

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr.M.P. No. 1511 of 2019

Partha Biswas Petitioner

Versus

1. The State of Jharkhand

2. Gyan Ratna Opp. Party(s)

CORAM: HON'BLE MR. JUSTICE ANANDA SEN

(Through Video Conferencing)

For the Petitioner : Mr. Anurag Kashyap, Advocate

For the State : A.P.P.

For the O.P. No. 2 : Mr. Bharat Kumar, Advocate

Order No. 03: Dated: 24th June, 2020

Per Ananda Sen, J.:

1. Heard the learned counsel for parties through video conferencing. They have no complain with respect to the audio and video clarity and quality.

2. In this application, the petitioner has prayed to quash the part of the order dated 29.03.2019 passed by the learned District & Additional Sessions Judge-I-cum-special Judge, Jamshedpur in SC/ST Case No. 52 of 2018 in which though the cognizance was taken under sections 323, 354, 504, 506, 448 of I.P.C. but has not been taken under the provisions of S.C. & S.T. (Prevention of Atrocities) Act. It is the case of the petitioner that the offence is made out under the provisions of SC/ST Act by not taking cognizance under the aforesaid Act, the court has committed grave error.

3. Learned counsel for the opposite party no. 2 raises a preliminary objection on the point that the petitioner has no *locus standi* to file this case.

4. When I go through the compliant, I find that the complaint was instituted by this petitioner alleging that his house hold helps were abused and assaulted by the accused persons. It is alleged that

the accused persons have also abused them by taking name of their caste. The court took cognizance under the provisions of Indian Penal Code, but, not under the provisions of SC/ST (Prevention of Atrocities) Act.

5. I find that this petition before the Hon'ble High Court has also been filed by the complainant. The complainant cannot be said to be an aggrieved party. If the servants of the complainant was abused in the name of caste, then the aggrieved persons are those persons who belongs to the S.C. and S.T. community. Admittly those persons have not approached this Court, nor did they filed any complaint. It is the complainant who was not agrieved, has approach this Court on their behalf. Admittedly, the complainant is not a member of the SC and ST community. This petitioner/complainant is not the member of S.C. S.T. community, and not an aggrieved person cannot file an application requesting the Court to take cognizance for the offence under section S.C. & S.T. Act. It is the person who is aggrieved can approach this Court. Thus, the court below has rightly rejected the application filed by the petitioner. I am also of the opinion that the petitioner has no *locus standi* to file this application.

6. Further if cognizance is not taken under some sections of the penal law, the remedy is there in the Cr.P.C itself. At a later stage of the trial or during framing of charge the trial court and take note of the allegations and materials and frame charge or amend the same . In view of the legal position, I am not inclined to entertain this application.

7. Thus, this application is dismissed.

(ANANDA SEN, J.)