

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5034 of 2019

Arising Out of PS. Case No.-100 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Suresh Kumar Pandey Son of Late Kailash Pandey Resident of Village -
Kusahar, P.S.- Turkaulia, Distt.- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramdeo Ram Son of Late Raudi Ram Resident of Village - Betauna, P.S. -
Patahi, Distt.- East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shakti Suman Kumar, Advocate
For the State : Ms. Usha Kumari 1, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 07-01-2025 Heard learned counsel for the appellant and learned
Special P.P. for the State.

2. The present appeal is preferred under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against the impugned order dated 03.10.2019 passed in Complaint Case No. C-100/2018 by the 1st Additional Sessions Judge (Special Court S.C./S.T. Act), East Champaran, Motihari by which the learned Court had taken cognizance of the offence under Sections 341, 323, 379, 504 of the Indian Penal Code and under sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter S.C/S.T Act).



3. The present complaint case emanates from an FIR vide SC/ST PS Case No. 03/2017 registered on the basis of the written complaint of the informant (respondent no. 02). The final form/closure report was filed and upon the protest petition filed by the informant the present complaint case came to be registered.

4. The case of the prosecution is that the informant submitted a written complaint on 06.01.2017 before the S.H.O. SC/ST Act, Motihari alleging that on the date of occurrence, i.e., 22.12.2016 at about 04:30PM while the informant was returning from the market on his by-cycle, the appellant came on a motorcycle and dashed him. When the informant objected, the appellant assaulted him with fists and slaps and also abused him by denoting his caste name. It has also been alleged that the appellant had also snatched Rs. 1,660/- from the pocket of the informant.

5. The police, after investigation and supervision by the higher police officials including the superintendent of police submitted final report dated 24.6.2017. The learned court accepted the final form submitted by the Police. Accordingly, the informant/respondent no. 2 filed a protest-cum-complaint petition before the learned Magistrate, which was registered as



Case No. C-100/18 and thereupon on the basis of the protest-cum-complaint petition the learned Court took cognizance of the offences and issued summons against the appellant.

6. Learned counsel for the appellant submits that the appellant is innocent and all the allegations levelled by the respondent no. 2 are false and concocted.

7. The learned counsel for the appellant has further submitted that the truth of the matter is that the appellant is the headmaster-in-charge of Bhitgharwa Sanskrit High School where one Arbind Kumar is posted as Assistant Teacher. It is alleged that Arbind Kumar had forged the letter pad of the school and submitted a proposal for the constitution of the Managing Committee of the school under a forged signature of the Headmaster of the School. In this connection the present appellant had lodged Patahi P.S. Case No. 171 of 2016 under Sections 406, 420, 467, 468, 471 of the Indian Penal Code for the forgery and fraud as stated above. It is further submitted that the matter pertaining to the constitution of the Managing Committee is already under challenge before the Division Bench of this Court in *L.P.A. 112 of 2018* titled '**Suresh Kumar Pandey vs. State and Ors.**'

8. Learned counsel further submits that the respondent



no. 2 is a labourer of Arvind Kumar and he has been set up to file this false and concocted case. The supervision note of the S.P. East Champaran supports this fact. The learned counsel has further submitted that the respondent no. 02 has described his mobile number which apparently belongs to Arvind Kumar. The present prosecution is *mala fide* and has been filed with ulterior motive to extract vengeance for the FIR instituted at the instance of the appellant against one Arvind Kumar.

9. Learned counsel also submits that the house of the appellant as well as his place of posting is at a distance of 40 -60 kilometres from the village of the respondent no. 2 as well as Bakri Bazar or Aughar Sthan. The appellant has never seen the respondent no. 2 nor had he ever gone to the alleged place of occurrence on motorcycle or any other vehicle or even by foot.

10. Learned Special P.P. for the State and learned counsel for the respondent no. 2 have opposed the application and have submitted that the court below has rightly taken cognizance against the appellant.

11. I have considered the submissions of the parties and perused the materials on record including the complaint petition. From the record, it appears that on a trivial issue the present complaint petition has been filed by the complainant



only with a view to harass the appellant. The appellant is the Headmaster of a Sanskrit High School. It appears that the occurrence has not taken place because of the fact that the respondent no. 2 belongs to Scheduled Caste or Schedule Tribe category.

12. From reading of the complaint, it appears that the present complaint has been filed because of the prior dispute between the parties and the offence has not been committed with an intention that the victim belongs to the Scheduled Caste category. It is settled law that when the basic ingredients of the offences are missing, then permitting such a complaint to continue and compel the appellant to face the criminal trial would be totally unjustified and lead to blatant abuse of the process of law. The actions alleged in the complaint fail to bring out intent to humiliate a member of the Scheduled Caste or Scheduled Tribe by a member of non-scheduled caste and non-scheduled tribe in public purview. Unless statement to the aforesaid extent is there, the whole prosecution would fail in view of the judgment of the Hon'ble Apex Court in ***Gorige Pentaiah v. State of Andhra Pradesh reported in (2009) 1 SCC (Cri) 446.***

13. This kind of *mala fide* prosecution should not be



allowed to continue in view of the law laid down by the Hon'ble Supreme Court in the case of **State of Haryana & Ors. vs. Bhajan Lal & Ors. reported in 1992 Supp(1) SCC 335.**

14. This application is allowed.

15. Accordingly, the impugned order taking cognizance dated 03.10.2019 passed in Case No. C-100/2018 by the 1st Additional Sessions Judge (Special Court S.C./S.T. Act), East Champaran, Motihari and all consequential proceedings arising out of the aforesaid complaint case are hereby quashed.

(Sandeep Kumar, J)

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