

Court No. - 84

Case :- CRIMINAL APPEAL No. - 1454 of 2020

Appellant :- Gopal

Respondent :- State Of U.P. And 4 Ors

Counsel for Appellant :- Avinash Pandey

Counsel for Respondent :- G.A.,Puneet Kumar Verma

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the appellant, learned counsel for the opp. party nos. 2 to 5 and perused the record.

This appeal has been preferred against the judgment and order dated 4.2.2020 passed by Special Judge SC/ST Act, Saharanpur, special case no. 21 of 2018, Gopal Vs. S.K.Sachan and others, under sections 323, 504, 506, 328 I.P.C. and section 3(1)(10) of SC/ST Act, police station Rampur District Saharanpur whereby the complaint of the appellant was dismissed under section 203 Cr.P.C.

As per the version of the appellant, on the basis of an application u/s 156(3) Cr.P.C. the complaint was registered in the District court Saharanpur on 22.1.2018 with the version that the complainant was an employee of M/s Unitech Machine Delhi Road, Saharanpur (hereinafter referred to as the 'Mill'). The complainant used to raise voice against the administration of the Mill, so he along with the other employees was put under suspension. They were directed to put their signatures on the attendance register at the gate of the Mill. On 20.1.2018 at 11.00 A.M. as soon as the complainant and the other employees including Ajay Kumar who was heading the employees of the Mill reached at the gate of the Mill the opp. party nos. 2 to 4 who are H.O.D. and H.E.D. of the Mill stopped Ajay Kumar from putting his signature on the attendance register while Ajay Kumar insisted to put his signatures on the attendance register. An oral altercation and after that physical altercation took place between Ajay Kumar and opp. party nos. 2 to 4. Ajay Kumar was thrashed by fists, blows and kicks at the hands of the opp. parties. He was hurled wild abuses using caste based words. When the opp. parties were forbidden from hurling caste based words, all of them caught hold of Ajay Kumar. The opp. party S.K.Sachan asked S.M.Pillai to pour some poisonous substance into the mouth of Ajay Kumar. In furtherance of their common intention, all the opp. parties poured some intoxicated/ poisonous substance forcibly

into the mouth of Ajay Kumar. Thereafter, Ajay Kumar became unconscious and fell down on the ground. The complainant and other employees reached at the spot and took him to the police station Rampur and then to the district hospital where Ajay Kumar was admitted. A registered letter was sent to S.S.P. concerned on 20.1.2018 but no action was taken against the opp. parties.

On the basis of this complaint after recording the statements of the complainant and other witnesses, the trial court passed the impugned order and dismissed the complaint under section 203 Cr.P.C. on the ground that there are contradictions in the statement of the victim Ajay Kumar and the version of the complaint. As per the version of the complaint Ajay Kumar was not permitted to put his signature on the attendance register while Ajay Kumar in his statement stated that he had put his signature on the attendance register. There is allegation of administering some intoxicated/poisonous substance by the opp. parties to Ajay Kumar but the doctor in his statement has not stated that any chemical examination report was prepared on the basis of which it could be decided that some poisonous substance was administered to Ajay Kumar by the opp. parties. The court opined that no prima facie case could be said to be made out and the complaint was found to be filed just to create a pressure on the administration of the Mill, hence, the complaint was rejected under section 203 Cr.P.C.

It is argued by the learned counsel for the appellant that the statement of the doctor is on record who has stated that some intoxicant was administered to Ajay Kumar, hence it is claimed that at least on the basis of the version of the doctor that some intoxicated substance was administered to Ajay Kumar, the notices can be issued to the opp. parties.

Learned counsel for the opp. parties opposed the prayer and submitted that there is nothing on record to show that some intoxicated substance was administered to Ajay Kumar by the opp. parties, hence the prayer is made accordingly.

From the perusal of the record, it is found that in support of the complaint, the statement of Gopal, the complainant was recorded under section 200 Cr.P.C. He has not stated anything in his statement confirming the version of the complaint that Ajay Kumar was hurled wild abuses, he was thrashed at the hands of the opp. parties and he was also hurled caste based words. Mere one allegation is there that when the opp. parties caught hold of Ajay Kumar, he released himself from their clutches and ran away from the spot. Ajay Kumar was again caught by the accused persons and

was administered some chemical by opp. party S.M.Pillai at the exhortation of other co accused persons. Ajay Kumar fell down getting unconscious and was admitted in the hospital where he got treated for 3 days. Ajay Kumar also appeared as P.W.-1 in the trial court there also he did not support the version that he was thrashed at the hands of the accused persons or caste based words were used against him. Ajay Kumar also stated that S.K.Sachan administered him some liquid in bottle. As soon as he consumed that liquid, he fell down and got unconscious and when he gained his conscious, he found himself in the hospital. Though P.W.-2 has stated in his statement that caste based words were used against Ajay Kumar, he was also thrashed and he was administered some liquid by S.K. Sachan. Thus except the allegation of administering some liquid no other allegation mentioned in his complaint has been supported by the complainant or the victim in their statements. The liquid which is said to be administered by the accused persons to Ajay Kumar, no FSL report was summoned regarding the same to prove that it was some intoxicated substance. Otherwise also in the complaint, the intoxicated substance is said to have been administered to Ajay Kumar by the accused persons. The first informant in his statement has stated that this chemical was administered to Ajay Kumar by S.M. Pillai while as per the victim Ajay Kumar, this liquid was administered him by accused S.K. Sachan.

Thus, the statements of the complainant and the victim are contradictory and are not supporting the version of the complaint. The allegation of thrashing, uttering caste based abuses and giving threats of life are not supported by the complainant and the witness P.W.-1 in their statements. The liquid said to be administered by the opp. parties cannot be said to be intoxicated in the absence of any FSL report in this regard.

In the opinion of the court, the impugned order passed by the trial court is well versed and well discussed order passed on the basis of the evidence on record which needs no interference.

The appeal is accordingly dismissed.

Order Date :- 13.10.2023

Gss