IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.478 of 2025
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Sonalal Kisku aged about 54 years, S/o:- Late Budhram Kisku, Resident of Vill:- Charkipahari, P.O.+P.S.-Kunda, Dist:-Deoghar,
……Appellant

Versus

1.The State of Jharkhand
2. Beena Pandey aged about 45 years W/o:- Late Pradeep Pandey, Resident of Vill:-Laxmi Niwas, Karnibad, Ashram Karnibad P.O.+P.S.-Kunda, Distt:- Deoghar
……Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Manish Sharma, Advocate
For the State : Mrs. Vandana Bharti, APP

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ORAL ORDER IN COURT
Order No.03/12th December 2025

1. This Criminal Appeal (SJ) has been filed on behalf of the appellant by challenging the impugned order dated 07.06.2024 passed in S.C./S.T. Case No.103 of 2020 instituted for the offence under Section 504,506 of I.P.C and Section 3(x) of SC/ST Act by Sri Rajeev Ranjan, learned Additional Sessions Judge-I-Cum-Special Judge, Deoghar by which complaint filed by the appellant has been dismissed under Section 203 of Cr.P.C.

2. As per complaint, the Respondent No.2 is alleged to have abused the appellant in the name of his caste.

3. Heard learned counsel for the appellant and learned A.P.P.

4. Learned counsel for the appellant submitted that the impugned order passed by the learned Court below is illegal, arbitrary and not sustainable in eye of law. It is submitted that there was specific allegation against the Respondent No.2 for abusing the appellant in the name of his caste and she has taken away the keys of his shop. It is further submitted that the complainant during his solemn affirmation and two other enquiries witnesses namely

Kailash Turi and Binod Raut have also fully supported the case of the appellant and there was prima facie case is made out against the Respondent No.2 under the provisions of SC/ST Act, however, the learned Court below had not taken cognizance against the respondent No.2 and has dismissed the complaint. It is further submitted that the order passed by the learned Court below has resulted into miscarriage of justice and hence the impugned order passed by the learned Court below may set aside and this criminal appeal may be allowed.

5. On the other hand, learned APP has opposed the prayer of the appellant and has submitted that the order passed by the learned Court below is fit and proper and no interreference is required from this Court. It is further submitted that the learned Court below has rightly observed that the shop of the complainant had been taken by him as far as back as ten (10) years and the learned Court below has passed certain observations. Thus, there is no illegality in the impugned order passed by the learned Court below.

6. Having heard learned counsel for both the sides and from perusal of the records of this case, it appears that the complainant case no.103/2020 was filed on behalf of the complainant on 21.09.2020 against the Respondent No.2 for allegedly taking possession of the shop by taking key and even proceeding under Section 107 Cr.P.C was instituted earlier between the parties.

7. It further appears that the complainant during his solemn affirmation has stated that he had taken the shop on rent from Pradeep Pandey, who was his friend and husband of the Respondent No.2 and which was closed by the Respondent No.2 and when he asked her to open the shop then she abused him on 16.09.2020 and the complainant had himself admitted that the late Pradeep Pandey was his friend.

8. From perusal of the statement of Enquiry Witness namely Kailash Turi examined as EW-1 during Court Question, he stated to be unaware about the occupation of Respondent No.2 and he also stated that the Respondent No.2 Bina Pandey had not given the key of the shop to the appellant and she had allegedly abused the complainant in the name of his caste.

9. It further appears from the statement of Enquiry Witness namely Binod Kumar Raut examined as EW-2 during Court question, that shop in question was taken by the husband of the Respondent No.2 and he is not aware about any case has been instituted or not?

10. From the perusal of the impugned order passed by the learned Court below, it would appear that the learned Court below has observed that key of his shop was taken as far as back as ten (10) years ago.

11. It appears that the shop in question belongs to the Respondent No.2 namely Beena Pandey and the appellant has tried to develop dispute with the Respondent No.2 in regard to shop in question.

12. It has been held in the case of Hitesh Verma Vrs. State of Uttarakhand and Anr. reported in 2020 Vol.10 SCC 710 at para 14, 16 to 20 as follow:-

> "**Para-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."] . The Court held as under : (SCC pp. 443-44, para 28)

"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."

(emphasis in original)

Para-16:- There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

Para-17:- In another judgment reported as Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P., (2020) 18 SCC 763 : 2019 SCC OnLine SC 1104] , this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar" Scheduled Caste is not disputed. There is no evidence to show that the offence was committed

only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."

Para-18:- Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

Para-19:- This Court in a judgment reported as Subhash Kashinath Mahajan v. State of Maharashtra [Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as Union of India v. State of Maharashtra [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under : (Union of India case [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] , SCC p. 797, para 52)

"52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC."

Para-20:- Later, while examining the constitutionality of the provisions of the amending Act (Central Act 27 of 2018), this Court in a judgment reported as Prathvi Raj Chauhan v. Union of India [Prathvi Raj Chauhan v. Union of India, (2020) 4 SCC 727 : (2020) 2 SCC (Cri) 657] held that proceedings can be quashed under Section 482 of the Code. It was held as under : (SCC p. 751, para 12)

"12. The Court can, in exceptional cases, exercise power under Section 482 CrPC for quashing the cases to prevent misuse of

> provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised."

13. It appears that the impugned order dated 07.06.2024 passed by the learned Additional Sessions Judge-I-Cum-Special Judge, Deoghar is meticulous and the learned Additional Sessions Judge-I-Cum-Special Judge, Deoghar has taken into consideration the entire statement of witnesses as well S.A. of the complainant.

14. It further appears that the Respondent No.2 is a widow lady and she is the wife of late Pradeep Pandey, who was admittedly to the friend of the Complainant-Appellant.

15. It appears that the Complainant-Appellant is unnecessary pressuring the Respondent No.2 who is a widow lady to hand over her shop to him in question.

16. It further appears that in case of land dispute or dispute in any commercial property, no offence under Section SC/ST (POA) Act is made out.

17. Thus, this Court finds no illegality in the impugned order dated 07.06.2024 passed in S.C./S.T. Case No.103 of 2020 by Sri Rajeev Ranjan, learned Additional Sessions Judge-I-Cum-Special Judge, Deoghar.

18. Accordingly, this Criminal appeal No.478 of 2025 is, hereby, dismissed.

(Sanjay Prasad, J.)

Dated 12.12.2025

Nishant/-