

(2019) 07 PAT CK 0180

In the Patna High Court

Case No : Criminal Miscellaneous No. 7902 Of 2015

Sanjeeb Jha @ Sanjiv Jha

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 11-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 341, 323, 354, 376, 504, 511

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(i)(x)(xi)

Citation : (2019) 07 PAT CK 0180

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Iqbal Asif Niazi, Pankaj Kumar Das, Shyam Kumar Singh

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. This application is for quashing the order dated 27.09.2013 passed in connection with Darbhanga SC/ST P.S. Case No. 51 of 2013 whereby the learned court below took cognizance against the petitioner for offences under Sections 341, 323, 354, 504/34 of the Indian Penal Code and Sections 3(i)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. The challenge is on the ground that there is no material to substantiate the allegation under the aforesaid offences, rather the allegation has been levelled due to group rivalry in the village and the petitioner has been victimized.
4. According to FIR, on 17.07.2013 at about 02:00 P.M., the informant was grazing her buffalo. The said buffalo went into the orchard of the petitioner. The petitioner saw the animal in his orchard and started abusing to the informant by taking her caste name. Thereafter, the petitioner thrashed the informant and attempted to ravish her. On alarm, the people came there, who are named in the FIR, and they witnessed the occurrence.

5. The case diary would reveal that the witnesses stated before the police supporting the allegation of commission of assault and abuse by taking caste name. However, they stated that no occurrence of attempt to ravish the informant did take place. Accordingly, the police did not submit charge sheet under Sections 376 and 511 of the Indian Penal Code whereas charge was submitted for other offences.

6. The law is well settled that at this stage, meticulous appreciation of evidence is not permissible nor probable defence of the accused can be looked into. Hence, there is no merit in the submission of learned counsel for the petitioner that the so-called eye-witnesses were not the real eye-witnesses of the occurrence because the informant herself stated in the FIR that the people came only on alarm after the occurrence was committed. Likewise, there is no merit in the submission that due to village politics and group rivalry false case has been lodged, for simple reason that the defence of the petitioner cannot be looked into at this stage and trustworthiness of the witnesses-whether they were present at the time of occurrence or not would amount to appreciation of evidence, which are not permissible at the stage of cognizance. Hence, the impugned order requires no interference and this application stands dismissed.

7. The aforesaid issues can be examined during course of trial without being prejudiced by this order.