



**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2350 of 2022**

Arising Out of PS. Case No.-137 Year-2017 Thana- DARBHANGA SADAR District-
Darbhanga

-
1. Md. Reyaz Son of Late Md. Allauddin Resident of Village-Bhalni, P.S.-Mabbi O.P., Sadar, District-Darbhanga.
 2. Md. Mehtab Alam @ Md. Mahtab Son of Late Abrar Alam @ Md. Abrar. Resident of Village-Bhalni, P.S.-Mabbi O.P., Sadar, District-Darbhanga.
 3. Rehana Khatoon Wife of Late Md. Rakib Alam Resident of Village-Shahwazpur, P.S.-Mabbi O.P., Sadar, District-Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mohan Kumar Mahto Son of Sri Sitaram Mahto Resident of Village-Gehumi, P.S.-Sadar (Mabbi O.P.), District-Darbhanga (Informant)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kr. Thakur, Adv
	:	Mr. Ritwik Thakur, Adv
	:	Ms. Vaishnavi Singh, Adv
For the Respondent/s	:	Mrs. Usha Kumari No. 1, Spl.PP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT**

Date : 25-02-2026

Heard the parties.

2. The present quashing petition has been preferred to quash the order dated 28.04.2022 passed in SC/ST/GR Case No. 33 of 2017 arising out of Sadar P.S. Case No. 137 of 2017 passed by learned 3rd Additional Sessions Judge-cum-Exclusive SC/ST(POA) Act, Darbhanga, where learned Exclusive Special Judge for SC/ST (POA) Act rejected the application of the appellants filed under Section 227 of the Cr.P.C. for not framing





the charge against them for the offence under Sections 409, 420, 419, 504, 506 and 120(B) of the IPC and Section 3(i)(r)(s) of the SC/ST (POA) Act.

3. FIR speaks that, Mohan Kumar Mahto (informant) submitted a written information on 07.04.2017 to the Officer In-Charge of Mabbi O.P. (Sadar) police station stating that he was intended to purchase a residential land and in that connection, on 29.3.2016, Md. Reyaz and Md. Rakib Alam approached him claiming they want to sell three *kathas* of land at Mauza Bishanpur Kalyan @ Gehuni, registered in the names of Rakib Alam and his wife Rehana. After visiting and inspecting the land with Badri Prasad Mahansaria, the consideration amount was settled for ₹28,00,000/- per *katha*. He paid a total of ₹20,00,000/- through cash and cheques in the names of Rakib Alam and Rehana. An agreement was executed on ₹1,000/- stamp paper on 02.04.2016, signed by Rakib Alam, Rehana, and Reyaz as identifier, in the presence of witnesses. Later, when Mahto asked them to execute the sale deed after arranging the remaining money, they kept delaying, assuring to execute sale deed very soon or to refund with interest. On 09.03.2017 at about 10 PM, Reyaz, Rakib Alam, and five others allegedly came to his house, threatened him at gunpoint, refused both registry and refund, and





abused him using caste name. Rakib Alam also allegedly claimed a different identity and confessed involvement in a prior murder. Fearing for his life and family, informant approached police against the accused and also for recovery of his ₹20/- lakh.

4. Aforesaid written report was forwarded to SHO Sadar Police Station and on that basis a formal FIR was lodged which has been registered as Darbhanga Sadar P.S. Case No. 137 of 2017 dated 08.04.2017 for the offences punishable under Sections 420, 406, 467, 471, 386, 387 and 120(B) of the IPC and Sections 3(i)(s), 3(i)(r) and 3(i)(w) of the SC/ST Act. After investigation police submitted charge-sheet no. 487 of 2019 dated 28.08.2019 and thereafter learned Jurisdictional Magistrate took cognizance, accordingly.

5. Mr. Ajay Kr. Thakur, learned counsel for the appellants submitted that at the stage of framing of charge the appellants filed an application for discharge under Section 227 of the Cr.P.C. praying therein that no offence under the SC/ST Act or under the IPC made out against them in the present case, as the core issue is land dispute arising out of oral agreement, where petitioner no. 2 was implicated only for the reason as he was witness of the agreement of sale, petitioner no. 3 was implicated being the wife of Md. Rakib Alam. It is submitted that there is no





occasion to implicate petitioner no. 2 namely Md. Mehtab Alam @ Md. Mehtab. It is further submitted by Mr. Thakur that even the abuse in the caste name as per FIR is just to aggravate the allegation as to implicate the appellants for the offences punishable under the Sections 3(i)(s), 3(i)(r) and 3(i)(w) of the SC/ST Act.

6. Mr. Thakur, further submitted that as per FIR, only **“caste related abuse”** was alleged to made during the occurrence without specifying any caste. It is further submitted that the occurrence alleged to be taken place at about 10:00 PM inside the house, therefore, allegation *qua* abusing in public view is not appears convincing. Arguing further, it is submitted that neither sale deed is executed nor money was paid hence, no offence under the Indian Penal Code is made out. In this connection learned counsel relied upon Hon’ble Supreme Court report available through the matter of **Murarilal Gupta Vs. Gopi Singh, [(2005) 13 SCC 699.**

7. It is further submitted that, in-fact informant himself is the land broker and he lodged this criminal case for putting pressure, against appellants. It is further submitted that no money has been transferred in the accounts of any of the three appellants and as such they are not beneficiary out of alleged land





deal. Mr. Thakur, relied upon the reports of Hon'ble Supreme Court as available through **Keshaw Mahto @ Keshaw Kumar Mahto Vs. State of Bihar & Another, [SLP (Crl.) No. 12144 of 2025]** and also **State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335**. Mr. Thakur, further relied upon the legal report of Hon'ble Supreme Court as available through **Gulam Mustafa vs. State of Karnataka and Anr. [2023 SCC OnLine SC 603]**.

8. It would be apposite at this stage to reproduce paragraph no(s). 11, 12, 13, 14, 15 and 16 of the **Keshaw Mahto Case (supra)** for better understanding of the case, which is as under:-

11. This Court in *Shajan Skaria v. The State of Kerala & Anr.*, 2024 SCC OnLine SC 2249, laid down the ingredients to constitute an offence under Section 3(1)(r) of the SC/ST Act. It reads thus:-

“55. The basic ingredients to constitute the offence under Section 3(1)(r) of the Act, 1989 are:

- a. Accused person must not be a member of the Scheduled Caste or Scheduled Tribe;
- b. Accused must intentionally insult or intimidate a member of a Scheduled Caste or Scheduled Tribe;
- c. Accused must do so with the intent to humiliate such a person; and
- d. Accused must do so at any place within public view.”

12. Section 3(1)(r) is attracted where the reason for





the intentional insult or intimidation by the accused is that the person who is subjected to is a member of a Scheduled Caste or a Scheduled Tribe. In other words, the offence under Section 3(1)(r) cannot stand merely on the fact that the informant/complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless the insult or intimidation is with the intention to humiliate such a member of the community.

13. To put it briefly - first, the fact that the complainant belonged to a Scheduled Caste or a Scheduled Tribe would not be enough. Secondly, any insult or intimidation towards the complainant must be on the account of such person being a member of a Scheduled Caste or a Scheduled Tribe.

14. With a view to dispel any doubt and lend clarity, we deem it appropriate to mention that even mere knowledge of the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe is not sufficient to attract Section 3(1)(r).

15. Further, for an offence to be made out under Section 3(1)(s), merely abusing a member of a Scheduled Caste or a Scheduled Tribe would not be enough. At the same time, saying caste name would also not constitute an offence.

16. In other words, to constitute an offence under Section 3(1)(s) it would be necessary that the accused abuses a member of a Scheduled Caste or a Scheduled Tribe “by the caste name” in any place within public view. Thus, the allegations must reveal that abuses were laced with caste name, or the caste name had been hurled as an abuse.

9. It would be apposite at this stage to reproduce paragraph no. 34 of the **Gulam Mustafa Case (supra)** for





better understanding of the case, which is as under:-

34. Insofar and inasmuch as interference in cases involving the SC/ST Act is concerned, we may only point out that a 3-Judge Bench of this Court, in Ramawatar v. State of Madhya Pradesh, 2021 SCC OnLine SC 966, has held that the mere fact that the offence is covered under a 'special statute' would not inhibit this Court or the High Court from exercising their respective powers under Article 142 of the Constitution or Section 482 of the Code, in the terms below:

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The SC/ST Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the SC/ST Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily civil or private





where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the SC/ST Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr. P.C.”

10. It would also be apposite to reproduce the paragraph no. 102 of the Apex Court decision in the case of **Bhajan Lal Case (supra)** which reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive





list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of nay offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code





or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

11. Coming to the case in hand, it appears that dispute between the parties are civil in nature arising out of agreement related with land deal, where appellants are not the beneficiary and moreover, in view of aforesaid discussions *qua* making out a case for the offence under SC/ST Act, particularly in view of **Keshaw Mahto Case (supra)**, no case for the aforesaid offence is made out.

12. Accordingly, by taking note of guidelines as mentioned in para nos. 1, 5 and 7 of **Bhajan Lal (supra)**, impugned order of discharge along with cognizance order dated 28.04.2022 with all its consequential proceedings, *qua*, all above named appellants arising thereof as passed in in SC/ST/GR Case No. 33 of 2017 arising out of Sadar P.S. Case No. 137 of 2017, pending before learned 3rd Additional Sessions Judge-cum-Exclusive SC/ST(POA) Act, Darbhanga is hereby quashed and set aside.

13. Hence, this application stands allowed.





14. TCR (Trial Court Records), if any, be returned to the
learned Trial Court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	AFR
CAV DATE	NA
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