

Court No. - 80

Case :- CRIMINAL APPEAL No. - 1143 of 2023

Appellant :- Mrs. Sheela Devi

Respondent :- State Of U.P. And 5 Others

Counsel for Appellant :- P.K. Rao

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the appellants, learned A.G.A. for State and perused the record.

This criminal appeal has been filed by the appellant with prayer to allow the appeal and setting aside the judgment and order dated 18.10.2022 passed learned Special Judge S.C./S.T. Act, Jhansi in Criminal Misc. Case NO. 510 of 2022, under Section 156(3) Cr.P.C. Police Station Samthar, District Jhansi.

It is submitted by learned counsel for the appellant that in this case, the respondents insulted the appellant by use of words relating to her caste and also molested by catching her hand. She was also beaten by them and when she fled away from the spot and entered into her house, all of the respondents followed her and pulled her cloths. On her cry, she was rescued by the people of the village. In this regard, she filed an application before the police concerned but no report was registered. She also posted an application to S.S.P. but no any action was taken by him as a result she filed an application under Section 156(3) Cr.P.C. before the learned court which was rejected by the learned Special Judge S.C./S.T. Act by order dated 18.10.2022 without considering allegation made in the application against the respondents. The order passed by learned Special Judge S.C./S.T. Act cannot be said to be lawful and appropriate but illegal and is likely to be set aside and appeal to be allowed.

Learned A.G.A. opposed the prayer as aforesaid.

On considering the facts and circumstances of the case, submissions made by learned counsel for the appellant as well as learned A.G.A. and perusal of record along with order passed by learned Special Judge S.C./S.T. Act, it appears that there is allegation as aforesaid against the respondents made by the

appellant but the learned Special Judge S.C./S.T. Act has based its order on the basis of police report and also on the ground that there is no any such fact as would be investigated by the police.

In view of this court, the learned court was to find out as to whether cognizable offence was made out from the facts as mentioned in the application under Section 156(3) Cr.P.C. and as to whether investigation by the police was required in the facts or not, thereafter, he was to proceed further either to get the case registered at the police station or to treat it as complaint. In case, no such case was made out at all and the allegations appeared to be false and frivolous then an application was to be rejected. Even though the appellant has an option to file a complaint in this regard. Accordingly, the order dated 18.10.2022 being illegal and inappropriate is hereby set aside and this appeal is ***allowed***. Learned court concerned is to decide the matter afresh in accordance with law.

Order Date :- 6.12.2023

A. Singh