

Court No. - 84

Case :- CRIMINAL APPEAL No. - 6238 of 2023

Appellant :- Narayan Singh @ Kaluwa And 3 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Dinesh Kumar, Suresh Kumar Srivastava

Counsel for Respondent :- G.A.

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

Heard learned counsel for the appellants, Sri Vibhav Anand Singh, learned A.G.A. for the State and perused the record.

No one has put in appearance for opposite party no.2 despite of sufficient service of notice.

This is an appeal filed by the appellants against the order dated 28.05.2022 passed by the Special Judge, SC/ST Act, Mathura in Special Complaint Case No.60 of 2020 (Smt. Kusum Lata Vs. Narayan Singh and others) under Sections 323, 504, 506 I.P.C. and 3(1) (da) (dha) of SC/ST Act, P.S. Mangora, District Mathura.

By impugned order, the appellants have been summoned by the trial court to face trial under Sections 323, 504, 506 IPC and 3(1) (da), (dha) of SC/ST Act.

As per the version of the complaint, the opposite party no.2 claimed her father-in-law to be the owner of the Khasra No.359, 362, 363, 444 measuring 0.4570 hectares with the version that, the land was allotted in the name of Jhingaram, the father-in-law of the opposite party no.2 in the year 2007.

As per the version of the complaint the appellants are the miscreant type of persons. They forcibly got the possession of this land. The opposite party no.2 and her husband moved applications to various authorities but no action has been taken. It is the version of the complaint that on 21.09.2020 at 7:00 p.m. all the appellants entered into her house, started abusing, used caste based words and on the exhortation of Narayan Singh @ Kaluwa (the appellant no.1) rest appellants thrashed her ailing husband, molested her and tried to rape her. On her hue and cry the witnesses came and saved her. After recording the statements of the complainant and her witnesses the trial court summoned the appellants to face trial

under Sections 323, 504, 506 IPC and 3(1) (da), (dha) of SC/ST Act vide order dated 28.05.2022.

It is the argument of the learned counsel for the appellants that regarding the disputed property the grandfather of appellant no.1 had filed a civil suit being Original Suit No.351 of 2012 against Jhinga, the father-in-law of the opposite party no.2 for relief of permanent injunction and in that case the stay was granted in favour of Mauji, the grandfather of appellant no.1. That stay is continue till date. In counterblast of that case, the present complaint is said to be filed on the false grounds by the opposite party no.2.

The prayer is opposed by the learned A.G.A. The attention of the Court is drawn by the learned A.G.A. towards the number of the disputed property mentioned in the plaint filed by Mauji, the grandfather of appellant no.1 against Jhinga, the father in law of the opposite party no.2 that the disputed property in civil suit is Khasra No.360, while the opposite party no.2 claims land Khasra No.359, 362, 363 and 344 to be allotted in the name of her father-in-law.

Admittedly, the father-in-law of the opposite party no.2 and the grandfather of appellant no.1 are no more.

The only ground argued by the learned counsel for the appellants is that in counterblast of that civil suit filed by the grandfather of appellant no.1 the present complaint has been filed on the false grounds but the record shows that civil suit filed by Mauji, the grandfather of appellant no.1 is regarding Khasra No.360 and regarding that khasra only the stay has been granted by the civil court. The land claimed by the opposite party no.2 in the name of her father-in-law is Khasra No.359, 362, 363 and 444 of the same village. Thus, the complaint filed by the opposite party no.2 regarding Khasra No. 359, 362, 363 and 444 cannot be said to be filed in counterblast of the civil suit filed in the year 2012 regarding Khasra No.360 of the same village, hence, the only ground argued by the learned counsel for the appellants goes against the appellants.

So far as the impugned summoning order is concerned, the trial court by mentioning the statements of the complainant and her three witnesses in the order has clearly come to the conclusion that the witnesses and the complainant have supported the version of the complaint, hence, the impugned order was passed by the trial court, summoning the appellants. Going through the statements it

can be said that all the witnesses and the complainant in the court have supported the version of the complaint. No major contradiction is found in the statements of the witnesses or the complainant. The impugned order is found to be an appropriate order passed on the basis of the evidence on record.

Hence, in the opinion of the Court no ground for the interference in the impugned order is made out.

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

Order Date :- 30.10.2023

Radhika