

Court No. - 84

Case :- CRIMINAL APPEAL No. - 7436 of 2023

Appellant :- Sanjeev Kumar Sharma

Respondent :- State of U.P. and Another

Counsel for Appellant :- Ravi Shankar Tripathi

Counsel for Respondent :- G.A., Manvendra Nath Singh, Virendra Kumar

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

Heard Learned counsel for the appellant, learned counsel for the opposite party no.2 and perused the record.

This appeal has been preferred against the order dated 4.10.2022 passed by Special Judge SC/ST Act Budaun in S.S.T. No. 1055 of 2022, State Vs. Sanjeev Kumar Sharma, case crime no. 468 of 2022, under sections 354, 504, 506, 509 I.P.C. and Section 3(2)(5ka) of SC/ST Act, police station Civil Lines, District Budaun. By the impugned order cognizance has been taken against the appellant to face trial under the aforesaid sections.

It is argued by the learned counsel for the appellant that as per the FIR there is allegation that appellant being the Principal of the school used to call the opposite party no. 2, a teacher, in his office without the mobile and used to commit obscene activities with her. Even after giving warning he did not improve himself rather started giving threat that if she would not follow the instructions of the appellant she will have to lose her job. The appellant posed himself to be a powerful person. The appellant is the Zila Adhyash of Primary Shikshak Sangh. He claims himself to be the relative of Ex-Deputy Chief minister Mr. Dinesh Sharma. Basic Shiksha Adhikari is said to be his uncle. The Principle of the DIET relates to his own cast. The appellant also gave a threat to get her suspended. It is also the version that the appellant is so powerful that no one dares to complain against him.

It is submitted that both the witnesses who have appeared to support the version of first informant in their statements under section 161 Cr.P.C. were unable to disclose the date and time of various incidents. On the complaint of the first informant a committee was constituted. The appellant filed his reply there. Three opportunities were granted to the opposite party no. 2 to come and put up her case. At last the complaint of opp. party no. 2 was found to be false. The inquiries by Khand Shiksha Adhikari, Basic Shiksha Adhikari and the Departmental inquiry conducted against the appellant, all were decided against the first informant. The incident is said to have taken place inside the office which cannot be said to be a public place. There is criminal history of one case against the appellant, hence the prayer is made accordingly.

Learned counsel for the opposite party no.2 submitted that the appellant is the Principle of the school, the Zila Akdhyash of Primary Sikshak Sangh and an

influential person having various resources in Government. He gave threat to get the victim suspended. Offences committed against the first informant are the offence in rem. The appellant, as per the version of FIR, also tried to outrage the modesty of the first informant.

As per the allegation in the FIR on the complaint of the first informant before the different authorities as mentioned above, 3 inquiries are said to have been initiated. Reports of all inquiries are on record, wherein Basic Shiksha Adhikari found the complaint against the appellant to be false. As per the report of the Khand Siksha Adhikari and the report of SC/ST Commission prima facie the allegations of opposite party no. 2 against the appellant were found to be not proved. In the report of Khand Siksha Adhikari, it has been mentioned that complaints of opposite party no. 2 have been disposed of earlier or the complaint is pending before the court and as per the report of SC/ST Commission the trial of the appellant was found to be pending before the court and the decision of the Court would be final has been mentioned. Thus it is clear that the complaints against the appellant made by opposite party no. 2 have been disposed of keeping in mind the fact that the complaint of opposite party no. 2 is pending before the court also. In inquiry of SC/ST Commission it has been clearly mentioned that the result of the inquiry would be the subject to the decision of the Court. Thus, on the basis of previous inquiry reports the matter could not be disposed of. Apart from the inquiry reports there is nothing on record to come to the conclusion that the allegation in the FIR are false. Version of the FIR has been supported by the witnesses though they were unable to disclose the date and time of various incidents which they noticed or witnessed but in the core their statements support the version of the FIR. On the basis of these inquiry reports the court finds no ground to set aside the impugned order of taking cognizance passed by the trial court.

Thus, the appeal being devoid of merit is liable to be dismissed.

It is hereby dismissed.

Order Date :- 16.10.2023/Gss