

Court No. - 80

Case :- CRIMINAL APPEAL No. - 5972 of 2023

Appellant :- Sanni Yadav

Respondent :- State of U.P. and Another

Counsel for Appellant :- Dinesh Kumar Gupta

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Notice has been served on opposite party no. 2 even though none appeared on her behalf.

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

This criminal appeal has been filed by the appellant with prayer to quash the charge sheet dated 22.2.2023 and cognizance order dated 24.3.2023 passed by Special Judge S.C./S.T. Act in Case No. 596 of 2023 State Versus Sanni Yadav, under Sections 376, 323, 504, 506 I.P.C. and Section 3(2)((5), 3(1) Da S.C./S.T. Act, Police Station Railway Road, District Meerut (arising out of Case Crime No. 126 of 2022) pending in the court of Special Judge (S.C./S.T. Act) Meerut.

It is submitted by learned counsel for the appellant that in this case the appellant is innocent and has committed no offence. As per allegation in the F.I.R. physical relations were established by the appellant with the victim without her consent and video was prepared by him. It is further submitted that no any video or audio was prepared by appellant and no any such device was used by him against the will of the victim to compel her to establish physical relation. No any *maar-peet* or assault was committed by the appellant with the victim. It is also submitted that another co-accused Sonu Yadav was also named in the F.I.R., but during investigation the involvement of Sonu Yadav was found to be false that was the reason he was exonerated and present appellant was charge sheeted by Investigating Officer without collecting proper evidence. It is next submitted that the learned court concerned also did not consider all the facts and circumstances of the case, but took cognizance of the offence on the basis of charge sheet which was filed by the Investigating Officer on insufficient material. It is also submitted that the appellant is Guard in Railway and has no

concern with the victim. He has his own family, therefore, the allegations made by the victim cannot be said to be tenable. In this way, the order passed by learned court concerned being illegal is liable to be set-aside and appeal be allowed.

On the other hand, learned A.G.A. opposed the prayer and urged that in this case the material collected during investigation was duly considered by the court concerned while passing the order in question and while the cognizance of the offence is taken. The order shows that it was passed after application of mind by the learned court and there is no illegality or impropriety in the order dated 24.3.2023, but the 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 appellant as well as learned A.G.A., material on record, the order passed by learned court concerned, in view of this Court there appears no illegality or impropriety in the order passed by learned Special Judge S.C./S.T. Act while taking cognizance of the offence, but this appeal being devoid of merit is liable to be dismissed.

Accordingly, the present appeal is dismissed.

However, it is directed that in case the appellant, who is on bail, moves an application for discharge before the learned court concerned within a period of 30 days from today through counsel, it shall be heard and disposed of on the basis of material on record in accordance with law.

Order Date :- 6.12.2023

Sunil Kr. Gupta