

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4171 of 2024

Arising Out of PS. Case No.-75 Year-2010 Thana- COMPLAINT CASE District- Lakhisarai

1. Shobha Devi Wife of Wakil Sah Resident of Village-Saidpura, P.S.- Surajgarha, Distt.- Lakhisarai
2. Wakil Sah Son of Late Hazari Sah Resident of Village-Saidpura, P.S.- Surajgarha, Distt.- Lakhisarai
3. Sujeet Kumar Son of Wakil Sah Resident of Village-Saidpura, P.S.- Surajgarha, Distt.- Lakhisarai
4. Dayanand Tamoli Son of Late Ram Khelavan Bhagat Resident of Village-Saidpura, P.S.- Surajgarha, Distt.- Lakhisarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Permila Devi Wife of Devendea Paswan @ Lakindra Paswan Resident of Village-Saidpura, P.S.- Surajgarha, Distt.- Lakhisarai

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Jyoti Ranjan Jha, Advocate
For the State	:	None
For the Informant	:	None

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 15-04-2026 Herd learned counsel for the petitioner.

2. The present appeal has been filed for setting aside the order dated 25.07.2024 passed by the learned Additional District and Sessions Judge 1st-cum Special Judge, Lakhisarai in connection with Complaint Case No. 09C of 2018 (arising out of Complaint Case No. 75(C) of 2010 in connection with SC/ST P.S. Munger Case No. 51 of 2008), whereby the petition filed by the appellants for



discharge under Section 227 of Cr.P.C. has been dismissed.

3. The prosecution case is lodged on the basis of FIR bearing SC/ST P.S. Case No. 51 of 2008, alleging therein that in the year 2007, the informant/respondent no. 2 had taken a piece of land having an area of 1½ decimal for a period of six years, with the condition that the owner would deposit the interest for the aforesaid period. The land was purchased along with two pucca constructed rooms situated in Khata No. 10, Kheshra No. 53. On 10.06.2008, the appellants along with 4 to 5 unknown persons arrived with weapons, entered into the house of the respondent no. 2, started abusing her by her caste name, and said that why she had got the land executed in her favour from their brother. Upon this, the appellants started abusing and also looted household articles, including cash.

4. The police investigated the case and, after investigation, submitted a final form on 30.09.2008, exonerating the appellants with the observation that the case is civil in nature. A protest petition-cum-complaint was filed by respondent no. 2, bearing Complaint Case No. 75C of 2010, against the appellants and one other person and in her



S.A. she has said that she had purchased 1.5 decimal of land with house from Ranjeet Sah as sudbharna. At about 04:00 p.m., while the complainant was working, the aforesaid persons arrived, abused and ousted her, and also assaulted her with slaps and fists.

5. The learned Special Court took cognizance of the offences on the basis of S.A. and inquiry witnesses under Section 323, 354 of IPC and Section 3(x) (xi) of SC/ST Act, 1989 on 18.08.2011.

6. The appellants challenged the order taking cognizance before this Court in Criminal Misc. No. 37068 of 2011, which was disposed of vide order dated 06.12.2013, with liberty to the appellants to raise all the contentions at the time of framing of charge. Accordingly, the appellants filed a petition before the Special Court, having Case No. 09C/2018, under Section 227 Cr.P.C. for their discharge on several grounds, including the ground that due to a land dispute, the present FIR/complaint has been lodged.

7. Learned counsel for the appellants submits that there is long-standing land dispute between the appellants



and their brother, Ranjeet Sah. The present case has been lodged at the behest of Ranjeet Sah. The FIR, at the first instance, was investigated and during course of investigation, respondent no. 2 gave statement before the police that on the date of occurrence, no incident had taken place and only a scuffle had occurred due to the land dispute. The police, accordingly, on 30.09.2008, submitted a final form exonerating the appellants on the ground that there was land dispute between the parties. The charge-sheet has been accepted by the learned Special Court. Thereafter, a protest-cum-complaint petition was filed before the Chief Judicial Magistrate on 19.07.2008, and upon inquiry and examination of witnesses, the learned Magistrate took cognizance of the offences under Sections 323, 354 of the IPC and Section 3(x)(xi) of the SC/ST Act, 1989.

8. The learned counsel next submits that from perusal of the S.A. of the complainant, it is clear that while the complainant was at her home, the appellants entered into the house and abused her and also assaulted her with fists and slaps. The place of occurrence is the house of the



complainant, which was not in full public view. It is a case of land dispute between the appellants and their brother Ranjeet Sah on whose behest the present complaint has been filed, in which Ranjeet Sah is also a witness. There are so many cases that have been filed between Ranjeet Sah and the appellants, and the orders passed therein have been annexed at Annexure P/8, P/9, and P/10. The complaint against the appellants under the SC/ST Act and other Sections of IPC has been filed in abuse of the process of court, and from perusal of the S.A. and the inquiry witness, there is no material to frame charge against the appellants under Sections 3(x) (xi) of SC/ST Act, 1989, inasmuch as assuming that the statement made by the complainant is true, any abuse to her was not intentional with intent to humiliate a member of scheduled caste.

9. No-one appears for the State as well as respondent no. 2.

10. I have heard learned counsel for the appellants and have gone through the material on record, including the S.A. of the complainant, and statement of the inquiry witnesses.



11. From perusal of the S.A. of the complainant, it appears that the abuse which was made to her in her caste name was not in public view. As per the allegation of the complainant, while she was working at her home, the appellants entered and abused her by caste name on the ground that why she had purchased a piece of land from their appellants brother. Section 3(x) cannot be attracted merely on the fact that the complainant is a member of Scheduled Caste or Scheduled Tribe unless the insult or intimidation is with the intention to humiliate such a member of the community. Any insult or intimidation towards the complainant must be on account of such person being a member of Scheduled Castes. The fact that the complainant belongs to Scheduled Caste would not be enough in the background of the case that there was a long-standing land dispute between the appellants and their brother Ranjeet saw from whom the complainant had purchased a piece of land along with small house on payment of Rs. 17000/-.

12. In the case of Hitesh Verma v. State of Uttarakhand and Anr. reported in (2020) (10) SCC 710, the



Hon'ble Supreme Court has held that offence under the SC/ST is not established merely on the fact that informant is a member of SC (Scheduled Caste) unless there is intention to humiliate the member of the Scheduled Caste

13. In paragraph 16 of the said judgment, the Hon'ble Supreme Court has further observed that there is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties. 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.

14. In the present case, the land dispute between the parties is admitted; both the parties, i.e., the vendor of the complainant and the appellants, are litigating over the title/possession of the land in question, and several cases are pending between them, including the Purcha Cancellation case filed by Ranjeet Shah, which has been rejected, and the Title Suit bearing No. 62/2016, which is also pending



between the appellants and Ranjeet Sah. From the records, the aforesaid discussion, and attending circumstances, it does not appear that the appellants abused the informant with intention to humiliate or demean the dignity/status of the informant. The case under Section 3(x) (xi) of the SC/ST Act is the result of the land dispute between the parties.

15. Taking into consideration the materials on record and the aforesaid discussion, this Court is of the opinion that no prima facie material is there against the appellants to frame charges under Sections 323 and 354 of the IPC and Sections 3(x) and (xi) of the SC/ST Act, 1989. Accordingly, the impugned order dated 25.07.2024, refusing to discharge the appellants, is set aside and appellants are discharged.

16. Accordingly, the appeal is allowed.

(Anil Kumar Sinha, J)

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