

(2009) 02 PAT CK 0088

In the Patna High Court

Case No : Criminal Miscellaneous No. 40787 of 2007

Vijay Singh and Others

APPELLANT

Vs

State of Bihar and Ram Sagar Ram

RESPONDENT

Date of Decision : 06-02-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 323, 354
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 4

Citation : (2009) 57 BLJR 1372 : (2009) 2 PLJR 725

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Binod Kumar Singh, for the Appellant; Jharkhandi Upadhaya, Assistant Public Prosecutor and S.K. Deokoliar, for O.P. No. 2, for the Respondent

Judgement

Abhijit Sinha, J.—The petitioners have preferred this application for quashing of order dated 19.7.2007 passed by the learned 1st Additional Sessions Judge, East Champaran at Motihari in Criminal Revision No. 275 of 2007, whereby the learned Judge has been pleased to dismiss the revision preferred by the petitioners against order dated 25.4.2007 passed by Sri S.N. Mishra, Judicial Magistrate, 1st Class, Sikarhana at Motihari in Complaint Case No. C 702 of 2006 by which he had taken cognizance for offences under Sections 323, 504, 379, 147, 148, 149, 354 I.P.C. as also Section 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as "the SC & ST Act").

2. One Ram Sagar Ram, the complainant impleaded herein as O.P. No. 2 filed the aforesaid complaint on 6.12.2006 inter alia alleging that at about 7 P.M. on 4.12.2006 while he was sitting at his darwaza all the accused persons variously armed with lathi and fatha arrived suddenly and accused No. 2 Vijay Singh abused him and cast blame upon him of instigating the administration to demolish his (Vijay's) wall and ordered to kill him. The complainant is said to have objected to the abuse hurled upon him whereupon accused No. 1, Indradeo

Sigh, assaulted the complainant by fist and slaps and castigating him for laying complaint before the Collector as a result whereof the Anchala Adhikari on the order of the Collector had demolished his constructed wall with help of the local police. The accused are also said to have extended threat to the complainant of burning him and his family members in the night. It is further alleged that accused Abhay Singh and Chandulal Sah threw the complainant on the ground and Abhay took out Rs. 5000/- from the upper pocket of his jacket and accused Ram Chandra Sah snatched his wrist watch. It is also alleged that on his raising alarm the witnesses arrived and forbid the accused from their overt acts which were not heeded and they continued to abuse the complainant. When the mother and the wife of the complainant arrived they too were abused and assaulted with slaps and fists by accused No. 1 and he also tried to disrobe the wife.

3. The motive for the occurrence is said to be that accused No. 1 had forcibly constructed a wall upon the khatiyani and purcha land of the complainant which had caused obstruction to the egress and ingress of the complainant for which he had lodged a complaint with the Collector and after due inquiry the Collector had directed the Anchala Adhikari to demolish the constructed wall with the help of the local police.

4. It has been submitted by the learned Counsel for the petitioners that they are innocent and have been falsely implicated in this case since the father of petitioner No. 1 had filed Title Suit No. 367 of 2006 before the Subordinate Judge, East Champaran at Motihari against the present complainant and others which was prior to the filing of the instant complaint petition. In this connection it was submitted that Indradeo Singh, the father of petitioner No. 1, had purchased 91/2 dhurs of land appertaining to plot No. 3072, khata No. 8 in mauza Hasanpur from one Chaturi Ram in the name of his wife, Manorma Devi, through a registered sale deed and on the same day the complainant had also purchased 1/2 dhur of land under the same plot situated north of the lands of petitioner No. 1 and thereafter the complainant started creating problems for the petitioners and when the father of petitioner No. 1 filed the said title suit instant complaint was filed to harass the petitioners.

5. From a perusal of the complaint petition it would appear that petitioner No. 1 had abused the complainant by calling him a harizan and the allegation against petitioner Nos. 3 and 4 were that they had thrown the complainant on the ground and whereas petitioner No. 3 had taken out Rs. 5000/- from the upper pocket of his jacket, petitioner No. 5 had snatched a Titan watch from him. In this contest it was submitted that no offence u/s 3/4 of the SC & ST Act can be said to have been made out against the petitioners specially petitioner Nos. 1, 3 and 4.

6. The Supreme Court in this context in the case of Swaran Singh v. State reported in 2008 (4) PLJR 178 (SC) observed that today the word "Chamar" is often used by people as a word of insult, abuse and derision and calling a person "Chamar" today is an abusive language and is highly offensive. The word

"Chamar" when used today is not normally used to denote a caste but to intentionally insult and humiliate some one.

7. In the instant case the objectionable words uttered are "Harizan" and "Bhosari" and efforts were on to partially disrobe the wife of the complainant.

8. The words "Harizan" and "Bhosari" apparently was used by the petitioners in a derogatory sense in the open and in the presence of the crowd that had assembled. Similarly the assault and disrobing of the complainant's wife also took place in the presence of the crowd that had gathered. To my mind all the offences whereunder the cognizance has been taken except Section 4 of the SC & ST Act appear to have been made out.

9. In the result the application is allowed in part to the extent that offence u/s 4 of the SC & ST Act not having been made the cognizance taken thereunder is quashed. However, the petitioners shall be liable for the offences under the Penal Code and Section 3 of the SC & ST Act.