

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1665 of 2025

Arising Out of PS. Case No.-41 Year-2024 Thana- KHUDWA District- Aurangabad

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1. Vikash Kumar @ Bittu Sharma S/o- Rajkumar Sharma Village PS- Khudwan District- Aurangabad
 2. Mitthu Sharma @ Rangdar Sharma S/o- Rajkumar Sharma Village PS- Khudwan District- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Mahendra Chaudhary S/o- Badhu Chaudhary Village PS- Khudwan District- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Santosh Kumar Pandey, Adv.
For the Respondent/s	:	Mr. Akshay Lal Pandit, App.
For the O.P. No. 2	:	Mr. Sanjay Chandra Bhaskar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

8 17-03-2026 1. The present appeal has been preferred by the appellants against the order dated 12.09.2024 passed by learned Special Judge cum Additional District Judge-1st, Aurangabad in G.R. Case No. 86 of 2024 arising out of Khudwan P.S. Case No. 41 of 2024, whereby the learned Special Judge has taken cognizance against the appellants under Sections 341, 323, 325, 504, 506, 379 of the Indian Penal Code and Section 3(i)(r)(s) of the SC/ST Prevention of Atrocities Act.

2. As per the prosecution case, one Mahendra Chaudhary lodged an FIR before the Khudawan Police Station alleging therein that on 22.04.2021, he had installed a tent in the



marriage ceremony of son of co-accused Raj Kumar Sharma. Rs. 15,000/- was fixed as rental out of which Rs. 5,000/- was given in cash as advance and Rs. 10,000/- was to be paid subsequently. The informant tried to realize the dues amount but for the last three years, only assurance was being given by the accused persons under false pretext. On 09.05.2024, when the informant went to demand his dues amount, at about eight o'clock, then co-accused Raj Kumar Sharma and appellants assaulted him with lathi, rods, etc. The informant was attacked due to which he fell down. It has subsequently been alleged that Rs. 3,000/- was snatched from the pocket of the informant and he was also abused by his caste name and was also threatened of his life.

3. Learned counsel for the appellants submits that due to dispute regarding payment of rent to the informant who had installed tent during marriage ceremony of the appellants, the present FIR has been lodged. Admittedly, tent was installed on 22.04.2021 and the FIR was lodged after three years saying that when the informant went to collect his due amount, he was assaulted and was abused by his caste name.

4. Referring to Annexure-2 to the memo of appeal learned counsel submits that falsity of the FIR would be evident



that in the FIR, the informant is saying that only Rs. 5,000/- was given by the co-accused Raj Kumar Sharma at the time of entering into an agreement for supply of tent, but from perusal of Annexure-2, which is the cash memo/receipt given by the son of the informant, it has specifically been mentioned that a sum of Rs. 13,000/- was paid as advance out of the total agreed amount of Rs 15,000/-.

5. The FIR was lodged with a malice intention to settle the score with the appellants due to money dispute. No specific allegation is there in the FIR that the informant was abused by the appellants by his caste name in full public view with an intent to humiliate the informant. No cogent material has come during course of investigation to connect the appellants with the present offence, particularly offence under Section 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act.

6. Attacking the order taking cognizance dated 12.09.2024, learned counsel submits that police after investigation submitted final form exonerating the appellants and not sending them for trial. The learned Special Court differed with the final form and took cognizance against the appellants under Sections 341, 323, 325, 504, 506, 379 of the Indian Penal Code and Section 3(i)(r)(s) of the SC/ST



Prevention of Atrocities Act, in mechanical manner and without giving any brief reasons. From bare perusal of the impugned order, it would appear that the learned Special Court has not mentioned, even in brief, the materials collected during the investigation, warranting order of cognizance of the offences under I.P.C. and SC/ST (Prevention of Atrocities) Act. No offence under SC/ST (Prevention of Atrocities) Act is made out against the appellants, particularly offence under section 3(i)(r)s under which the cognizance has been taken by the learned court, in mechanical manner. No allegation is there that the occurrence has taken place in full public view with the intention to denigrate the status of the informant. On the contrary, dispute arose between the parties on the point of payment of rent towards the hiring of the tent by the side of the appellants.

7. A counter case has also been lodged by the mother of the appellants on the same day bearing Khudwan P.S. Case No. 42 of 2024 for an occurrence which has taken place on the same date and time.

8. On the other hand, learned counsel for the State, as well as respondent no. 2, argued that the Special Judge has power to differ with the police report and has rightly taken cognizance under the offences, including the offences under



SC/ST (Prevention of Atrocities) Act, against the appellants. Referring to the case diary, learned counsel submits that the informant has suffered injury for which doctor has examined the informant and X-ray was also held of his body. The informant as well as one independent witness Amarjit have supported the prosecution story that appellants along with accused persons assaulted the informant by lathi, danda, by abusing his caste name.

9. In reply, learned counsel for the appellants submits that three other witnesses have not supported the prosecution story and has said that whatever injury has been caused by the informant was due to free fall on “Nadh”.

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

11. From perusal of the impugned order, it appears that the learned Special Judge, while taking cognizance, has not given any reasons for differing with the police report, who submitted final form, not sending the appellants for trial. The materials collected during course of investigation have also not been referred in the order impugned by the learned Special Judge. However, this Court went through the materials collected



during investigation and found that there is no material to show that abuse by the caste name was taken in public view.

12. Hon'ble Supreme Court, in **Keshaw Mehto alias Keshaw Kumar Mehto v. State of Bihar and another reported in 2026 LiveLaw (SC) 62**, in para 12 and 16, has dealt with Sections 3(1)(r) and 3(1)(s) and has said that Section 3(1)(r) is attracted where the reason for the intentional insult or intimidation by the accused is that the person who is subjected to is a member of a Scheduled Caste or a Scheduled Tribe. It has been said that Section 3(1)(r) cannot stand merely on the fact that the informant/complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless the insult or intimidation is with the intention to humiliate such a member of the community. The fact that the complainant belonged to the Scheduled Caste or Scheduled Tribe would not be enough. Any insult or intimidation towards the complainant must be on account of such person being a member of a Scheduled Caste or a Scheduled Tribe.

13. It has further been held by the Hon'ble Supreme Court that with a view to dispel any doubt and lend clarity, it is appropriate to mention that even mere knowledge of the fact that the complainant is a member of a Scheduled Caste or a



Scheduled Tribe is not sufficient to attract Section 3(1)(r).

14. It has further been held by the Hon'ble Supreme Court that for an offence to be made out under section 3(1)(s), merely abusing a member of a Scheduled Caste or a Scheduled Tribe would not be enough. At the same time, saying caste name would also not constitute an offence. To constitute an offence under Section 3(1)(s), it would be necessary that the accused abuses a member of a Scheduled Caste or a Scheduled Tribe "by the caste name" in any place within public view. The allegations must reveal that abuses were laced with caste name, or the caste name had been hurled as an abuse.

15. In the present case, the FIR starts with the fact that the quarrel took place between the informant and the appellants' side due to money dispute inasmuch as, according to the informant, the appellants' side owe a sum of Rs. 10,000/- to the informant in relation to the service of supplying tent rendered by the informant to the appellants' side during marriage ceremony. The counter case was also lodged by the side of the appellants. The occurrence has taken place on the door of the appellants, which is not a place within public view. The intent with which the abuses were hurled, as per the allegation, was not with an intention to humiliate the informant in full public view. The



appellant did not abuse the informant with a feeling of caste-based humiliation.

16. Taking note of the aforesaid discussion, this Court is of the opinion that there is no material to take cognizance against the appellants under Section 3(1)(r)(s) of the SC/ST (Prevention of Atrocities) Act. As such, the order taking cognizance against the appellants for offences under Section 3(1)(r)(s) of the SC/ST (Prevention of Atrocities) Act cannot sustain and is hereby set aside.

17. Insofar as cognizance taken against the appellants under sections of IPC, from the records as well as the case diary, it appears that there is an allegation against the appellants that they assaulted the informant by lathi along with other accused persons. During course of investigation, the informant was examined by the doctor also. The nature of injury sustained by the informant is not important at this stage. The factum of the occurrence is further corroborated by the fact that a counter case was also lodged by the side of the appellants against the informant.

18. In the case of **Hitesh Verma v. State of Uttarakhand and another**, reported in (2020) 10 SCC 710 in paragraph 23, the Hon'ble Supreme Court referred a judgment



rendered in Ishwar Pratap Singh v. State of U.P. in which the Hon'ble Supreme Court has held that there is no prohibition under the law for quashing the charge-sheet in part.

19. During course of investigation, the victim along with other witnesses have supported the prosecution story that the informant was assaulted.

20. In view of the above facts and the materials available on record, this Court comes to the conclusion that the prima facie case is made out against the appellants under the provisions of the I.P.C. and the appellants can be tried by the Competent Court for the offences under I.P.C. in accordance with law.

21. The present appeal is partly allowed to the extent indicated hereinabove.

(Anil Kumar Sinha, J)

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