

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3204 of 2022

Arising Out of PS. Case No.-158 Year-2019 Thana- SHANKARPUR District- Madhepura

Surendra Mohan Singh @ Pintu Singh Son of Late Satyanand Singh Resident
of Village - Basantpur, P.S.- Shankarpur, Distt.- Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunil Rishidev Son of Jayram Rishidev Resident of Village - Basantpur ,
Ward No.16, P.S.- Shankarpur, Distt.- Madhepura.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Uday Chand Prasad, Adv
	:	Mr. Manoj Kumar, Adv
	:	Ms. Pooja Prasad, Adv
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT

Date : 25-02-2026

Heard the parties.

2. The present quashing has been preferred to quash the order dated 06.07.2022 passed in SC/ST Case No. 228 of 2019 arising out of Shankarpur P.S. Case No. 158 of 2019, where learned Additional Sessions Judge-1st, Madhepura took cognizance for the offence punishable under Sections 341, 323 and 504 of the IPC and Section 3(i)(s) of the SC/ST Act against the appellant.

3. The brief case of prosecution speaks that on 07.10.2019 at about 6 PM, while the informant was returning home on his motorcycle and so when reach, near to the house of the former *Mukhiya* at Basantpur, Pankaj Singh's nephew, riding a bicycle rashly, collided and fell; after being scolded,



the informant went home. Later, Pankaj Singh allegedly brought the informant to his house, abused him, tied him with a rope, and assaulted him with *lathi* and *danda*, joined by Pintu Singh who also assaulted him. They allegedly took ₹30,000/- his mobile phone, and kept his motorcycle and left him injured, after some time his family members took him to the hospital for treatment.

4. On the basis of aforesaid written report FIR has been lodged, which has been registered as Shankarpur P.S. Case No. 158 of 2019 for the offence punishable under Sections 341, 323, 379, 504 and 54 of the IPC and Section 3(i)(s) of the SC/ST Act.

5. It is submitted by learned counsel for the appellant that after investigation IO has not found case true against co-accused Satto Chaudhary and he was not sent up for facing trial, whereas on the basis of almost same materials submitted charge-sheet under Section 31, 323 and 504/34 of the IPC and Section 3(i) of the SC/ST Act against appellant and co-accused Pankaj Singh through charge-sheet no. 154 of 2019 dated 31.12.2019. It is pointed out that learned



Jurisdictional Magistrate, taking different note took cognizance against all three accused persons including appellant under Sections 341, 323 and 504/34 of the IPC and Section 3(i)(s) of the SC/ST Act.

6. It is further submitted by learned counsel that present occurrence took place in the background of accident, where FIR in issue was lodged with the delay of two days i.e., for occurrence dated 07.10.2009, FIR in issue was lodged on 09.10.2009. It is submitted that no injury was found upon injured and with very general and omnibus allegation, the appellant was implicated with same allegation as raised against co-accused Satto Chaudhary against whom police submitted final form, but fairly conceded that he is not the appellant. It is also submitted that except informant no one is the eye-witness of the occurrence, whereas as per seizure list the motorcycle of informant was recovered from the door of one Laltun Das not from the possession of the appellant. It is submitted that recovery of looted mobile and cash was neither made from the conscious possession of the appellant nor from his house. In view of this impugned cognizance order appears



bad in the eyes of law and, therefore, continuing with any further proceeding would only amount to abuse the process of Court of law and, therefore, impugned cognizance order dated 06.07.2022 be quashed and set aside.

7. While travelling over the argument learned counsel submitted that in FIR, there is no whispering of abuse using caste name and, therefore, the lodging of this FIR under Section 3(i)(s) of SC/ST Act appears bad in the eyes of law. In support of his submissions learned counsel relied upon the report of Hon'ble Supreme Court as available through **Hitesh Verma Vs. State of Uttarakhand and Another, [(2020) 10 SCC 710]** and also **State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335.**

8. Learned Spl.PP appearing on behalf of State, while opposing the present quashing petition submitted that learned counsel for the appellant is referring the statement of different witnesses as recorded during the course of investigation and thus by disputing the factual aspects, which can be ascertained only during the trial. It is submitted that



on the basis of material learned Jurisdictional Magistrate is only to gather opinion whether any prima-facie case is made out or not against appellant. It is submitted that for the offence punishable under Section 323 of the IPC no injury report is required, however he conceded that the FIR is not suggesting that informant was abused even by appellant.

9. It would be apposite at this stage to reproduce paragraph no. 23 of the **Hitesh Verma Case (supra)** for better understanding of the case, which is as under:-

23. This Court in a judgment reported as Ishwar Pratap Singh v. State of U.P. [Ishwar Pratap Singh v. State of U.P., (2018) 13 SCC 612 : (2018) 3 SCC (Cri) 818] held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under : (SCC p. 618, para 9)

“9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the



instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed.”

10. It would also be apposite to reproduce the paragraph no. 102 of the Apex Court decision in the case of **Bhajan Lal Case (supra)** which reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible



guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings



and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

11. Coming to the case at hand, it appears that there is nothing on record to indicate that the alleged acts of the appellant were motivated for the reason as complainant is a member of SC/ST community, neither the FIR nor charge-sheet contains whisper of allegation of insult or intimidation by the appellant. It does not even transpires even from the FIR that appellant was under knowledge that informant belongs to a SC/ST community.

12. In view of aforesaid factual and legal discussions, the cognizance against the appellant under Section 3(i)(s) of the SC/ST Act is bad in the eyes of law and therefore charge-sheet/impugned order to that extent is quashed.

13. For the cognizance of rest of the offences the submission as raised by learned counsel for the appellant



appears disputing the factual aspects, which can be looked into during the trial only and, therefore, this Court find no occasion to interfere with the other offences of the Indian Penal Code, at this stage.

14. The appeal is disposed of in above terms i.e., allowed in part to the aforesaid extent.

15. In view of aforesaid, learned Special Court is directed to place this matter before learned District Judge as to transfer this record to Regular Court for trial of rest of the offences under Sections 341, 323, 379, 504 and 54 of the IPC.

16. TCR (Trial Court Records), if any, be returned to the learned Trial Court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	AFR
CAV DATE	NA
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