

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.567 of 2023

....

1. Chandra Bhushan, son of Shri. Vinay Kumar Yadav, aged about 31 years, presently posted as Manager (Retail Sales) of the Ranchi 3 Retails Sales Area under the Ranchi Divisional Office of the Indian Oil Corporation Limited and having his office at Namkum, PO & PS- Namkum, District-Ranchi, Jharkhand,
2. Kunal Kishore @ Kunal Kishori, son of Shri Rajendra Prasad, aged about 31 years, presently posted as Manager (Retails Sales) of the Tatanagar 1 Retail Sales Area under the Ranchi Divisional Office of the Indian Oil Corporation Limited and having his office at Namkum, PO & PS- Namkum, District-Ranchi, Jharkhand

.....Appellants

Versus

1. The State of Jharkhand
2. Sarju Paswan, son of Late Shibu Paswan, resident of 15-A, Adityapur Jaiprakash Udyan, Adityapur, PO & PS- Adityapur, District- Saraikella- Kharswan

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant	: Mr. B.M. Tripathy, Advocate Mr. Rahul Lamba, Advocate Mr. Aditya M. Khandelwal, Advocate Mr. Anish Kamal, Advocate Ms. Kanu Priya, Advocate
For the State	: Mr. Gautam Rakesh, APP
For the Resp. No.2	: Mr. Navneet Toppo, Advocate

.....

Oral Order in Court

Order No.11/22nd January 2026

1. This Criminal Appeal (SJ) has been filed on behalf of the appellants by challenging the impugned order dated 04.08.2022 passed by Mr. Amit Shekhar, learned Special Judge, SC/ST Act, Seraikella in Complaint Case No.10 of 2021 by which the cognizance has been taken against the appellant for the offences under Sections 504 and 506 of the Indian Penal Code and Section 3(1)(r), 3(1)(s) of the Schedule Caste and the Schedule Tribe (Prevention of Atrocities) Act, now pending in the Court of learned Special Judge, SC/ST Act, Seraikella.

2. As per the complaint case, the appellants are alleged to have abused the complainant and his sons in public view on 13.12.2021.

3. Learned counsel for the appellant has submitted that the impugned order by the learned Court below is illegal and not sustainable in eye of law. It is submitted that the appellants are innocent and has not committed any offence. It is submitted that the complainant is setup by his son Sanjeev Ranjan and Rajiv Ranjan for filing this malicious prosecution. It is submitted that the petrol pump was allotted the one Rajesh Kumar Paswan. However, the son of complainant entered into the premises and was looking the business and when the I.O.C.L. Officers learnt about this, then they stopped the supplying of petrol in the petrol pump of Rakesh Kumar Paswan and took measures for vacating the premises. Thereafter, the premises was vacated with the help of the local administration and for which he has relied upon the Annexure-7 to 9 which are the letters sent by the appellant no.1 namely Chandra Bhushan to the District Administration and thereafter, District Administration i.e. In-Charge Officer Seraikella Kharsawan, directed S.D.O for eviction of company owned retail outlet from authorized occupants at Adityapur District- Seraikella Kharsawan by letter dated 16.11.2021, then S.D.O had directed the Circle Officer to get the premises evicted and thereafter, the premises was evicted on 13.12.2021 and for which the report was submitted by the District Administration as contained Annexure-9. It is submitted that the present case was counter blast. It is further submitted that the appellants were not abused in the name of their caste rather this is case of malicious prosecution as the sons of the complainant had been evicted by the District Administration as well as I.O.C.L. Officials. It is further submitted that it is a case of

land dispute and the provisions of SC/ST Act will not be applied in this case.

4. In support of its contention, learned counsel for the appellants has relied upon in the case of Hitesh Verma vs. State of Uttarakhand and Anr. reported in (2020) 10 SCC 710 in Para 16 and 17 and also relied upon in the case of Shajan Skaria vs. State of Kerala and Anr. reported in 2024 SCC OnLine SC 2249 in para-58.

And hence the impugned order dated 04.08.2022 passed by the learned Court below may be set aside and this criminal appeal may be allowed.

5. On the other hand, learned APP has opposed the prayer of the appellants. It is submitted that the impugned order passed by the learned Court below is fit, proper and no interference is required.

6. Learned counsel for the Respondent No.2, after adopting the submission of learned APP, has submitted that this appeal is devoid of merit. It is submitted that the complainant and his sons Sanjeev Ranjan and Rajiv Ranjan had been abused in the name of their caste in public view and in presence of several persons by taking their specific caste name. It is submitted that even the Cr.M.P. No.4632 of 2022 was filed which was dismissed on 24.08.2023 as not maintainable and the copy of the said order passed by the Co-ordinate Bench (Hon'ble Mr. Justice Anil Kumar Choudhary) of this Court that has been enclosed as Annexure-B of the Counter Affidavit. It is further submitted complainant and his witnesses have fully supported the prosecution case and hence there is no illegality in the impugned order passed by the learned Court below hence this criminal appeal may be dismissed.

7. Having heard learned counsel for both the sides and from

perusal of the records of this case, it transpires that there is a petrol pump in question which was allotted by the IOCL, Officials to one Rakesh Kumar Paswan. However, from the complaint itself, it would appear that Sanjeev Ranjan and Rajiv Ranjan were inducted by the said Rakesh Kumar Paswan as his partners for running the petrol pump. However, the appellants caught them and evicted by the help of the District Administration.

8. It appears that the learned Trial Court has merely referred as follows:-

“The complainant has been examined on S.A. U/s 200 Cr.P.C and besides him four other inquiry witnesses have been produced namely EW.-1 Sarju Paswan, EW-2 Ganesh Kalindi, EW-3 Vijay Soy, EW-4 Ajay Paswan, EW-5 Sanjiv Dubey. From careful perusal of their statement recorded during inquiry, I find that they have thoroughly and consistently supported the facts of the case as set out in the complaint petition and from the materials as discussed above, I find that a prima facie case for the offence punishable u/s 504, 506 IPC and Sec. 3(1)(r), 3(1)(s) of SC/ST Act 1989 is made out against the proposed accused persons and accordingly cognizance of offence is hereby taken.”

9. It has been held in the case of Hitesh Verma Vrs. State of Uttarakhand and Anr. reported in (2020) 10 SCC 710 at para 16 and 17 as follow:-

“Para-16:- There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

Para-17:- In another judgment reported as Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P.,

(2020) 18 SCC 763 : 2019 SCC OnLine SC 1104] , this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

“15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to “Khangar” Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable.”

10. It further appears that the impugned order passed by the learned Court below is non-speaking order.

11. Accordingly, the order taking cognizance dated 04.08.2022 passed by Mr. Amit Shekhar, the learned Special Judge, SC/ST Act, Seraikella in Complaint Case No.10 of 2021 is set aside and the matter is remitted back to the learned Court below to take fresh order in accordance with law within a period of eight (08) weeks from the receipt of copy of this order.

12. Thus, this Criminal Appeal (SJ) No.567 of 2023 is allowed with the observations mentioned above.

13. Let a copy of this order be sent to the learned Court below by the Office.

(Sanjay Prasad, J.)

Dated 22.01.2026

Nishant/-