellants against the order dated 27.03.2023 passed in Darauli P.S Case No. 292 of 2022 by the learned A.D.J.-1st cum Special Judge, Siwan, whereby and whereunder the trial court has taken cognizance under Sections 147, 341, 447, 323, 379, 354, 504 of the Indian Penal Code and 3(i) (r) (s) (w)/3(2) (va) of the SC and ST Act.



3. The case of the prosecution, as projected through the statement of the informant, is that her marriage was solemnized in accordance with Hindu rites with a member of the family of the appellants. After the marriage, while she was living in her matrimonial home, the family of appellant no.1, who is a patidar of the family, allegedly subjected her to humiliation by addressing her with caste-indicative abuses and taunts. It is alleged that appellants repeatedly proclaimed that by reason of this marriage with a member of a Scheduled Caste, the honour of their family had been diminished and that the informant's family would be ousted.

3.1 On the date of the occurrence at about 7:00 a.m., drainage water from the premises of appellant no.1 was found flowing towards the entrance of the informant's house. When she objected and asked him to make suitable arrangements, the appellants, while uttering caste-related insults, allegedly assaulted her. Appellant no. 3 is said to have caught hold of her hair and thrown her to the ground. The informant's daughter was thrashed by appellant no.4.

3.2 On hearing her alarm, the younger sister-in-law of the informant arrived at the spot. She was allegedly caught hold by appellants nos. 1, 2 and 4, who assaulted her with fists,



kicks and blunt means, causing her to fall unconscious. The mother-in-law of the informant, who sought to intervene, was also beaten.

3.3 It is further alleged that on hearing commotion, the villagers assembled, but by that time the accused had already trespassed into the house and dishonestly removed the jewellery belonging to the informant's sister-in-law valued at approximately one lakh rupees. While departing, the appellants are said to have threatened the informant and her family members with dire consequences, declaring that unless she vacated her matrimonial home, she and her entire family would be killed.

4. Learned counsel for the appellants has submitted that there is case and counter case between both the parties and they are agnates and the present case originates from the dispute of *Nala*. Learned counsel for the appellants submits that he has only grievance with regard to the allegation of caste remark which is not in the public view as all the disputes have taken place inside the house. From perusal of the FIR, it is crystal clear that offence under the SC/ST Act does not make out against the appellants and the trial court has not applied its judicial mind while taking the cognizance under Section SC/ST



Act. However, learned counsel for the appellants has no grievance, if the offence is made out under the provisions of Indian Penal Code as none of the ingredients of SC/ST Act are applicable in this case. Hence, the order passed by the trial court is not justified and legal.

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

(i) ***Hitesh Verma Vs. State of Uttarakhand and Another*** reported in ***(2020) 10 SCC 710***, relevant paragraphs are 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 & Ors. v. State through Standing Counsel & Ors. (2008) 8 SCC 435**. 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. The Court 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."*

*15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in **Swaran Singh**, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR*



*and/or charge-sheet.*

(ii) ***Gorige Pentaiah Vs. State of Andhra Pradesh & Ors.***

*reported in (2008) 12 SCC 531,, relevant paragraphs are as under:-*

*“6. In the instant case, the allegation of Respondent 3 in the entire complaint is that on 27-5-2004, the appellant abused them with the name their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he (Respondent 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate Respondent 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of the process of law.”*

(iii) ***Karuppudayar Vs. State Rep. by the Deputy***



***Superintendent of Police, Lalgudi Trichy & Ors. reported in (2025) SCC OnLine SC 215, AIROnline 2025 SC 51*** relevant paragraph is as under:-

*11. It could thus be seen that, to be a place within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.*

*12. If we take the averments/allegations in the FIR at its face value, what is alleged is as under:*

*That on 2nd September 2021, while the complainant was engaged in his office doing his duty, the accused came to the office in the morning in order to enquire about the petition given by him already to the Revenue Divisional Officer regarding entering the name of his father in the 'patta'. On such enquiry being made, the complainant informed the accused that the said petition has been sent to the Taluk office, Lalgudi and that appropriate action would be taken after receipt of the reply from the Taluk Office, Lalgudi. It is alleged that at that stage, the accused asked the complainant as to what caste he belongs to and stated that the complainant belongs to 'Parayan' caste. Thereafter, the accused stated that, "if you people are appointed in Government service you all will do like this only...". Thereafter, he scolded the complainant calling his caste name and insulted him using vulgar words. The further allegation is that thereafter the*



*colleagues of the complainant came there, pacified the accused and took him away.*

*13. Taking the allegations in the FIR at their face value, would reveal that what is alleged is that when the complainant was in his office the accused came there; enquired with the complainant; not being satisfied, started abusing him in the name of his caste; and insulted him. Thereafter, three colleagues of the complainant came there, pacified the accused and took him away.*

*14. It is thus clear that even as per the FIR, the incident has taken place within the four corners of the chambers of the complainant. The other colleagues of the complainant arrived at the scene after the occurrence of the incident.”*

6. Learned counsel for the State has submitted that so far as the spirit of Section 8 of SC/ST (POA) Act is concerned, it was very much clear that even the accused was having personal knowledge of victim or his family and the court shall presume that the accused was aware of the caste or the identity of the victim unless contrary proved in the present FIR. From the initial version of prosecution story, it is quite clear that informant belongs to a particular community (Scheduled Caste) and she married with the family of the appellants as stated in the FIR and she was being abused particularly by the said remark always as is evident from FIR itself. The Investigating Officer has conducted investigation on all the points which has been



raised in the FIR and after due investigation the charge-sheet has been submitted under the relevant provisions where the case under Section SC/ST is made out. The trial court while taking cognizance has referred paragraph nos. 5, 6, 7 and 31 of the case diary and cognizance has been taken against the appellants under Sections 147, 341, 447, 323, 379, 354, 504 of the Indian Penal Code and Sections 3(i) (r) (s) (w)/3(2) (va) of the SC/ST (POA) Act. The trial court while passing the order of cognizance dated 27.03.2023 has clearly stated that on the basis of material available on record prima facie case is made out under all the relevant sections, upon which charge-sheet has been submitted. In this way, the trial court has applied its judicial mind and after going through all the material available on record, the court has passed the reasoned order and no interference is needed.

7. Learned counsel for the State further submits that there was specific remark by the appellants' side in the FIR that "हमारे खानदान का नाक दलित जाति के संग करके कटवा दिए". The FIR clearly indicates that "हल्ला सुनकर गाँव के लोग आए". He further submits that the informant belongs to Scheduled Caste community and she was humiliated for belonging to (Scheduled Caste) community. FIR indicates that by virtue of this marriage with member of Scheduled Caste community, the honour of



appellants' family had been lowered down and the informant's family would be ousted and it clearly reveals that villagers assembled by hearing the commotion at the place of occurrence. In the light of facts and circumstances, what else is required to constitute an offence under the provision of SC/ST Act. It is undoubtedly as per verbatim of FIR as projected by the informant, an offence under Section SC/ST Act is made out in the light of facts and circumstances of the case as the informant is a member of Scheduled Caste community and there was intention to humiliate the informant for the reason that she belongs to Scheduled Caste community and she is subjected to intentional insult or intimidation was targeted at victim because she is a member of Scheduled Caste community and hence, offence under Section SC/ST Act is made out. On the basis of prosecution story it reflects that the informant is subjected to humiliation just because she belongs to Scheduled Caste community and she has asserted in FIR that she suffered injury which is corroborated by the injury report itself. In the light of aforesaid facts, informant being a victim unfolded the story of prosecution.

8. After hearing the parties concerned as well as material available on record, it is crystal clear that the



contention of appellants' counsel that it is not in public gaze having no substance in the light of the verbatim of the informant who has specifically stated that she was subjected to humiliation by addressing her with caste indicative abuses and taunts and her initial version reflects that the appellants repeatedly proclaimed that by reason of this marriage with a member of Scheduled Caste Community, the honour of their family had been diminished and that informant's family would be ousted and hearing hulla, the villagers assembled there. The version of the FIR finds support from the re-statement of informant. Apart from that, the cases cited by the appellants' counsel has no relevancy in the light of the facts and circumstances of the present case where the informant, who herself is a victim, has raised his grievance that after marriage she was being taunted for belonging to a particular community (Scheduled Caste) and the version of FIR is quite evident that occurrence has taken place and the appellants have assaulted and the informant who herself suffered injury subjected to humiliation for belonging to particular community (Scheduled Caste). It is crystal clear that the I.O. after due investigation submitted charge-sheet and the trial court while passing the order of cognizance has taken into account all the materials available on record and the trial court



took cognizance under Sections 147, 341, 447, 323, 379, 354, 504 of the Indian Penal Code and 3(i) (r) (s) (w)/3(2) (va) of the SC and ST Act against the appellants while passing the order dated 27.03.2023.

9. It is necessary to cite decision rendered by the Hon'ble Supreme Court in the case of ***Sonu Gupta vs. Deepak Gupta and Others*** reported in ***(2015) 3 SCC 424*** in which at para 8 it has been held as follows:-

*'8. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether a prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.'*

10. It is necessary to quote the re-statement of the informant recorded at para 31 of the case diary which is as follows:-

“हमारे खानदान का नाक दलित जाति के संग करके कटवा दिए”.

11. In the initial version of FIR, it is crystal clear that on hearing the alarm, the people of village came and they



have witnessed the occurrence. It is obvious that the present occurrence had taken place in public gaze and the legal mandate of SC/ST Act is fully applied in light of present facts and circumstances of the case. The contention of learned counsel for the State is quite relevant that the informant being a victim suffered injury and unfolded the story of prosecution as same is quite evident from the story of prosecution.

12. The decisions cited by the learned counsel for the appellants are not applicable in the facts and circumstances of the present case. The facts of the said case are totally different from the facts and circumstances of the present case so the said cited decisions cannot be applied in the light of facts and circumstances of the present case. In the present case, there is allegation against the appellants who have abused the informant of a particular community (Scheduled Caste) and nearby villagers reached at the place of occurrence as the same is evident from story of prosecution. After going through the discussion made above, the contention of learned counsel for the State are quite tenable and sustainable in the light of facts and circumstances of the present case.

13. From perusal of the order dated 27.03.2023 passed by the learned A.D.J.-1st cum Special Judge, Siwan in Darauli



P.S Case No. 292 of 2022, it is evident that the order has been passed upon due consideration of the materials on record, wherein the names of the appellants find mention, coupled with the re-statement of the informant (para 31) and the statements of witnesses recorded in paras 5, 6 and 7 of the case diary. On such basis, the court has found that a prima facie case is made out against the appellants arising from the accusations in the F.I.R.

14. In view of the facts and circumstances of the case and considering the *prima facie* case established against the appellants on the basis of FIR and materials on record, this Court finds no ground to interfere with the impugned order dated 27.03.2023.

15. Keeping in view all the aspects and discussions made above, I find no reason to differ from the finding of the trial court.

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

**(Alok Kumar Pandey, J)**

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