

Court No. - 84

Case :- CRIMINAL APPEAL No. - 5396 of 2019

Appellant :- Ranju Devi Alias Anju Singh And 14 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Savita Dubey, R S Dubey

Counsel for Respondent :- G.A.

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

Heard learned counsel for the appellants, learned A.G.A. for the State and perused the record.

No one has put in appearance on behalf of the opposite party no.2 despite of sufficient service.

In compliance of the order dated 16-08-2023 learned counsel for the appellants has filed supplementary affidavit. Along with the supplementary affidavit, copy of the F.I.R. of Case Crime No. 343 of 2015 has been filed, the same be kept on record.

This appeal has been preferred against the order dated 18-07-2019 passed by the learned Special Judge SC/ST Act, Deoria in Special Trial No.95 of 2018 (State Vs. Anju Singh and others) arising out of Case Crime No. 343 of 2015, under Sections 504, 506 IPC and 3(1)(10) of SC/ST Act, P.S. Bhaluwani, district Deoria.

By impugned order the learned trial court disposed of the discharge application, paper 20 Kha (1) moved by the appellants and discharged all the 15 appellants from charge under Sections 419, 420, 467, 468, 471 and 120-B IPC, but the discharge application of the appellants was rejected with regard to Sections 504 and 506 IPC and 3(1)(10) of SC/ST Act and the order was passed to frame charge under Sections 504 and 506 IPC and 3(1)(10) of SC/ST Act against all the 15 appellants.

It is argued by the learned counsel for the appellants that previously also they had appeared before this Court challenging the order dated 28-03-2019 passed by learned Special Judge, SC/ST Act/Additional District Judge-II, Deoria. Vide order dated 27-05-2019 this Court was pleased to set aside the order dated 28-03-2019 and direction was issued to decide the discharge application of the appellants afresh.

Following the order dated 27-05-2019 above the trial court passed impugned order dated 28-07-2019 and discharged the appellants from allegations of offences under Sections 419, 420, 467, 468, 471 and 120-B IPC and ordered the charges under Sections 504 and 506 IPC and 3(1)(10) of SC/ST Act to be framed against the appellants.

It is further argued that out of 15 appellants, appellant no.5 Prabhawati w/o Parashuram, appellant no.14 Parashuram and appellant no.15 Rajesh s/o Parashuram belong to SC/ST community, hence, against these three persons the charge under Section 3(1)(10) of SC/ST Act cannot be framed. Regarding Sections 504 and 506 IPC, it is argued by the learned counsel for the appellant that out of the 15 appellants, 5 appellants are ladies who cannot be supposed to commit offence under Sections 504 and 506 IPC. It is also argued by the learned counsel for the appellants that on the spot there was no eye-witness. There is no evidence of hurling caste based words. There is no motive for the appellants to commit an offence as mentioned in the F.I.R. Hence prayer is made accordingly.

Learned A.G.A. however, opposed the prayer and submitted that when the order of further investigation was made, independent witnesses Kolahal and Narsingh supported the prosecution version

before the Investigating Officer and only then a charge-sheet was filed against the appellants under the abovementioned Sections.

The trial court in its order found that as the incident was of the year 2015 so the provisions of Section 3(1)(10) of SC/ST Act would prevail over the incident. On the basis of case diary the trial court found offence under Sections 504 and 506 IPC and 3(1)(10) of SC/ST Act prima facie made out against the appellants hence the trial court ordered to frame charge under these Sections against the appellants.

It is true that the argument that three of the appellants belong to SC/ST community was raised before this Court earlier as is mentioned in order dated 27-05-2019 but the trial court has missed this point and has not given any finding in this regard. The caste certificate of appellant Rajesh s/o Parashuram is on record. According to this caste certificate Rajesh prima facie appears to be a scheduled caste person. Parashuram and Prabhawati are the parents of Rajesh hence all the three appellants can be said to be the person belonging to SC/ST community.

It is further argued by the learned counsel for the appellants that against rest appellants also the case under Section 3(1)(10) of SC/ST Act cannot be said to be made out as neither the specific castiest words have been used in the F.I.R. nor there is any narration in the F.I.R. that the caste based word were used by the appellants intentionally insulting or intimidating with intent to humiliate the opposite party no.2 in a place within public view because of opposite party no.2 being a member of SC/ST community.

From the perusal of the F.I.R. it is clear that no specific caste based

word has been mentioned in the F.I.R.. It is also not the allegation in the F.I.R. that the caste based words were used intentionally to insult or intimidate the opposite party no.2 within public view, because of his belonging to SC/ST community. In the statements of the witnesses and in the statement of first informant also no particular casteist words have been mentioned, so in the opinion of the Court mere allegation that caste based words were used against the opposite party no.2 is not sufficient to frame charge against the appellants under Section 3(1)(10) of SC/ST Act.

So far as the rejection of discharge application under Sections 504 and 506 IPC is concerned, the allegations regarding hurling wild abuses and giving threat of life are the factual allegations supported by the statement of witness, the truthfulness of these allegations shall be decided by the court after recording the evidence. Hence, in the opinion of the Court the order of the trial court with regard to rejection of discharge application under Sections 504 and 506 IPC, does not need any interference.

Order dated 18-07-2019 is confirmed with regard to rejection of discharge application regarding Sections 504 and 506 IPC. The impugned order dated 28-07-2019 is set aside with regard to rejection of discharge under Section 3(1)(10) of SC/ST Act. The appellants are discharged from offences mentioned under Section 3(1)(10) of SC/ST Act.

The appeal is **allowed partly**.

Order Date :- 22.11.2023

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