

Atrocities Act against six named accused persons including respondent No. 2 alleging therein that complainant was having four decimals of land situated at Mouja Raunia, Khata No. 860, Khesra No. 3575, for which basgit parcha was given in favour of the complainant. A pakka house has been constructed by the complainant on the land in question, in which the complainant is residing with his family members.

3. On the date of occurrence, respondent no. 2 along with other accused persons arrived, abusing in the name of his caste name, told the complainant to vacate the land in question, failing which he would be killed. The complainant was examined on SA along with two inquiry witnesses.

4. Learned counsel for the appellant submits that the learned Special Court erred in not taking cognizance under other Sections of IPC and the Section 3 (i)(r)(s) of the SC/ST Prevention of Atrocities Act inasmuch as from perusal of the statement of the complainant on SA as well as the statement of the witnesses examined during inquiry, it would be evident that the the complainant was abused by the accused persons, including respondent No. 2, in his caste name. There was sufficient material against the respondent No. 2 to take cognizance under the SC/ST Prevention of Atrocities Act.



5. On the other hand, learned counsel for the respondent No. 2 and the State argued that from perusal of the order of cognizance, it would be evident that the learned Special Court after considering the statement of the complainant on SA and the statement of the witnesses have taken cognizance under Section 504 of the IPC only. From the statement on SA and statement of the witnesses, it is clear that the abuse by the caste name was not taken in full public view and there was a dispute regarding land between both the parties.

6. I have heard learned counsel for the parties and have gone through the materials available on record, including the statement of the complainant on SA and the statement of the witnesses annexed along with this appeal.

7. It appears that complainant is claiming the piece of land, which is in dispute, as the land settled in his favour through basgit parcha. The respondent no. 2 and others are claiming the said land on the basis of the sale deed executed in favor of wife of respondent no. 2. Prima facie, there appears to be the land dispute between both the parties. From the record, it appears that abuse by the caste name was not in full public view.

8. The Hon'ble Supreme Court, in the case of Hitesh Verma v. State of Uttarakhand and another, reported in (2020)



10 SCC 710 in paragraph 18, has come to the conclusion that offence under the SC/ST Prevention of Atrocities Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste.

9. In the present case, the allegation against respondent no. 2 is that he along with others abused the complainant and asked him to vacate the disputed land which was purchased in favor of wife of respondent no. 2.

10. In an another judgment of Hon'ble Supreme Court in Keshaw Mehto alias Keshaw Kumar Mehto v. State of Bihar and another reported in 2026 LiveLaw (SC) 62, the Hon'ble Supreme Court has held that ingredients of 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.

11. Neither in the complaint nor in the SA and/or statement of the witnesses there is any whisper of an allegation of insult or intimidation by the respondent no. 2 herein that the abuse in the caste name was made with an intention to humiliate



or denigrate the status of the complainant/appellant.

12. Considering the aforesaid discussions and the fact that there is admitted land dispute between the parties, I do not find any infirmity in the order taking cognizance by learned Additional Sessions Judge-1 cum Special Judge SC/ST, Katihar.

13. In the result, the present appeal stands dismissed.

(Anil Kumar Sinha, J)

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