

Court No. - 92

Case :- APPLICATION U/S 482 No. - 2176 of 2013

Applicant :- Navin Sharma And Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Gaurav Kakkar

Counsel for Opposite Party :- Govt. Advocate, Anil Kumar Misra, Kapil Tyagi, Meera Devi, Moti Lal, Vivek Wilson

Hon'ble Anish Kumar Gupta, J.

Ref: Criminal Misc. Recall Application No. 72595 of 2014

1. The instant application has been filed seeking recall of the order dated 23.01.2013 passed by this Court in Application U/S 482 No. 2176 of 2013, under Sections 323, 324, 325, 504, 506 I.P.C. and Section 3(1)(10) of SC/ST Act, P.S. Khurja Nagar, District Bulandshahr, whereby this Court has partly allowed the said application and having found that the offence under Section 3(1)(10) of SC/ST Act is not made out and quashed the proceedings with regard to Section 3(1)(10) of SC/ST Act and for the remaining offences the trial court was directed to proceed in accordance with law against the accused persons.

2. The instant application has been filed seeking recall of the said order on the ground that the said order dated 03.01.2013 was passed quashing the charges under the SC/ST Act without issuing notice to the opposite party no. 2 through the opposite party no. 2, who is the applicants in the instant recall application is required to be heard before passing any order. Learned counsel for the applicants submits that as per the provisions of Section 15A(5) of the SC/ST Act the Court would not have passed the order of quashing the charges under Section 3(1)(10) of SC/ST Act without hearing to the opposite party no. 2, who is the applicants in the recall application.

3. In view of the provisions of Section 15A(5) of the SC/ST Act the order dated 23.01.2013 is recalled and the application under Section 482 No. 2176 of 2013 is restored, in its number.

Order on application

1. Heard Sri Pranjal Chaudhary, learned counsel for the applicants, Sri Umesh Kumar Kushwaha, Advocate holding brief of Smt. Meera Devi, learned counsel for the opposite party no. 2 and Sri Prem Prakash Tripathi, learned A.G.A. for the State.

2. The instant application under Section 482 has been filed seeking quashing of the impugned order dated dated 03.01.2013 passed by the Additional Sessions Judge, Court No. 16 Bulandshahr, Special Criminal Case No. 621 of 2012, under Sections 323, 324, 325, 504, 506 I.P.C. & 3(1)10 SC/ST Act, Police Station Khurja Nagar, District Bulandshahr.

3. Learned counsel for the applicants submits that the allegations made against the applicants are false and frivolous which have been made for the purpose of harassment, therefore, the proceedings pending against the applicants may be quashed. Learned counsel for the applicants further submits that from the perusal of the allegations made against the applicants if even taken on its face value as true then no offence under Section 3(1)(10) of the SC/ST Act is made out as the incident has taken place inside the house of the opposite party no. 2. Therefore, there is no allegations that the applicants have abused the opposite party no. 2 in a public place or in a public view, therefore, no offence under Section 3(1)(10) of SC/ST Act is made out against the applicants.

4. Learned counsel for the opposite party no. 2 submits that the applicants have assaulted the opposite party no. 2 due to the personal dispute, which was occurred in front of the house of the applicants to which the opposite

party no 2 had objected during the incident, the applicants have abused to the caste of the opposite party no. 2. Therefore, the offence under Section 3(1)(10) of SC/ST Act are made out against the applicants.

5. Learned counsel for the applicants further submits that the incident of assault and abuse has taken place not only inside the house of the opposite party no. 2 but also on the gate of the opposite party no. 2 which was in the public view.

6. Learned counsel for the State submits that as per the F.I.R. the allegation of assault is made inside the house of the opposite party no. 2, therefore, the offence under Section 3(1)(10) of SC/ST Act is not made out against the applicants as the said incident has not taken place in the public view neither there is any allegation that the public at large was present and heard the words related to caste averred by the applicants.

7. Having heard the rival submissions made by learned counsel for the parties and perused the record of the case, the allegations levelled in the F.I.R. does not show that the insult and intimidation with regard to the caste of the opposite party no. 2 was made by the applicants with intent to humiliate to the opposite party no. 2. Mere insult for intimidation would not attract the provisions of Section 3(1)(10) of SC/ST Act. The Act of such intimidation done with the intention of humiliating the member of the SC/ST community at any place within public view would attract the offence under the SC/ST Act. However, from the perusal of the F.I.R., it is apparent, the incident is taken place inside the house of the opposite party no. 2 and the words which are alleged to have been uttered with regard to the caste of opposite party no. 2 by the applicants were uttered inside the house of the opposite party no. 2. Therefore the words have not been uttered in public place or in public view. It has not been averred anywhere in the F.I.R. that the applicants have intentionally insulted or intimated with

intent to humiliate the opposite party no. 2 in a public view. Therefore, in the considered opinion of this Court, no offence under Section 3(1)(10) of the SC/ST Act is made out against the applicants as such the criminal trial with respect to the said offences is liable to be quashed.

8. Accordingly this instant application is **partly allowed**.

9. The proceedings of Special Criminal Case No. 621 of 2012, with regard to the offences under Section 3(1)(10) of SC/St Act are hereby quashed. However, if it is open for the trial court to proceed against the applicants with regard to offences under Section 323, 324, 325, 504, 506 I.P.C. in accordance with law.

10. With the aforesaid observations, the instant application is **disposed of**.

Order Date :- 28.10.2023

Ruhi H.