

Court No. - 80

Case :- CRIMINAL APPEAL No. - 1572 of 2023

Appellant :- Vimal Kumar Gupta And 8 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Beerendra Pratap Singh

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 appellants with prayer to set aside the summoning order dated 3.11.2022 passed by Special Judge S.C./S.T. Act, Court No. 2, Shahjahanpur in Session Case No. 1728 of 2022 arising out of Crime No. 599 of 2022, under Sections 504, 506, 332, 186 IPC and Section 3(2) (Va) S.C./S.T. Act, Police Station Sadar Bazar, District Shahjahanpur.

Facts in brief are that an F.I.R. was lodged by S.D.O., under Sections 504, 506, 332, 186 IPC and Section 3(2)(Va) S.C./S.T. Act. After investigation charge sheet was submitted under the same sections before the learned court of Special Judge (S.C./S.T. Act) on the basis of which cognizance was taken by the learned court vide order dated 3.11.2022 which is under challenge in this appeal.

It is submitted by learned counsel for the appellant that he is innocent and has been falsely implicated in the present case. In this case, F.I.R. was lodged with false allegation that maltreatment was done by the appellants though they were innocent farmers and making demand of electricity but for making pressure on them, this F.I.R. was lodged. In this way, there appears no any material to show that prma-facie was made out against the appellants but only for their harassment this case was registered and the Investigating Officer also acted malafide and favoured the S.D.O. who was Government Servant. Learned court concerned did also not take into consideration all these facts but took cognizance and summoned the appellants which cannot be said to be lawful, therefore, request to set it aside and allow the appeal.

On the other hand, learned AGA opposed the prayer and contended that in this case, learned court concerned passed the

order on the basis of material collected during the course of investigation by the Investigating Officer.

Considering the facts and circumstances of the case, submissions made by learned counsel for the parties and perusal of record as well as order passed by learned Special Judge S.C./S.T. Act there appears no any error of fact or law in the order but it is lawful and appropriate, it warrants no interference by this Court as a result this appeal being devoid of merit, is liable to be dismissed.

Accordingly, the present appeal is ***dismissed***.

However, it is directed that in case, the appellants appear and move bail application before the court concerned within a period of 30 days from today, it will be heard and decided expeditiously as far as possible in the light of case decided by Hon'ble the Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and another LL 2022 SC 577 decided on 11.07.2022.***

Order Date :- 30.11.2023

A. Singh