

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.782 of 2022**

**In  
CRIMINAL MISCELLANEOUS No.22016 of 2020**

Arising Out of PS. Case No.-45 Year-2019 Thana- SC/ST District- Gaya

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Sateyendra Prasad Yadav, son of Sri Dev Lal Yadav, R/o Narayan Colony, P.S. - Sherghati, District Gaya at Present working as Head Master, D.A.V. Public School, Sherghati, Gaya.

... .. Appellant

Versus

1. The State of Bihar
2. Sita Devi, Wife of Naresh Das, R/o- Piprapati, P.S. - Sherghati, District - Gaya at Present working as Aaya, D.A.V. Public School, Sherghati, Gaya.

... .. Respondents

**With  
CRIMINAL APPEAL (SJ) No. 1000 of 2021**

Arising Out of PS. Case No.-45 Year-2019 Thana- SC/ST District- Gaya

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Dr. Mrs. Nisha Peshin @ Nisha Peshin, W/o Sri Anil Peshin, Director PS II, D.A.V. College Managing Committee, Chitragupt Road, Paharganj, P.S-Paharganj, New Delhi-110005.

... .. Appellant

Versus

1. The State of Bihar
2. Sita Devi W/o Naresh Das R/o Piprapati, P.S.-Sherghati, District-Gaya at present working as Aaya, D.A.V. Public School, Sherghati, Gaya.

... .. Respondents

**Appearance :**

(In CRIMINAL APPEAL (SJ) Nos. 782 of 2022 & 1000 of 2021)

For the Appellants	:	Mr.Anil Kumar Singh, Advocate Mr.Sanjay Kumar Singh, Advocate Mrs.Bela Singh, Advocate
For the State	:	Mr.Sadanand Paswan, Spl.P.P.
For the Informant	:	Mr.Mithilesh Kumar Singh, Advocate

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

**Date : 11-12-2024**

Heard learned counsel for the appellant(s) in both the  
criminal appeals and Mr. Sadanand Paswan, learned Special



P.P. for the State duly assisted by Mr. Mithilesh Kumar Singh, learned counsel for the informant.

2. Both these appeals are being disposed of by this common judgment as it took its shape from the same impugned judgment.

3. Both these appeals are being preferred for quashing the impugned order dated 16.03.2020 passed by learned Exclusive Special Judge, SC/ST, Gaya in connection with S.C. & S.T. P.S. Case No. 45/2019, whereby and whereunder learned court, after differing with the charge-sheet submitted by the police vide charge-sheet No. 01/2020, pleased to take cognizance against the appellant(s) namely, Satyendra Prasad Yadav and Dr. Nisha Peshin for the offence under Section 354, 354(D)/34 of the Indian Penal Code and Section 3(1)(r)(s)(h)(j)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the "SC/ST Act") and ordered for issuance of summon, pending in the court of learned Exclusive Special Judge, SC/ST, Gaya.

4. Brief facts of the prosecution case is that one Sita



Devi filed a complaint petition on 15.06.2019 being Complaint Case No. 56/2019, alleging therein that she was working as *Aaya* in the school. She stated that on 12.09.2017, Satyendra Prasad Yadav had joined in the school as Headmaster and thereafter created an atmosphere of castism and she was being subjected to cruelty and harassment. Satyendra Prasad Yadav (appellant) tried to terrorize her and influenced her to come at his residence and had behaved with her in very derogatory manner. Anyhow, she managed to escape from there. The informant further alleged that Satyendra Prasad Yadav (appellant) had pressurized her to clean the toilet and abused her by calling her caste name. The informant further complained about the behaviour with respect to appellant namely, Dr. Nisha Peshin as she said to her to obey the orders of the appellant namely, Satyendra Prasad Yadav.

5. On the basis of aforesaid complaint of the complainant/informant, the aforesaid complaint case has been filed. Thereafter, learned Special Judge vide memo No. 349 dated 01.08.2019 forwarded the copy of complaint



petition to the SC/ST Police Station for registration of FIR under Section 156(3) of the Cr.P.C. On the basis of the order of learned Special Judge, SC/ST P.S. Case No. 45/2019 dated 21.11.2019 for the offence under Section 354, 341, 504, 506/34 of the I.P.C. and 3(i)(r)(s)(w)(i) of the SC/ST Act was registered and thereafter investigation was proceeded accordingly.

6. The investigating Officer as well as supervising authority, after investigation, submitted final report No. 01/2020 dated 20.01.2020 and stated that the case found false. A copy of final report is annexed herewith as Annexure '8' to the present memo of appeal. By differing with the aforesaid final report of the investigating officer, the learned court i.e. Special Judge, SC/ST, Gaya has been pleased to take cognizance against both the appellants.

7. Hence, the present appeal.

8. It is submitted by Mr. Anil Kumar Singh, learned counsel appearing on behalf of the appellant(s) that the present case is the glaring example that how the provisions of SC/ST Act and also the provision related with crime against



women are being misused in our society, which, otherwise, was intended to legislate to protect the downtrodden and depressed people of the society. With aforesaid note, it is submitted by learned counsel that the present complaint case, which is the basis of FIR i.e. Gaya P.S. Case No. 45/2019 dated 21.11.2019 was lodged with mala fide intention and ulterior motive, where the appellant being headmaster of the school initiated the verification process of School Leaving Certificate (in short 'SLC') of the complainant who was working as Class IV<sup>th</sup> employee in school. In this context, it is submitted that appellant being headmaster of the DAV Public School, Sherghati, Gaya sent a request letter dated 18.09.2018, which is Annexure '2' of the present appeal to the Headmaster of Middle School, Nauhar, Bankey Bazar, Gaya for verification of the SLC of the complainant/informant namely, Sita Kumari, alongwith attached true copy of SLC, which, upon verification, was found fake and not issued by the said school. This fact as intimated to the appellant, through letter dated 21.03.2019, issued from Rajkiya Madhya Vidyalaya, Nauhar, Bankey Bazar, Gaya under signature of



Headmaster, which is Annexure '3' to the present appeal.

9. It is further submitted that aforesaid communication was further communicated to the Regional Office through Annexure '4', which is a letter dated 06.04.2019. Whereafter, through Annexure '5', which is a letter dated 09.04.2019 issued from Regional Office of DAV Public School, Bihar Zone-B, Gaya, through which explanation was sought for from the complainant. In the meantime, complainant alongwith witness no. 1 and 2 namely, Rinku Devi and Rina Devi, who were also the '*safai karmi*' on contractual basis with same DAV School, threatened the appellants to implicate them in false case under SC/ST Act, which was intimated to the District Magistrate, Gaya through letter dated 27.06.2019, which is Annexure '6' to the present appeal.

10. The allegation, as raised through complaint petition, was also independently investigated by the District Magistrate, Gaya on request of Chairman, Scheduled Castes Commission, 5<sup>th</sup> Floor, Loknayak Bhawan, Khan Market, New Delhi. Whereafter, a report was sent to the Scheduled Castes



Commission by the District Magistrate, Gaya through letter No. 7240 dated 27.09.2019, where it was stated that upon inquiry the allegation, as raised by the complainant/informant, found false.

11. Taking note of the aforesaid background, it is pointed out by learned counsel that police also even after investigation submitted final form and did not sent up the appellant(s) for facing the trial as police found this case also false during investigation. Whereafter, by taking a different note by ignoring all such materials, the learned trial court took cognizance against the appellant(s) for the offences under Section 354, 354(D)/34 of the I.P.C. and Section 3(1)(r)(s) (h)(j)(w)(ii) of the SC/ST Act.

12. It is further submitted by learned counsel for the appellant(s) that as far appellant Dr. Nisha Peshin is concerned, nothing appears out of complaint petition which may suggest that any offence was committed by her. It is pointed out that admittedly the appellant was the Director of DAV Public School and was sitting in its Head Office at New Delhi. In this context, learned counsel further referred para



‘5’ of the complaint petition and stated that the informant/complainant failed to explain that how she came into conversation with this appellant, so as she abused her in caste name, which prima-facie implies only her malafide intention as to implicate the appellants due to oblique motive to stop process of verification, which was against her and to save her job anyhow, which upon verification, was found false.

13. In this context, it would be apposite to reproduce para **102** of the legal report of Hon’ble Supreme Court as available through **State of Haryana v. Bhajan Lal** reported in **1992 Supp (1) SCC 335**, which are as follows:

“**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 information 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 any 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 person 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.”

14. Mr. Sadanand Paswan, learned Special Public Prosecutor for the State duly assisted by Mr. Mithilesh Kumar Singh, learned counsel appearing for the informant, while



opposing the appeal, submitted that appellant namely, Satyendra Prasad Yadav, being Headmaster of DAV School, Sherghati, Gaya by taking advantage of his official position made advancement for sexual favour from informant/complainant and when same was denied, he initiated verification process of school leaving certificate which was not called for.

15. It is submitted that the informant never studied in Nauhar School rather she studied in Manorama Kanya Vidyalaya, Sherghati, Gaya and, therefore, the entire implication was raised on the basis of creating false SLC, reason best know to the appellant, however, he conceded that this fact is missing from the complaint petition. Learned counsel could not disputed the facts, as submitted above by appellant by taking reference of different annexures.

16. The implication of appellant namely, Dr. Nisha Peshin appears only for the reason that she was the Director of DAV School. It is an admitted position that her office was at New Delhi. She never came into direct conversation virtually or physically with the informant/complainant at any point of



time, having no occasion to abuse the informant by taking her caste name. From the narration of complaint petition, it appears that no criminal case is made out against the appellant namely, Dr. Nisha Peshin.

17. Considering the aforesaid, the present prosecution appears only out of ulterior and oblique motive with malafide intention and, therefore, by taking a guiding note of guideline nos. 1, 5 and 7 of **Bhajan Lal's** case, as quoted above, the impugned order dated 16.03.2020 passed by learned Exclusive Special Judge, SC/ST, Gaya in connection with S.C. & S.T. P.S. Case No. 45/2019 is quashed and set aside qua above named appellants.

18. Hence, both these appeals stand allowed.

19. Let a copy of this judgment be sent to learned trial court immediately alongwith T.C.R., if any.

**(Chandra Shekhar Jha, J.)**

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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