

Court No. - 80

Case :- CRIMINAL APPEAL No. - 3011 of 2023

Appellant :- Gaurav Singh And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Jitendra Singh

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the appellants as well as learned A.G.A. and perused the material on record.

This present criminal appeal has been filed with a prayer to allow the present criminal appeal and setting aside the entire proceedings of Charge Sheet No. 1 of 20200, dated 22.08.2022 in Case Crime No. 0335 of 2022, under Sections- 323, 504 I.P.C. & 3(2)(va), 3(1)(d), 3(1)(dh) S.C./S.T. Act, 1989, Police Station Sumerpur, District Hamirpur and pleaded to stay the effect and operation the cognizance order dated 19.10.2022 passed by learned Special Judge/ S.C./ S.T. (P.A.) Act, Hamirpur.

It is submitted by learned counsel for the appellant that in this case F.I.R. was lodged against the appellants with ulterior motive only for the purpose of making harassment by the respondent. During investigation no sufficient material was collected by I.O. even though charge sheet was filed. Learned Special Judge SC/ST Act also took cognizance of the offences without going through the record and considering the facts of the case.

It is also submitted that the mother of the appellants is Gram Pradhan that is the reason there is rivalry between the parties and also several applications were made by the respondents those were frivolous in nature, as a result no action was taken by the police. Later on they committed *Maar Peet* with the appellants regarding which case was got registered in counter-blast present F.I.R. was lodged against the appellants by the respondents. In this way this can be said to be malicious prosecution against the appellant but this fact was not taken into consideration by the learned court concerned and cognizance order was passed. It cannot be said to be lawful and appropriate and based on record, therefore request to set it aside and allow the present appeal.

Learned A.G.A. opposed the prayer as aforesaid and contended that in this case after registration of F.I.R. proper investigation was got done by the I.O. During the course of investigation as per material constituting the offence under Section 323, 504 I.P.C. & 3(2)(va), 3(1)(d), 3(1)(dh) S.C./S.T. Act was found and charge sheet was filed. After considering the material on record the learned court concerned took cognizance of the offences against the appellants and order dated 19.10.2022 was passed. There is no any illegality or inappropriety in the order but this appeal being devoid of merit is liable to be dismissed.

Considering the facts and circumstances of the case, submissions made by learned counsel for the appellants as well as learned A.G.A. for the State, perusal of record and the order passed by learned Special Judge S.C./S.T. Act on 19.10.2022 while taking cognizance of the offences, it appears that after registration of F.I.R. during the course of investigation sufficient material was collected by the I.O. and charge sheet was filed. Learned court concerned after perusing the material collected by I.O. during the investigation took cognizance of the offences. There appears no any illegality or impropriety in the orders dated 19.10.2022 passed by learned Special Judge in taking cognizance of offences, therefore, it cannot be said to be illegal and inappropriate and it does not warrant interference by this Court at this stage but this appeal being devoid of merit is hereby ***dismissed***.

However, if applicants appear and move bail application before the learned court concerned within a period of 30 days from today the same shall be decided by it as expeditiously as possible in the light of latest law as laid down by the ***Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and another LL 2022 SC 577 decided on 11.07.2022.***

Order Date :- 1.12.2023

Suraj Srivastav