

**IN THE COURT OF ADDL. DISTRICT & SESS. JUDGE-I cum SPECIAL JUDGE,
KAIMUR AT BHABHUA
IA No. 01 of 2022 in SC/ST Case No. - 151/2020
SC/ST BHABHUA P.S. CASE NO. 63 / 2020
STATE Vs. Parma Singh and Others**

25.04.22 Present Sri Munna Singh, learned counsel on behalf of the accused-petitioners and Sri Sanjay Singh learned S.P.P. for the State.

ORDER

The record is put up for order on petition dated 16.02.2022 filed under Section 227 of Cr.P.C. by the petitioners namely, **1. Parma Singh @ Parmanand Singh and 2. Veer Bahadur Singh**. By filing the petition, the petitioners have sought their discharge from the liability arising out of the present case.

The facts alleged against the petitioners are that on 03.12.2020 at about 8:00 AM while the informant was going on a tractor, belonging to one Bablu Tiwari, for the purpose of ploughing the fields and while he was passing through the fields of petitioner Veer Bahadur Singh, the two petitioners namely 1. Parma Singh @ Parmanand Singh and 2. Veer Bahadur Singh made him stop the vehicle and started abusing him by using casteist language. When the informant resisted, the petitioner assaulted them with *lathi*. It is alleged that the petitioner Parma Singh attacked the informant on his head with a *lathi*. As a result, blood started oozing out of the informant's head and he fell on the ground. The petitioner then took away Rs.500/- from the pocket of the informant. Hearing the noise, when the people working nearby started accumulating at the spot, the petitioners then left the spot threatening the informant of taking away his life. The informant was under treatment and so the FIR in the case could be registered against the petitioner only the next day. The FIR was registered u/s- 341, 323, 379, 504, 506 read with Section 34 of IPC & 3(1)(r)(s)/3(2)(va) of SC/ST Act at the instance of the informant against the two petitioner. After investigation, police submitted charge-sheet against them u/s- 341, 323, 504, 506 read with Section 34 of IPC & 3(1)(r)(s)/3(2)(va) of SC/ST Act.

It is submitted by the counsel of the petitioner that the petitioners are innocent and falsely been implicated in the case. The informant was not known to the petitioners and he was not even aware of his name. That neither the caste of informant has been mentioned in his written report nor has the informant mentioned the words allegedly used by the petitioners to abuse him. As such, no SC/ST offence is made out from the facts alleged against the petitioner. That there is an unexplained

Contd.. delay in lodging of the FIR in the case which shows that the prosecution story is a
25.04.22 cooked up story and the case has been filed to take the benefit of the legislation. As no prima facie case is made out against the petitioners, they deserve to be discharged from the liability of the case.

The learned Spl. P.P. opposed the discharge petition on the ground that there is sufficient material available on the record showing the complicity of the accused in the commission of the alleged offence. All the witnesses examined during the investigation have supported the case of the prosecution. The veracity of the statements of the witnesses recorded u/s- 161 of Cr.P.C. in the case diary, is a matter of trial and discharging the accused merely on the ground that the statements recorded u/s- 161 of Cr. P.C. are not trustworthy, is not proper. Moreover, delay in lodging of FIR has been duly explained by the informant. The petitioners have however, not been able to address the suspicion raised against them with the availability of the material brought against them in the case diary. Hence, the discharge petition filed by the petitioners 1. Parma Singh @ Parmanand Singh and 2. Veer Bahadur Singh deserve to be dismissed.

Considered the material available on the record and the submissions advanced by the counsels. The court is of the opinion that the petitioners have not been able to explain the suspicion raised against them from the availability of material against them in the case diary. Hence, discharging the petitioners from the liability of this case would not be proper. In the light of the principles laid down by the Hon'ble Supreme Court in the case of Sajjan Kumar v. CBI 2010 (9) SCC 368; Union of India v. Prafulla Kumar Sanal and others 1979 (3) SCC 4; P Vijayan v. State of Kerla AIR 2010 SC 663, the discharge petition dated 01.09.2021 filed on behalf of accused 1. **Parma Singh @ Parmanand Singh** and 2. **Veer Bahadur Singh** is hereby **dismissed**. Now to put up on 25.04.2022 for framing of charge.

(Dictated)

Sd./-

**Spl. Judge
Kaimur at Bhabua**

