

Court No. 83

Reserved

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. -3134 of 2023

Sharad Saxena & Others

...Appellants

versus

State of U.P. & Another

...Opposite Parties

JUDGMENT

HON'BLE SANJAY KUMAR PACHORI, J.

1. The present criminal appeal has been preferred to set-aside the summoning/cognizance order 14.11.2022 passed by Special Judge S.C./S.T. Act, Kanpur Dehat in Special Case No. 1433 of 2022, by which the trial court summoned and taken cognizance against the appellants under Sections 323, 504, 506 of The Indian Penal Code (In short "IPC) and under Section 3(1) (r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the SC/ST Act").

2. Brief facts of the case are that Awadhesh Kumar Katheriya/ complainant was working as Store Supervisor in PNC Infratec (Highway Construction Company) at Chaubepur. On 2.5.2020 complainant has gone to his house for some urgent work on leave, after informing Sharad Chandra Saxena, Store Manager. On

8.5.2020, complainant returned Chaubepur at work place at about 7.00 A.M. and asked Sharad Chandra Saxena to start I-punching machine at about 10.00 A.M., on which Sharad Saxena started abusing the complainant and also passed caste remarks and said that the Punching Machine shall not start. When complainant enquired about the reason of denial, Store Manager Sharad Chandra Saxena, Bhupendra Singh, Assistant Store Manager and Anoop Kumar Ojha Launging Department confined the complainant in a room and beaten him by kicks & fists and passed caste derogatory remarks and also robbed Rs.1100/- from his pocket. The complainant anyhow ran away from the place of incident. Again the above accused threatened him with dire consequences if they saw him.

3. After the incident, FIR has been lodged as case crime No. 103 of 2022, under Section 342, 323, 504, 506, 394 IPC and Section 3(1) (r) of SC/ST Act, Police Station Chaubepur, District Kanpur Dehat on written complaint of Awadhesh Kumar Katheriya. After investigation, the Investigating Officer submitted the charge sheet on 26.6.2022 under Section 323, 504, 506 IPC and under Section 3(1) (r) of the SC/ST Act against the appellants. Thereafter the Special Judge has taken cognizance on 14.11.2022.

4. Learned counsel for the appellants submitted that the parties have entered into a compromise and settled their dispute out of court amicably on 18.4.2023, which has been verified on 18.4.2023. A certified copy of the said compromise deed has been filed. On being arrived at mutual consent both the parties have come to terms and decided to part their ways and therefore, no useful purpose would be served to keep the matter alive and the present case be finally decided.

5. Learned counsel for private second respondent has argued that the money of Rs.75,000/-, which was given to the second respondent by the State Government, has been returned in the office of Zila Samaj Kalyan Adhikari, Kanpur Dehat on 2.6.2023 by draft no. 441902 dated 2.6.2023. As the appellants have already arrived at amicable settlement, therefore, private second respondent is no more interested to pursue the case any more against the appellants.

6. **Per contra**, learned A.G.A. has submitted that as per FIR, *prima facie* offence is made out against the appellants. The SC/ST Act is a special law where there is no provision for compounding offence.

7. Heard Sri Guru Prasad Singh, learned counsel for the appellants, Sri Abhishek Srivastava, learned counsel for private second respondent and Sri Ramesh Kumar Singh, learned A.G.A. for the State.

8. As per allegation of FIR and the charge sheet submitted does not disclose the caste derogatory word nor the allegations are that they were made in place of public view or public place and also the offending words are not purported to be made for the reason that the informant is a person belonging to Scheduled Caste to constitute the offence punishable under Section 3(1) (r) of the SC/SC Act. As per prosecution case, the incident had taken place in an office of private department. Therefore the offence under Section 3(1) (r) of the SC/SC Act is not made out.

9. In the present matter both the parties entered into an amicable settlement, and fact of compromise has been confirmed and verified. Learned counsel for the parties submitted that the parties have decided to keep harmony between them. As per compromise they have no grudge against each other and in the interest of justice the

entire proceedings of the case as well as order dated 14.11.2022 may be quashed in the light of the compromise.

10. In **Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors., (1988) 1 SCC 692** the Supreme Court has observed in para 7 as under:

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie established the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

11. The offences involved in this case are of a personal nature and are not offences against the society as well as are not of serious nature. The stage of case is before the framing of charge. In order to compromise between the parties, there is a minimal chance of the witnesses supporting the prosecution case. The chance of conviction, therefore, appears to be remote and be unnecessary to drag these proceedings.

12. Keeping in mind the position of law laid down by the Supreme Court in **Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710 (3 Judge)**, **Madhavrao Jiwajirao Scindia & Ors. v. Sambhajirao Chandrojirao Angre & Ors., (1988) 1 SCC 692**, **Gian Singh v. State of Punjab & Anr., 2012 (10) SCC 303 (3 Judge)**, **Narinder Singh and Others v. State of Punjab & Anr., (2014) 6 SCC 466** and **State of Madhya Pradesh v. Laxmi**

Narayan & Ors., (2019) 5 SCC 688 and facts, circumstances of the case. I, taking all these factors into consideration cumulatively, am of the opinion that the compromise between the parties is liable to be accepted and the entire criminal proceedings of Special Case No. 1433 of 2022 and cognizance order dated 14.11.2022 is liable to be quashed, and the appeal is liable to be allowed.

13. Hence, the entire proceedings as well as the impugned order dated 14.11.2022 passed in Special Case No. 1433 of 2022 arising out of FIR of case crime. 103 of 2022 registered with Police Station Chaubepur District Kanpur Dehat is hereby quashed. The present criminal appeal is allowed accordingly.

14. Office is directed to send the certified copy of this judgment to the court concerned immediately for necessary compliance.

(Sanjay Kumar Pachori, J.)

Date: 24.11.2023

MAA/-