2026:JHHC:27272

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.330 of 2026
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1. Binod Vishwakarma, Aged about 53 years, Son of Kishun Mistry,
2. Mumtaz Alam @ Mumtaz Ansari, aged about 42 years, Son of Mahboob Alam @ Mahboob Ansari,
3. Vivek Vishwakarma, Aged about 30 years, Son of Binod Vishwakarma,
4. Asraf Rahabar Ali @ Rahabar Quraishi, aged about 73 years, Son of Late Asgar Ali,
   All are resident of Village – Kondra, P.O + P.S. - Barhi, District - Hazaribagh **..... Appellants**

Versus

1. The State of Jharkhand.
2. Vikram Kumar, Son of Shyamdeo Prasad Ram, Resident of Village – Kondra, P.O + P.S. - Barhi, District - Hazaribagh. **..... Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellants : Mr. Manoj Kr. Sah, Advocate
For the State : Mr. A. P. Topno, A.P.P
For the Resp. No.02 : Ms. Prashansa, Advocate

Order No.04/ Dated: 10th September, 2026

I.A. No.4803 of 2026

1. The instant interlocutory application has been filed for condoning the delay of 1254 days in filing the instant criminal appeal.

2. Learned counsel for the respondent No.02 has raised no serious objection.

3. Considering the reasons assigned in the present interlocutory application, the delay in filing the present appeal is, hereby, condoned. Accordingly, I.A. No.4803 of 2026 is, hereby, allowed and disposed of.

Cr. Appeal (S.J) No.330 of 2026

1. Heard learned counsel for the appellants, learned counsel for the State and learned counsel for the respondent No.02.

2. The present criminal appeal has been filed for quashing

the order taking cognizance dated 03.06.2022, passed by the court of learned Special Judge, SC/ST Act, Hazaribag, in connection with SC/ ST Case No.77 of 2010, whereby cognizance for the offence under Sections 323, 504/34 of the Indian Penal Code read with Sections 3(i)(r) & 3(i)(s) of the SC/ ST (POA) Act, has been taken against the appellants. The case is now pending in the court of learned A.D.J. - VI -cum- Special Judge SC/ST Act, Hazaribag.

3. It has been submitted by the learned counsel for the appellants that there is a civil dispute between the parties and as such the criminal case is not maintainable. A title suit being Title Suit No.68 of 2020, filed by the complainant, has been dismissed, giving no relief to the complainant and against the said title suit, an appeal has been filed, but the status of the same is not known to the appellants. It has further been submitted that there is piece of land, which is the bone of contention, has already been subjected to the civil suit and as such no criminal offence is made out. On the above ground, the order taking cognizance has been challenged.

4. Learned A.P.P and learned counsel for the respondent No.02 have opposed the prayer and reference has been made to Sections Sections 3(2)(v), 3(2)(va) and 8(c) of the SC/ ST (POA) Act, which are quoted herein below :-

> ***" 3. Punishment for offences of atrocities.—***
> *(1). .....*
> ***(2) (v)*** *commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;."*
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> ***(2) (va)*** *commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;"*
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> ***8. Presumption as to offences.— In a prosecution for an offence under this Chapter, if it is proved that—***
> *(a) .....*
> *(b) .....*
> ***(c)*** *the accused was having personal knowledge of the victim or his family, the Court shall presume that the*

> *accused was aware of the caste or tribal identity of the victim, unless the contrary is proved."*

Thus, if an offence under Section 323 of IPC is made out which is a scheduled offence and further, the parties are known to each other, then offence under the SC/ST (POA) Act, is made out.

In the present case, the complainant has clearly stated regarding the assault and the cognizance has also been taken under Section 323 IPC, which should have been taken under Sections 3(2)(va) of the SC/ST (POA) Act.

5. Since the parties are known to each other, hence the offence under the SC/ST (POA) Act is made out and the court below has rightly been taken the cognizance and as such, I find no reason to interfere with the order taking cognizance. Accordingly, the present criminal appeal is, hereby, dismissed.

6. Pending interlocutory application, if any, any stands disposed of.

(Rajesh Kumar, J.)

10h September, 2026
Ravi-Chandan/-
Uploaded on 11.09.2026