

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1894 of 2024

Arising Out of PS. Case No.-14 Year-2022 Thana- SC/ST District- Gaya

Sanjay Kumar @ Sanjay Kumar Singh S/o- Munnu Singh Village- Kapeya
PS- Alipur Dist- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Pramila Devi wife of Santosh Das Village- Kapeya Ps- Alipur dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Indu Shekhar Dwivedi
For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 6 16-03-2026 1. Heard learned counsel for the appellant and learned counsel for the Special Public Prosecutor for the SC/ST.
2. The present appeal has been filed for quashing the cognizance order, dated 14.08.2023, passed by learned Special Judge SC/ST, Gaya, in SC/ST Police Station Case No. 14 of 2022, dated 15.06.2022, whereby learned Special Judge SC/ST, Gaya, has taken cognizance against the appellant under Sections 341/323/354/509/504/506/34 of the Indian Penal Code and Sections 3(1)(r)(s)(w) and 3(2)(va) of the SC/ST Act.
3. The prosecution story, in brief, is that the informant/respondent no. 2 gave her fardbeyan on 15.06.2022 alleging therein that on 12.06.2022 at about 06:30 in the evening she was watching a marriage procession in the house of one



Mithlesh Prasad, in the meantime the appellant Sanjay Kumar Singh started dancing in intoxicated condition and moved towards the informant. When the informant moved backwards and objected the manner in which the appellant was dancing, the co-accused Bipin Kumar started abusing her by caste name and tore her saree also.

4. Learned counsel for the appellant submits that from perusal of the First Information Report and the materials collected during course of investigation, no offence is made out, much less any offence under Sections 3(1)(r)(s)(w) and 3(2)(va) of the SC/ST Act. There is no allegation against the appellant that he abused the informant by her caste name and/or assaulted her and tried to outrage her modesty. The only allegation in the First Information Report is that the appellant started dancing in barat party (marriage procession) in intoxicated condition.

5. Learned counsel next submits that the present First Information Report has been lodged in retaliation of the First Information Report lodged by the side of the appellant inasmuch as on 12.06.2022 at 05:00 PM in the evening, the mother of the co-accused Gautam Kumar lodged First Information Report, bearing Alipur Police Station Case No. 87 of 2022, for the offences under Sections



147/148/341/323/354/379/307/504/506 of the Indian Penal Code against the accused persons, including informant's husband, and other family members, stating therein, that while she was going to worship in Shiv Mandir with Maur Shehra along with 12-15 ladies, all the accused persons, including the husband of the informant, having iron-rod, lathi, etc, arrived near transformer and abused and started pulling her. Upon noise being made, the brother-in-law of informant, namely, Dayanand Singh, Sunny Kumar, Ravi Kumar and Arun Kumar came to save her. Then accused Dhananjay Kumar, with an intention to kill, assaulted on the head of Dayanand Singh, who sustained serious head injury and started bleeding and Sunny Kumar also sustained serious head injury. Accused Dinesh Ram and Baiju Das snatched gold mangal sutra. The injured persons were admitted in ANMC Hosptial, Gaya.

6. The First Information Report was lodged on 13.06.2022 by the side of the appellant, in which, the appellant's son sustained injury and after lodging of the First Information Report on 13.06.2022, retaliatory First Information Report has been lodged by the side of the informant on 15.06.2022. The First Information Report, in question, is completely retaliatory in nature and based on concocted story and was lodged after a



delay of 03 days.

7. The case was investigated by the Investigation Officer and during course of investigation no material came against the appellant to connect him with the present offence. Accordingly, the police submitted final form against accused persons exonerating the appellant from the charges. However, learned Special Court differed with the final form and took cognizance on 14.08.2022 against the appellant along with others without any material available on record.

8. Referring to the case dairy, learned counsel submits that in the First Information Report as well as during course of investigation, no material has come against the appellant to connect him with the offences inasmuch as only statement which has come against the appellant in the entire First Information Report and during course of investigation is that he was dancing in the marriage procession in intoxicated condition. There is no allegation and/or prima facie material to show that the appellant abused the informant by her caste name and/or assaulted her.

9. Despite service of notice, no one appeared on behalf of the respondent no. 2.

10. Learned counsel for the State argued that



learned Special Court has taken cognizance against the appellant after differing with the police report. He next submits that there is no infirmity in the order taken cognizance.

11. I have heard learned counsel for the parties and have gone through the materials available on record, including the impugned order.

12. From the First Information Report, it appears that the allegation against the appellant is that he was dancing in the marriage procession near the informant which was objected by her. There is no allegation in the First Information Report that the appellant abused the informant in full public view by taking her caste name and the allegation of abuse by caste name is upon one Bipin Kumar, who is the co-accused. During course of investigation, the restatement of the informant was recorded, in which, she has merely reiterated the statement made in the First Information Report and 02 witnesses which were examined during course of investigation have also reiterated the statement made by the informant in the First Information Report.

13. From perusal of the statement made in the First Information Report and materials collected during course of investigation, prima facie no offence under Sections 3(1)(r)(s) (w) and 3(2)(va) of the SC/ST and/or under Sections



341/323/354/509/504/506/34 of the Indian Penal Code Act is made out against the appellant.

14. Learned Special Court took cognizance of the offences after differing with the police report without any cogent materials available on record and in mechanical manner.

15. Allowing the prosecution to continue against the appellant will cause miscarriage of justice in abuse of process of court.

16. Accordingly, I come to the conclusion that the order taking cognizance, dated 14.08.2023, passed by learned Special Judge SC/ST, Gaya, in connection with SC/ST Police Station Case No. 14 of 2022 is not sustainable. In the result order taking cognizance qua the appellant is hereby quashed.

17. This appeal is, accordingly, allowed.

(Anil Kumar Sinha, J)

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