

Court No. - 84

Case :- CRIMINAL APPEAL No. - 3957 of 2023

Appellant :- Sonu Pathak And 2 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Indra Kumar, Ram Kumar Malviya

Counsel for Respondent :- G.A., Himanshu Dubey, Shiv Babu Dubey

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

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

No one has put in appearance on behalf of the opposite party no. 2 despite of information given by the learned counsel for the appellants.

The mention slip be placed on record.

This is an appeal against the order dated 15.12.2022 passed by the Special Judge, SC/ST Act, Lalitpur in Criminal Misc. No. 341 of 2021 (Smt. Mamta Vs. Sonu Pathak and others) under Sections 354-A, 323, 504 IPC and 3(1)da, dha & 3(1)ba(i) of SC/ST Act against the appellant no. 1 - Sonu Pathak and under Sections 323/34, 504 IPC and 3(1)da, dha of SC/ST Act against the appellant no. 2 - Amit Pathak and appellant no. 3 - Vivek Pathak, Police Station Bar, District Lalitpur.

As per version of the learned counsel for the appellants an application under Section 156 (3) was moved by the first informant on 22.06.2021 before the court concerned wherein a police report was summoned and later on this application was registered as complaint and after the statements of the complainant and the witnesses under Sections 200 and 202 Cr.P.C. respectively the impugned order was passed summoning the appellants accused persons accordingly.

It is argued by the learned counsel for the appellants that Samri Pathak w/o Sonu Pathak, appellant no. 1 is the Village Pradhan. The opposite party no. 2 and her husband sell illegal liquor in the village, thus, crowd of drunkard persons gather nearby, which creates bad atmosphere in the village. The applications to this

effect dated 01.06.2021 and 02.06.2021 were moved by the villagers before the various authorities. In the report received from the police station concerned on the application under Section 156(3) Cr.P.C. also, it has come that Samri Pathak w/o Sonu Pathak had moved an application dated 06.01.2021 before the police station with the allegation that the opposite party no. 2 the wife of Bhajan Chamar sells spurious liquor in the village, so the atmosphere of the village has become unhealthy. When the police raided the spot nothing could be recovered from the spot as receiving the information the first informant had disposed of the liquor before arrival of the police. The challenge was given by Mamta - opposite party no. 2 that she would indulge the family members of Village Pradhan in false case of rape/SC/ST Act. Consequently, the first informant filed this application under Section 156(3) Cr.P.C. completely on the false grounds.

It is argued that on the basis of the allegations made and the police report summoned it is clear that nothing wrong was done by the appellants. They have been falsely implicated. No medical report regarding thrashing the husband of the first informant has been placed before the court.

Prayer is opposed by the learned A.G.A. It has been argued that the applications moved before the police station concerned did not bear the signatures of either Sonu Pathak or his wife Samri Pathak.

Though, from the police report, it can be said that a complaint regarding selling of spurious liquor by the first informant and her husband was made in the police station. The appellants were behind moving these applications, cannot be seen at this stage. The version of the complaint has been supported by the complainant under Section 200 Cr.P.C. and the witnesses under Section 202 Cr.P.C. Thus, on the basis of allegations made in the complaint and the statements of the complainant and the witnesses on record, the prima-facie case against the appellants can be said to be made out and accordingly, the order of the trial court passed by the basis of evidence on record appears to be legal and well versed order, which does not need any interference.

The appeal is, thus, **dismissed**.

Order Date :- 16.10.2023

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