

Court No. - 84

Case :- CRIMINAL APPEAL No. - 7917 of 2023

Appellant :- Munnu Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Satyam Singh

Counsel for Respondent :- G.A., Radhey Shyam Yadav

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 is an appeal preferred against the order dated 01.03.2023 and 13.02.2023 passed by the Special Judge, SC/ST Act, Farrukhabad in Case No. 93 of 2023, Special Sessions Trial No. 260 of 2023 (State Vs. Munnu Singh Yadav) arising out of Case Crime No. 0185 of 2022, under Sections 420, 406, 504, 506 IPC and Section 3(1)(Dha) SC/ST Act, Police Station Mohammadabad, District Fatehgarh.

By the impugned order cognizance has been taken against the appellant under Sections 420, 406, 504, 506 IPC and Section 3(1) (Dha) SC/ST Act.

As per version of the FIR, the opposite party no. 2 is a retired Assistant Teacher belonging to Jatav caste. On 20.06.2021, he agreed to purchase the land of Ramesh Chandra and Balveer Singh both sons of Ram Singh @ Rs. 2,50,000/- per bigha. As the land owners used to live in other district so Munnu Singh, the present appellant and Gopal Yadav made an agreement on behalf of Ramesh Chandra and Balveer Singh. The land measuring 0.4500 hectare was agreed to purchase and in this regard both Munnu Singh and Gopal Yadav had received Rs. 3,40,000/- through cheque from the opposite party no. 2 and the amount was transferred in the bank account of the opposite party no. 2. Rs. 35,000/- was paid in cash to Munnu Singh. Both had assured to get the sale deed executed by Balveer Singh and Ramesh Chandra. Balveer Singh and Ramesh Chandra had also asked the opposite party no. 2 to give the money to Munnu Singh. As Munnu Singh used to live in the same mauja so they had faith on him. He was paid Rs. 3,75,000/- but neither the sale deed was executed nor the money was returned and when the appellant was reminded for the

execution of the sale deed or return the money, being provoked the appellant and co-accused Gopal Yadav started hurling caste based abuses. They gave threat of life and refused to return the amount received.

It is argued by the learned counsel for the appellant that this FIR has been lodged against the present appellant. As per statement of Amit Kumar, the son of the deceased Ramesh Chandra, Ramesh Chandra died in the year 2019. If the money has been received and the sale deed has not been executed the opposite party no. 2 has a proper remedy to move the civil court and file a suit of specific performance of contract or the suit for recovery of money. The criminal suit is not maintainable. It is also submitted that the appellant is having no criminal history to his credit. Hence, prayer is made accordingly.

Learned counsel for the opposite party no. 2 opposed the prayer and submitted that in the account of Munnu Singh, the complainant had deposited Rs. 2,00,000/- on 22.06.2021 and further Rs. 40,000/- were paid through cheque, which was cashed by the appellant on 28.07.2021. Rs. 1,00,000/- were deposited in the account of Gopal Yadav on 01.08.2021. In support of his version the original counterfoils of the cheque book and original pass book having above entries are placed before the court by the learned counsel for the opposite party no. 2. The photocopy of these documents are placed on the record.

From perusal of the record, it is found that prima facie as per version of the FIR, Rs. 2,00,000/- and Rs. 40,000/- are found to be transferred by the opposite party no. 2 in the account of Munnu Singh. Though, it is argued by the learned counsel for the appellant that it is a civil matter and civil remedy can be availed but admittedly, the agreement to sale was not executed in writing. It was an oral agreement and the money is said to be paid in terms of this oral agreement. Admittedly, no civil suit is pending between the parties in this regard thus in the opinion of the court along with civil liability the appellant also has criminal liability regarding misappropriating the money paid by the opposite party no. 2 to the appellant.

In the opinion of the court, in the matter in hand, the appellant has both civil and criminal liabilities towards opposite party no. 2. The trial court vide order dated 01.03.2023 has taken cognizance on the basis of charge sheet filed. Vide order dated 13.02.2023 issuing the notice, date 01.03.2023 was fixed for passing an order of cognizance and finally, on 01.03.2023 the trial court passed the

order and took cognizance under Sections 420, 406, 504, 506 IPC and Section 3(1)(Dha) SC/ST Act against the appellant.

Going through the evidence, the impugned order of cognizance passed by the trial court is found to be well founded order passed on the basis of evidence on record. Hence, there is no need of interference in the order.

The appeal is **dismissed**. The impugned order dated 01.03.2023 and 13.02.2023 are hereby confirmed.

Order Date :- 13.10.2023

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