

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1101 of 2022

Arising Out of PS. Case No.-54 Year-2020 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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1. MANOJ THAKUR S/o Harishchandra Thakur Resident of Village- Shivipatti, P.S.- Rajnagar, District- Madhubani.
 2. HARISHCHANDRA THAKUR S/o Late Kailu Thakur Resident of Village- Shivipatti, P.S.- Rajnagar, District- Madhubani.
 3. SUNIL THAKUR @ SUNIL KUMAR JHA S/o Dhaneshwar Jha Resident of Village- Shivipatti, P.S.- Rajnagar, District- Madhubani.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. RAMDEO PASWAN S/o Late Mauji Paswan Resident of Village- Shivipatti, P.S.- Rajnagar, District- Madhubani.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhaskar Shankar, Advocate
For the Respondent/s : Mr.Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 02-02-2026

Heard the parties.

2. This appeal is filed against the order dated 08.09.2021 passed by learned Court of Additional Sessions Judge- 1st-cum- Special Judge SC/ST Act, Madhubani in C.R. 54/2020, T.R. 1404/2021 whereby and whereunder cognizance of offence under Sections 323, 341, 527, 504, 379/34 I.P.C. and Sections 3(1)(r)(s), 3(2)(va) of SC/ST Act against the appellants.

3. The prosecution case in brief is that the complainant and appellants are co-villagers. A Saleh Temple for SC/ST people exists adjacent to appellant no. 1's land. The



appellant wanted to encroach the temple's land. When the community opposed this, the appellants threatened the complainant with dire consequences and a Panchayat was held that found the appellants guilty.

4. On the basis of the aforesaid complaint, the learned Special Court SC/St Act, Madhubani took cognizance of offence on 08.09.2021 and summoned the appellants.

5. Learned counsel for the appellants submits that it is case of civil dispute and no offence under Section SC/ST Act is made out.

6. In support of his submissions, learned counsel for the appellant has relied upon Judgment of the Hon'ble Supreme Court passed in case of ***Hitesh Verma Versus State of Uttarakhand*** reported in ***(2020) 10 SCC 710***.

7. Learned counsel for the State has opposed the prayer of the appellants and has supported the impugned order.

8. I have heard and considered the submission of the parties.

9. Further, in the case of ***Hitesh Verma (Supra)*** the Hon'ble Supreme Court had held as under:

11. It may be stated that the charge-sheet filed is for an offence under Section 3(1) (x) of the Act. The said section stands substituted by Act 1 of 2016 w.e.f. 26-1-



2016. The substituted corresponding provision is Section 3(1)(r) which reads as under:

“3. (1)(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;”

12. The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as

“(1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (2) in any place within public view”.

13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law.



Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.

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)

10. In view of the afore-quoted Judgment of the Hon’ble Supreme Court and upon reading of the complaint



petition, it is clear that the abuses has taken place for occurrence relating to land and therefore, the provisions of SC/ST Act will not be applicable.

11. From the reading of the complaint case and from the discussions made herein above, it appears that there is no sufficient material against the appellants for which they shall be prosecuted under the provisions of IPC.

12. Considering the aforesaid, this appeal is allowed.

13. Accordingly, the order dated 08.09.2021 passed by the learned Court of Additional Sessions Judge- 1st-cum-Special Judge SC/ST Act, Madhubani in C.R. 54/2020, T.R. 1404/2021, is hereby quashed.

(Sandeep Kumar, J)

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