

(2025) 04 SC CK 0337

In the Supreme Court Of India

Case No : Criminal Appeal No. 1832 Of 2025 (@Special Leave Petition (Criminal) No.6763 Of 2023)

Hutu Ansari @ Futu Ansar

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 07-04-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 156(3) Indian Penal Code, 1860 — Section 447 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3, 3(1)(f), 3(1)(r), 3(1)(s)

Citation : (2025) 04 SC CK 0337

Hon'ble Judges : Sudhanshu Dhulia, J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : Braj Kishore Mishra, Abhishek Yadav, Vikram Patralekh, Paran Kumar, Vishnu Sharma, Madhusmita Bora, Pawan Kishore Singh, Dipankar Singh, Anupama Sharma

Final Decision : Allowed

Judgement

K. Vinod Chandran, J.

1. Leave granted.

2. The appellants were charged under Section 447 of the Indian Penal Code, 1860 "the I.P.C." and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 "the SC & ST Act". The Trial Court convicted the nine accused arraigned by the prosecution and sentenced them to undergo simple imprisonment "S.I." of three months under Section 447 of the I.P.C. and S.I. of two years under Section 3 of the SC & ST Act with a fine of Rs. 3,000/- and default sentence of S.I. of one month each. In the appeal filed, the Learned Single Judge of the High Court converted the sentence to six months S.I. under SC & ST Act and three-month S.I. under Section 447 of the I.P.C.; which were to run concurrently. Accused nos. 1 to 3, 6 and 9 are the appellants in the above case.

3. We heard Mr. Braj Kishore Mishra, learned counsel for the appellants and Mr. Vishnu Sharma, learned standing counsel for the respondent.

4. The genesis of the case is a land dispute involving the complainant and her family and accused nos. 2, 6 and 9 with respect to land admeasuring 28 decimals in khata no. 116 plot no. 698, which eventually the accused were forced to deliver to the complainant and her family vide Ext.-5 on 25.04.2005; pursuant to the dismissal of an appeal filed by the accused before the Court of Deputy Commissioner, Lohardaga. The alleged incident occurred on 22.05.2005 at about 7 a.m. when the appellants along with the other accused allegedly trespassed into the house/land of the complainant and used derogatory terms, referring to their caste.

5. The prosecution was launched by a complaint filed under Section 156(3) of the Criminal Procedure Code, 1973 "the Cr.P.C." numbered as Complaint Case No. 58 of 2005 before the Chief Judicial Magistrate, Lohardaga. The complaint was filed by PW-3 who is the wife of PW-1. It was specifically alleged that the accused nos. 2 and 9 armed with iron rods along with others formed into an unlawful assembly and broke open the lock of the house of the complainant at about 7 a.m. and committed theft of kitchen utensils, rice, pulse and bed with bed sheet having a total value of Rs. 3,000/-. It was also specifically alleged that the accused persons threatened the complainant and her husband and abused them using their caste name, thus insulting and humiliating them before the villagers. The chargesheet was under Section 447 of the I.P.C. and Section 3 of the SC & ST Act.

6. We have looked at the evidence of the prosecution witnesses, who are all related. PW-1 and PW-3 are husband and wife, PW-6 the brother of PW-1, PW-2 the son of PW-6 and PW-4 the son of PWs-1 and 3. PW-8 is the Officer who commenced the investigation and PW-5 is the Investigating Officer who laid the chargesheet. PW-7 admitted in chief-examination that he had no knowledge about the occurrence.

7. Admittedly all the prosecution witnesses are related and the specific case of the accused was that due to the enmity, on account of the land dispute, the accused were framed under the SC & ST Act alleging house trespass. Section 3 of the Act charged against the accused is not attracted for reason of the allegations of derogatory terms being used against the complainants, if at all true, was not in a public place nor in the presence of any member of the public. However, we see from the order of the Trial Court that the specific allegation levelled was of wrongful occupation or cultivation in any land owned by or in the possession, allotted to or notified by any competent authority to be allotted to a member of a Scheduled Caste and Scheduled Tribe as coming out in sub-clause (f) of Section 3(1) of the SC & ST Act. We cannot but notice that there is also an allegation of derogatory terms having been used in the presence of villagers, in the complaint filed before the Judicial Magistrate, which brings in clause (s) of Section 3(1) dealing with abusing any member of a Scheduled Caste and

Scheduled Tribe by caste name in a place within public view and clause (r) relating to intentional insult or intimidation with intent to humiliate a member of SC & ST in any place within public view.

8. PW-1 is the husband of the de-facto complainant who did not refer to a caste name and only spoke of a derogatory term being used against them. According to him the place of occurrence was his field, where he was present at 7 a.m. on Saturday, when the accused persons trespassed into the said land and abused the complainants and ordered them to vacate. It was the specific statement in cross-examination that there were no villagers present at the time of occurrence and only his wife, brother and nephew were present. PW-2 the nephew of PW-1 spoke of an abuse being levelled against him and his family members which abusive term spoken of, was different from that deposed to by PW-1. PW-3 the de facto complainant also spoke of the occurrence being on the disputed land at about 7 a.m. and spoke of the abuses levelled, in consonance with PW-2. PW-4 spoke of a disputed house being in the place of occurrence which he had got possession from the accused. According to him, he and his family members were abused as 'Adivasis' quite contrary to the allegation levelled by PW-1 to 3. PW-6, the brother of PW-1 did not speak about the occurrence and only spoke of one of the accused having forcefully constructed a house on his land.

9. There is no clarity as to the place of occurrence, whether it was at the residential building in the disputed land or at the house of PW-3. In this context, we once again look at the complaint filed, which spoke of the house trespass by breaking the lock of the house of the complainant. However none of the witnesses spoke of breaking a lock or trespass into the house and on the contrary, claimed that the occurrence occurred in a field; obviously to make out a case of the insult levelled and abuses thrown, to be within public view. As we noticed, there is nothing to indicate that there was anybody present in the vicinity of the alleged scene of occurrence, other than family members of the complainant. When PW-1 categorically negated the presence of any other person except himself, his wife, brother and his nephew; at the scene of occurrence, it cannot be said to have occurred in public view; thus, absolving the accused of any offence under clause (r) or (s) of Section 3 of the SC & ST Act. Insofar as clause (f) of Section 3(1) of the Act, there is no allegation in the complaint that the complainant and her family were forcefully evicted from the land.

10. PW-1 specifically says that the place of occurrence is at a distance of 1 km from his house. He also submitted that there is a residential house constructed in the disputed land by one of the accused 20 years ago which house was remaining deserted. With the above scenario in mind, we can only find that the de-facto complainant, in the FIR, had talked about the house in which she was residing while alleging trespass on the accused persons. However, no such allegation is even spoken of in the oral evidence; thus, putting to jeopardy the offence of house trespass too.

11. We cannot but find that there are gross inconsistencies insofar as the complaint and the oral evidence led by way of deposition before the Court. The place of occurrence was stated to be the house, in the complaint, while all the witnesses spoke of the alleged incident having occurred in the field, which was the disputed land. In any event, there is no scope for finding either clause (r) or (s) of Section 3(1) of the SC & ST Act since PW-1 has categorically stated that there was no member of the public present at the time the incident occurred. Insofar as the allegation under clause (f) of Section 3(1) there is nothing to indicate that the complainant and her family were forcefully evicted from the disputed land or that the accused occupied it illegally after delivery was effected on 25.04.2005.

As far as the house trespass is concerned, the oral evidence does not support it. On the above reasoning we find absolutely no reason to sustain the conviction as entered into by the Magistrate's Court confirmed by the High Court. We set aside the order of the Magistrate as confirmed by the High Court and acquit the appellants herein.

12. The bail bonds, if any, executed in the above case shall stand cancelled.

13. The appeal stands allowed.

14. Pending application(s), if any, shall stand disposed of.