

Court No. - 84

Case :- CRIMINAL APPEAL No. - 5576 of 2022

Appellant :- Naipal Singh Sagar

Respondent :- State Of U.P. And 6 Others

Counsel for Appellant :- Sanjeet Kumar Mishra, Umesh Singh

Counsel for Respondent :- G.A., Vidya Prakash Singh

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

Heard learned counsel for the appellant, learned counsel for the opp. party nos. 2 to 7 and perused the record.

This appeal has been preferred against the order dated 8.7.2022 passed by Special Judge SC/ST Act, Ghaziabad in Misc. Application No. 266 of 2022, Naipal Singh Sagar Vs. Rajan Kumar Yadav (Fauji) and others, whereby the application under section 156(3) Cr.P.C. of the appellant was dismissed.

As per the facts of the case, an application u/s 156(3) Cr.P.C. was moved by the appellant on 8.6.2022 before the Special Judge SC/ST Act, Ghaziabad that on 28.2.2022 at 11.00 A.M., he had gone to meet his wife and children at Govindpuram, Ghaziabad as they were living in Akshay Enclave, Flat No. 5, F-2 Govindpuram, police station Madhuban District Ghaziabad, where he met Rajan Kumar Yadav-opp. party no. 2, Yatendra Kumar Yadav- opp. party no. 3, Dheeraj Singh Kumauoon opp. party no. 3 and two other miscreant type persons sitting there. They did not like his visit at his home. All these five persons made filthy comments regarding his wife and daughter. When he opposed, in anguish all of them confined him into a room, hurled wild abuses and thrashed him. They gave threat of life also to the appellant. They robbed him of Rs. 30,000/-. Rajan Kumar Yadav fired at him with the intention of causing his death but fortunately the fire was missed. All of them thrashing him dragged out of the enclave upto the road. As he belongs to SC/ST community he was hurled caste based words. All the accused persons are members of a gang. Rajan Kumar Yadav-opp. party no. 2 is the leader of this gang. His wife, daughter and son Himanshu are also involved in the activities of this gang, so they also support the accused persons. His wife Anjana has given their daughter Nupur into the custody of the gang leader Rajan Kumar Yadav. Witness Sahabram Singh and other passersby came there, witnessed the incident and saved him. The appellant

immediately informed at dial 112 and the police came on the spot. He gave a report at the police station on the same day on 28.2.2022. An application was given to the Superintendent of police concerned on 14.3.2022. He also sent letters to the Chief Minister of the State and Additional Police Commissioner, Meerut Zone Meerut but no action was taken. Ultimately on 12.4.2022, the appellant filed a Writ -C No. 11512 of 2022, Naipal Singh Sagar Vs. State of U.P. before this court which was disposed of, vide order dated 26.4.2022, with the observation that it was open for the petitioner/ appellant to file an application u/s 156(3) Cr.P.C. for any act amounting an offence or lodge a complaint under section 190 Cr.P.C.

The application of the applicant u/s 156(3) Cr.P.C. was dismissed vide impugned order dated 8.7.2022 passed by Special Judge SC/ST Act, Ghaziabad on the ground that no medical report was filed. There was no specification that from where the appellant had obtained/ collected Rs. 30,000/-. From which bank he withdrew the amount or from which A.T.M. he collected the said money, no proof was placed by the appellant in this regard before the trial court. The documents regarding treatment of the appellant placed before the court were dated 11.2.2022 and 12.2.2022, while, the incident was said to be taken place on 28.2.2022. It is the allegation that the opp. parties run a sex racket but no document with regard to running a sex racket was produced by the appellant. It was also found suspicious that the appellant was fired at by the accused as he did not sustain any injury. The court found that as the relationship of the appellant with his wife and children was not good so the application u/s 156(3) Cr.P.C. was filed on the false allegations hence the application was rejected by the trial court.

It is argued by the learned counsel for the appellant that though during the incident dated 28.2.2022, he sustained contusions but as he was very much scared by the incident, so he could not get himself medically examined. He had informed the police at dial 112. The police came on the spot, even then his FIR could not be registered. It is again alleged that Rajan Kumar Yadav opened fire at the appellant, this fire hit the wall. It is again submitted that he was robbed of Rs. 30,000/- by the accused persons. In the house of his wife at Akshay Enclave, Flat No. 5, F-2 Govindpuram, all the opp. parties are alleged to run sex racket. Previously also the incident of thrashing by the opp. parties took place with him. Regarding which he had lodged an FIR in the year 2011 which is appended at page 11 of the rejoinder affidavit. The treatment of the appellant is being done from Sarvoday hospital, Ghaziabad. The

appellant made a complaint before Bar Association Meerut and that complaint was sent to S.S.P. Meerut and a mediation was done between the parties orally at the S.P. office. It is also stated that the opp. parties are so powerful persons that no FIR could be lodged against them. It is further submitted that the appellant is in great trouble because of the opp. parties, so at least order for lodging the FIR/ complaint be made.

Learned counsel for the opp. party no. 2 opposed the prayer and submitted that the appellant used to thrash his wife, so his wife and children left him and are living with the in-laws of the appellant. On 26.9.2011, the wife of the appellant lodged a complaint regarding her harassment at the hands of the appellant before Dy. S.P. Meerut. All the children are now settled and are in job. The daughter of the appellant has been married to opp. party Rajan Kumar Yadav. On 13.10.2021 again a complaint was made by Anjana the wife of the appellant to S.S.P. concerned with regard to harassment of the appellant. The daughter of the appellant Nupur also moved an application on 24.10.2021 to S.S.P. Meerut, copies of these applications are appended with the counter affidavit. Earlier also when the appellant approached this court, this court ordered him to file an application u/s 156(3) Cr.P.C. or a complaint, only then the application u/s 156(3) Cr.P.C. was moved by the appellant which has been rejected by the court concerned.

It is argued by the learned counsel for the appellant that the wife of the appellant, his both sons and daughter are in clutches of opp. party Rajan Kumar Yadav, Yatendra Kumar Yadav and Dheeraj Singh Kumauoo, hence, the prayer is made accordingly.

From the perusal of the application u/s 156(3) Cr.P.C., it is found that there is allegation of thrashing the appellant against all the accused persons. Admittedly, the appellant is a 63 years old advocate who had been the President of Bar Association, Meerut. After being thrashed at the hands of the accused persons he did not get himself medically examined. Again he says that he informed the police on dial 112 and the police came, even then his FIR was not lodged. It is also the version of the appellant that opp. party Rajan Kumar Yadav fired at him with the intention of causing his death. The fire hit the wall but no photograph of the wall is placed before the court. Though it is the version of the appellant that after thrashing the appellant, all the opp. parties ran away from the house and when nobody was left in the house, the appellant had ample opportunity to take photograph of the wall where the fire hit. Again it is the version of the appellant that all the opp. parties run sex racket. He also claims that his wife and daughter both are

involved in the sex racket and his sons are the suppliers of the girls to the sex racket, but no proof regarding running of sex racket has been placed before the court. It is the admitted fact that the daughter of the appellant is with Rajan Kumar Yadav, the opp. party. It is the version of the opp. parties that Nupur-the daughter of the appellant has been married with Rajan Kumar Yadav. It is argued that previously also the appellant was beaten at the hands of the opp. parties. The appellant has placed before the court by way of a rejoinder affidavit the FIR filed against six persons he discloses them to be the father, brother and other family members of the wife of the appellant. It appears from the above discussion that the relations between the appellant and his wife and children are sour and they live separately. The wife and daughter of the appellant moved applications of harassment at the hands of the appellant to the various authorities but there is nothing on record that any proceeding either in family court or any other court of law is initiated by the appellant against his wife or children. Though he says that the opp. parties are very powerful persons and because of their terror his FIR was not lodged. Admittedly, the appellant has been the President of the Meerut Bar Association. In the opinion of the court, the appellant cannot be said to be a weaker person than the opp. parties who are said to run a sex racket. The dispute between the parties is matrimonial and in continuation of that dispute with wife and children, this application u/s 156(3) Cr.P.C. seems to have been moved by him.

In the opinion of the court, the order of the trial court is well versed and well discussed order passed on the basis of evidence on record. The appeal has no merit and is liable to be dismissed.

The appeal is hereby dismissed.

Order Date :- 12.10.2023

Gss