

(2013) 12 PAT CK 0080

In the Patna High Court

Case No : Criminal Miscellaneous No. 48398 of 2013

Basant Mandal

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 16-12-2013

Acts Referred:

Citation : (2014) 1 BBCJ 578

Hon'ble Judges : Hemant Kumar Srivastava, J.

Bench : Single Bench

Advocate : Mr. Neeraj Kumar, Advocate, for the Petitioner; Mr. Sadanand Paswan, SLP. PP, for the State

Final Decision : Disposed Off

Judgement

Mr. Hemant Kumar Srivastava, J.— Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State on the point of admission.

2. The petitioner has prayed for quashing the first information report of S.C./S.T. Naugachia P.S. Case No. 04 of 2013 registered under Sections 420, 406 of the Indian Penal Code and 3(i) (ii) of S.C./S.T. (Prevention of Atrocities) Act, 1989.

3. The above stated case was registered on the basis of written report given by the informant, Mahendra Ram to this effect that he along with petitioner went to withdraw the money from A.T.M. and being unable to use the A.T.M. card he disclosed his confidential pin number of A.T.M. card and also handed over his A.T.M. card to the petitioner but petitioner disclosed that A.T.M. is not functioning and after that petitioner gave another A.T.M. card to him. Later on, the informant came to know that huge amounts were withdrawn by the petitioner from his account using his A.T.M. card.

4. Learned counsel for the petitioner submits that the only grievance of the petitioner is that no case under the provisions of S.C./S.T. (Prevention of Atrocities) Act is made out but police registered the case under the above stated

provisions of S.C./S.T. (Prevention of Atrocities) Act also.

5. Admittedly, besides the sections of the Indian Penal Code, the present first information report has been registered under Section 3(i) (ii) of S.C./S.T. (Prevention of Atrocities) Act.

6. Section 3(i) of S.C./S.T. (Prevention of Atrocities) Act says that Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

7. Similarly, Section 3(i) (ii) of S.C./S.T. (Prevention of Atrocities) Act says that Acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

8. From bare perusal of the first information report of the present case, it is clear that both the above stated provisions of S.C./S.T. (Prevention of Atrocities) Act are not applicable in the facts and circumstances of the present case. Similarly, from perusal of Section 3 of above stated Act in which the offences under the S.C./S.T. (Prevention of Atrocities) Act, 1989 has been described, I find that the aforesaid Act is not applied in respect of facts of the present case. Therefore, I do agree with the submission of learned counsel for the petitioner that police has illegally registered the present case under the provisions of S.C./S.T. (Prevention of Atrocities) Act. So far as application of Sections 420 and 406 of the Indian Penal Code is concerned, the same is not being challenged by learned counsel for the petitioner, at least, at this stage.

9. In view of the aforesaid discussions, first information report of S.C./S.T. Naugachia P.S. Case No. 04 of 2013 is, hereby, partly quashed in respect of offences registered under Section 3(i) (ii) of S.C./S.T. (Prevention of Atrocities) Act. In the aforesaid manner, this petition stands disposed of.