

Court No. - 84

Case :- CRIMINAL APPEAL No. - 6875 of 2023

Appellant :- Rajkumari Devi

Respondent :- State of U.P. and Others

Counsel for Appellant :- Rajesh Yadav, Sunil Kumar

Counsel for Respondent :- G.A., Kameshwar Singh

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

Heard learned counsel for the appellant, learned A.G.A. for the State - opposite party nos. 1 and opposite party nos. 7 to 24 and perused the record.

No one has put in appearance for the opposite party nos. 2 to 6.

This is an appeal filed against the order dated 04.05.2023 passed by the Special Judge (SC/ST Act), Ballia in Complaint Case No. 83 of 2019 (Rajkumari Devi Vs. Upendra Rai and others).

By impugned order the complaint of the appellant was rejected under Section 203 Cr.P.C. The prayer is made to set aside the impugned order and allow the appeal.

Learned A.G.A. opposed the prayer.

From perusal of the record, appellant is shown to be owner of the dispute property and the opposite party nos. 2 to 6 with the connivance of opposite party nos. 7 to 24 are said to have made an attempt to encroach upon the land of the first informant. From the order impugned it appears that a report was summoned from the police station concerned by the court concerned whereby between both the private parties; appellant and opposite party nos. 2 to 6, there was a dispute regarding land as the opposite party no. 2 was said to have been raising constructions over Gata Nos. 2723 and 2724, which was being claimed by the appellant as her own. On 19.06.2019 the police team along with team of revenue department measured the lands of the both the parties. The lands of both the parties were demarcated separately. When the opposite party no. 2 was making construction over his land, he was resisted by the appellant and her family members. When the police reached on the spot, the police was said to have been assaulted with batons, sticks and stones by the first informant and her family members.

Consequently, various police personnel got injured, regarding which Case Crime No. 143 of 2019 under Sections 147, 148, 149, 186, 332, 352, 353, 336, 427, 504 and 506 IPC was registered against Janki d/o first informant at the police station concerned. According to police report this complaint was filed as a counterblast of the police case registered above. The trial court found that no sanction under Section 197 Cr.P.C. was taken by the appellant against the opposite party nos. 7 to 24 before filing a complaint against them or before the date of passing the impugned order, hence, the complaint was rejected by the trial court.

From perusal of the record, it is found that no document regarding ownership of the disputed land has been placed before the court by the appellant. If the appellant claims herself to be the owner of the disputed property she may file a civil suit before the competent court. Against the police personnel, who are admittedly public servants before filing a complaint or passing the impugned order, no sanction is said to have been received by the appellant. Regarding the date of incident it is clear that in the complaint the incident is shown dated 21.07.2019 while the police lodged an FIR on 19.07.2019 against the daughter of the complainant.

In the opinion of the court, the trial court has passed a detailed order which is justified on the basis of the facts of the case. There is nothing on record to interference with the order passed by the trial court.

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

After passing the order, learned counsel for the opposite party nos. 2, 3 and 4 appeared in the court.

Order Date :- 28.10.2023

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