

Court No. - 85

Case :- CRIMINAL APPEAL No. - 5791 of 2023

Appellant :- Smt. Reeta Devi

Respondent :- State Of U.P. And 2 Others

Counsel for Appellant :- Vijendra Kumar Mishra, Pravesh Kumar Tripathi

Counsel for Respondent :- G.A., Hari Narayan Singh

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the appellant, Sri Hari Narayan Singh, learned counsel for the opposite party nos. 2 and 3, learned Additional Government Advocate for the State of U.P. and perused the record.

This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant with the prayer to set aside/cancel the bail order dated 08.02.2023 passed by learned Special Judge, SC/ST Act/Additional Sessions Judge, Gorakhpur in Bail Application No. 393 of 2023, arising out of Case Crime No. 776 of 2022, under Sections 419, 420, 467, 468, 471 504, 506 I.P.C. and Sections 3 (1) Da, Dha of SC/ST Act, Police Station Pipraich, District Gorakhpur.

The only ground taken by the appellant for cancellation of bail application of respondent nos. 2 and 3 which was allowed by the trial court vide order dated 08.02.2023 is that notice issued to the informant was received by father of the informant but no notice has been received by informant and without hearing the informant the impugned bail order has been passed.

Learned counsel for the appellant submitted that on 13.01.2023 the learned trial court issued notice to the informant/appellant for hearing the regular bail application but interim bail was granted to the respondent nos. 2 and 3. As per the report of police station concerned with respect to the notice of informant, it disclosed that name of one 'Sanjay' who is the respondent no.2 and it was reported that notice has been served upon heir of the informant. It is alleged that notice has been served upon the heir of informant therefore, service of notice as required under Section 15 (3) of SC/ST Act was not proper and learned trial court has granted bail to the opposite party nos. 2 and 3 without hearing the informant.

Learned A.G.A. assisted by learned counsel for the respondents nos. 2 and 3 opposed the aforesaid prayer and submitted that as per the report of police station concerned Pipraich, Gorakhpur, the notice was served through heir upon informant. So far as the name of 'Sanjay' which is endorsed on the service report by the police station concerned, the identity of such 'Sanjay' is not disclosed. No verification was carried out as to whether the person who received the notice being the legal heir of the informant was respondent no.2. The notice was duly sent to the address of informant and it was duty of the process server to get it verified with the Gram Pradhan concerned. There is no occasion that process server would go to the house of accused to serve the notice.

Section 15-A (3) of SC/ST Act provides as under:-

"(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act."

Perusal of the record goes to show that a report of the police station was submitted and as per which the notice was sufficiently served upon the informant through her legal heir. No material is brought on record by the appellant that one Sanjay whose name is disclosed in the police report is same as respondent no.2. Learned trial court after issuing proper notice to the informant and after receiving the report from police station concerned, heard the bail application of the respondent nos. 2 and 3 and disposed of it in accordance with law.

Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view that learned trial court after issuing proper notice to the informant/appellant and after receiving the report from police station concerned, heard the bail application of the respondent nos. 2 and 3 and disposed of it in accordance with law, I do not find it fit case for cancellation of bail. Hence, the present criminal appeal lacks merit and deserves to be dismissed.

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

Order Date :- 30.11.2023

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