

28.11.2025
Item No.5
Ct. No. 34
nb

CRR 4480 of 2025

In the matter of: **Kush Das Bairagya & Ors.**

..... petitioners.

Mr. Soumyajit Das Mahapatra,
Mr. Md. Gulam Nure Imrohi,
Mr. P. P. Sinha,
Ms. Madhurai Sinha,
Ms. Upsana Banerjee,
..... for the petitioners.

1. This revision application has been filed against the order dated August 5, 2025 passed by the Additional District & Sessions Judge cum Judge, Special Court(POCSO), Tehatta, Nadia whereby cognizance was taken in respect of various provisions of BNS along with Section 3 of the Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act, 1989 and Section 10 of the POCSO Act and warrant was issued in connection with that.
2. The petitioners' specific case is that the dispute originated from the property dispute between the parties as the father in law of the opposite party no.2 donated a portion of land to the Temple Committee and she and her husband are claiming that portion. The present petitioners have been falsely implicated in the complaint as they raised protest to the illegal activities and assault made by O.P. no.2 to the priest. These are complaint lodged against them by the accused person.

3. It is further submitted that in the supplementary charge sheet their names have been incorporated. The omnibus allegation are levelled, which do not attract the requirement of Scheduled Caste and Scheduled Tribe(Prevention of Atrocities) Act.
4. Learned counsel appearing on behalf of the petitioner draws attention of this Court, the copies of the charge sheet whereby it would be revealed that the allegation to attract the provision established in course of investigation, so far as the present petitioners are concerned are absolutely missing.
5. Learned counsel has relied upon the decision of ***Hitesh Verma Vs. State of Uttarakhand & Anr.*** reported in **(2020) 10 SCC 710** and ***Karuppudayar Vs. State Rep by the Deputy Superintendent of Police*** reported in **2025 SCC OnLine SC 215** and submits that there is no ingredient to attract the provisions under Schedule Caste and Scheduled Tribe and therefore, entire proceeding is liable to be quashed.
6. Heard the submission and perused the content of the FIR, the basic ingredients to the offence to attract the said Act to be clarified as intentionally insulted or intimidated with intent to humiliate a member of the scheduled caste and scheduled Tribe in any place within public view.
7. Apparently, in view of the decision of the Hon'ble Supreme Court that offence is not established, merely on the fact that the informant is a member of scheduled Caste unless there is no intention to humiliate member of scheduled caste or scheduled tribe for that reason, that the victim belongs to such caste.
8. It is apparent that inimical relationship exists between the parties over the claim of land. Charge sheet also prima facie,

shows that so far as the present petitioners are concerned, no such incriminating materials are there to attract the provisions of SC/ST(POA) Act. Therefore, it is prima facie the petitioner has made out an arguable case, which is to be heard.

9. Accordingly, the petitioner is directed to serve the copy of the application to the opposite parties through registered post with AD.
10. It is submitted that since charge sheet has been submitted and cognizance has been taken, the petitioner apprehends that any adverse order may be passed against him since she is unable to file any application for anticipatory bail.
11. In view of the aforesaid facts and circumstances, no coercive steps be taken against the petitioner till December 24, 2025 or until further order, whichever is earlier.
12. Let the matter be placed before the regular Bench.
13. Liberty to mention.
14. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(CHAITALI CHATTERJEE (DAS), J.)