

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.5112 of 2024**

Arising Out of PS. Case No.-24 Year-2022 Thana- SC/ST District- Madhubani

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1. Vishnu Gupta @ Vishnu Dev Prasad Gupta S/O Ramchandra Gupta R/O Village- Balirajpur, P.S- Babubarhi, Distt.- Madhubani.
  2. Keshav Gupta Son of Vishnu Gupta R/O Village- Balirajpur, P.S- Babubarhi, Distt.- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bechan Das S/O Dukhaharan Das R/O Village and P.O- BHUpatti, P.S- Babubarhi, Distt.- Madhubani.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ratnakar Jha, Advocate  
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

3      05-02-2025                      Heard Mr. Ratnakar Jha, learned counsel for the appellants and Mr. Binay Krishna, learned Spl.P.P.

2. The present appeal has been preferred for:

*“quashing the order dated 16.01.2024  
arising out of SC/ST P.S. Madhubani Case  
No. 24/2022 by learned Additional District  
Judge-I cum Special Judge SC/ST,  
Madhubani by which the learned Court has  
pleased to take cognizance of offences under  
Section 448, 323, 354, 379, 504 and 506 of  
the Indian Penal Code and under Section  
3(1)(r) of the SC/ST Act and office was  
directed to issue summons to the appellants*



*for appearance.”*

3. Though the present case has come as the appellants has filed I.A. No. 01 of 2024 for condoning the delay of 196 days in filing of the present appeal, with the consent of the parties, the appeal has also been taken up.

4. As per the prosecution story, the informant alleged that after agreement with the accused, he constructed the appellant's house. Though half of the amount was paid, for the rest of the amount of Rs. 2,77,400/-, despite the village panchayat passing necessary direction, the appellant no. 1, Vishnu Gupta chose to look the other way. On the fateful day, 29.08.2023, the respondent no. 1 went to the appellant's house and made a request. It was flatly refused, his caste name was taken and further allegation is that the appellant told that the payment shall be made at his house. Later, they came and brutally assaulted him, his wife and all-along, the caste name was taken. This led to the case.

5. The Police investigated the matter and taking note of the dispute between them as also dropping of the 107 Cr.P.C. proceeding, submitted final form.

6. The learned Additional District Judge-I-cum-Special Judge, Madhubani thereafter took up the matter on 16.01.2024, and having prima facie satisfied, took cognizance under Sections



448, 323, 354, 379, 504 and 506 of the Indian Penal Code and under Section 3(i)(r) of the SC/ST Act which followed the issuance of summon.

7. It is the case of the appellants that the section 107 Cr.P.C. case was dropped, the further case filed by the respondent no. 1 before the Labour Court (Annexure-2) also got rejected in the year 2022, in retaliation, the present case. In that background, the Court should have accepted the final form instead of taking cognizance.

8. Learned Spl.P.P. on the other hand opposes the prayer submitting that a perusal of the case would show that the allegation has been made both under the different sections of the I.P.C. as also the SC/ST Act. He submits that the fact that the appellants moved before the Labour Court supports the case that there was non-payment on the part of the appellants and as he was regularly approaching them as also the village panchayat, the assault took place and he was abused with the caste name.

9. Having heard the parties and perusing the materials on record, the submissions put forwarded by learned Spl.P.P. that the respondent no. 1 has made allegations, reasons have also been assigned, during the assault as also prior to when he approached the appellants for payment, he was abused with the caste name, in that background, the Court having been satisfied



that the case is made out rightly took cognizance under Sections 448, 323, 354, 379, 504 and 506 of the Indian Penal Code and under Section 3(i)(r) of the SC/ST Act.

10. So far as the limitation part is concerned, despite the period for preferring the appeal having come to an end, the appellant chose to prefer only appeal without the limitation petition and later, when the Office pointed out defect, the limitation petition was filed. Clearly, the same, in that backdrop, is/was fit to be dismissed but as the case has been heard on merit, this Court does not find any reason to interfere with the order dated 16.01.2024 arising out of SC/ST P.S. Madhubani Case No. 24/2022 by learned Additional District Judge-I cum Special Judge SC/ST, Madhubani.

11. Accordingly, both the Criminal Appeal (SJ) No. 5112 of 2024 and Interlocutory Application No. 01 of 2024 stand rejected.

**(Rajiv Roy, J)**

Adnan/-

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