

Court No. - 84

Case :- CRIMINAL APPEAL No. - 6680 of 2023

Appellant :- Yogesh Pal Singh And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Bharat Singh

Counsel for Respondent :- G.A., Pankaj Kumar Ojha, Seemant Singh

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

Heard learned counsel for the appellants, learned counsel for the opposite party no.2 and Sri Umesh Kumar Singh, learned A.G.A. for the State-Respondent.

The instant appeal has been filed against the impugned charge sheet No. 019 of 2023 dated 01.02.2023 registered as Case Crime No. 262 of 2023, arising out of Case Crime No. 0006 of 2023, under Sections 323, 504, 506, 427 I.P.C. and Section 3(1) Da, Dha, 3 (2) Va SC/ST Act, P.S. Saifai, District Etawah and the impugned order of taking cognizance and summoning the appellants dated 23.02.2023 passed by the learned Special Judge SC/ST Act, Etawah.

As per fact of the case, a first information report was lodged on 04.01.2023 regarding incident dated 31.12.2022 at 16.32 hours by the opposite party no.2-Rajeev Kumar against the appellants and unknown persons that on 31.12.2022 at 10.30 A.M. when he was going to his home, his vehicle was stopped by some unknown persons, who started abusing and giving him a threat. When he resisted, then one Yogesh Pal Singh-Pharmacist and Dharmendra Singh- Lab Technician and two other persons were called by that person and he was abused, hurled caste based words, given threat of life by the accused persons. When he took out his mobile to make a call to police station concerned, his mobile was thrashed against floor and was broken. Previously also both the appellants had abused and extended threat of life to the first informant on WhatsApp.

On the basis of this first information report, after the investigation, charge sheet was filed against the appellants on 01.02.2023 under Sections 323, 504, 506, 427, 3 (1) (Da), 3 (1)(Dha) and 3 (2) (va) of SC/ST Act. Trial court on the basis of this charge sheet, vide

impugned order dated 23.02.2023 took cognizance against the appellants in the above mentioned sections.

It is argued by the learned counsel for the appellants that in the first information report, the names of independent witnesses have not been disclosed. Though the Investigating Officer introduced two witnesses, who supported the first information report in their statements. But later on both these witnesses namely, Surjeet Singh and Brajesh Kumar filed affidavits in the court concerned that they never made any statement before the Investigating Officer as are shown made by them. In his statement, first informant has admitted that he did not suffer any serious injury on fracture. He got himself medically examined by the private doctor.

In fact the appellants have been falsely implicated. One Smt. Sarita had a quarter allotted in her husband's name. Smt. Sarita made a complaint on 28.11.2022 before the Vice Chancellor U.P. University of Ayurvedic Sciences, Saifai, Etawah that in the night of 26.11.2022 at 10.30 hours in an inebriated condition Rajeev Kumar- store keeper-opposite party no.2 reached his home, when she did not open the door, she was given threat that she would not let live there and do the job.

On the complaint of Smt. Sarita Devi, an inquiry was done and on the basis of the inquiry report, the opposite party no.2 was found guilty. A report was submitted by the committee. After this report, on 01.12.2022 the opposite party no.2 moved an application against Smt. Sarita Devi that she was in possession of the quarter against the rules, hence the quarter where she was residing must be vacated. On sympathetic ground, appellant no.2 Dharmendra Singh wrote a letter on 30.12.2022 to the Vice Chancellor U.P. University of Medical Sciences, Saifai, Etawah to consider the matter of Smt. Sarita Devi liberally. Because of this anguish only the appellants have been falsely implicated.

It is noteworthy that the first information report has not been lodged against the person, who is said to have stopped the vehicle of the first informant at the time of incident. In this regard the opposite party no.2 stated in his statement that both of them have arrived at a compromise, the opposite party no.2 does not want any action against that person. It is claimed that at the time of the incident, appellants saved Ravi Pratap Singh the said unknown person who is said to have stopped the vehicle of the first informant from the clutches of opposite party no.2 and they also supported Smt. Sarita against first the informant being the President and Vice-President of the Combined Employee

Association and Nursing Union of U.P. Ayurvedic University, Saifai, Etawah, so they have been falsely implicated by the opposite party no.2, who is store-keeper there.

Learned counsel for the opposite party no.2 opposed the prayer and submitted that in the medical report, five injuries are shown on his person, as a result of the alleged incident. He had made a complaint against Smt. Sarita Devi, so in support of Smt. Sarita Devi, the incident took place against him. The witnesses have supported the version of the first information report. Hence prayer is made accordingly.

Learned A.G.A. Sri Umesh Kumar Singh submitted that a pistol with ten cartridges has been recovered, however, he failed to show that from whom this pistol with ten cartridges was recovered.

It is true that in the first information report, no independent witnesses have been disclosed and later on two witnesses are said to have introduced by the Investigating Officer, who are said to have filed affidavits in the court that they never made any statement before the Investigating Officer. But from the perusal of the record, it is clear that version of the first information report has been fully supported by the first informant in his statement under Section 161 Cr. P.C.. The medical report filed by the first informant also supports the version of the first information report. Co-accused Ravi Pratap Singh with whom first informant is said to have arrived at a compromise, has also admitted some altercation with the first informant. The Investigating Officer after collecting the information from the spot, found that the occurrence took place on the spot and filed charge sheet against the appellants. The fact that appellants being President and Vice-President of the Combined Employee Association and Nursing Union of U.P. Ayurvedic University, Saifai, Etawah had supported Smt. Sarita Devi, hence they have been falsely implicated in the matter, shall be decided by the trial court after the evidence of the parties.

In the opinion of the Court, at this stage, no good ground is found to interfere with the order of taking cognizance against the appellants by the trial court.

The criminal appeal is hereby ***dismissed***.

Order Date :- 30.10.2023

T.S.