

Court No. - 84

Case :- CRIMINAL APPEAL No. - 8824 of 2023

Appellant :- Rajan @ Rajendra Singh Rajput And 3 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Sushant Misra

Counsel for Respondent :- G.A.

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

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

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

This is an appeal filed against the order dated 07.07.2023 passed by the Special Judge, SC/ST Act, Farrukhabad in Special Session Trial No. 617 of 2023 (State Vs. Vedram Rajput and others) arising out of Case Crime No. 90 of 2023, Police Station Nawabganj, District Farrukhabad, whereby the trial court took cognizance under Sections 323, 504, 506 IPC, 3(1)(Da), 3(1)(Dha), 3(2)(Va) of SC/ST Act against the appellants on the basis of charge sheet filed by the Investigating Officer.

As per facts of the case, an FIR was lodged by the opposite party no. 2 on 30.03.2023 regarding incident dated 22.02.2023 against the appellants by moving an application under Section 156(3) Cr.P.C. dated 24.02.2023 that on 22.02.2023 when the first informant, her husband, father-in-law and mother-in-law were digging potatoes from their field at about 9.00 a.m. all the appellants came and by ploughing the demarcation 'medh' added the land into their field. When the first informant and her family members resisted, they were hurled abuses, used caste based words and given threat of life. Rajan also thrashed Karan Singh, husband of the first informant, who sustained grievous injuries. When the father-in-law and mother-in-law of the first informant and the first informant came to save Karan Singh, they were also thrashed by fists, blows and baton. The report was not written in the police station. A report was sent to the Superintendent of Police, Farrukhabad by registered post but no action was taken.

On the basis of this FIR, after investigation the Investigating

Officer filed charge sheet against the appellants and on the basis of charge sheet by the impugned order dated 7.7.2023 the trial court took cognizance under Sections 323, 504, 506 IPC, 3(1)(Da), 3(1)Dha), 3(2)(Va) of SC/ST Act.

By filing this appeal against the cognizance order dated 07.07.2023 it is argued by the learned counsel for the appellants that in the injury report of Karan Singh only two contusions are found on his person.

The attention of the court is drawn towards the order dated 19.12.2016, appended at page-81 of the paper book whereby the demarcation of the field of the appellant - Vedram was done. As per page-81 of the paper book, Raj Bahadur, the father-in-law of the opposite party no. 2 was the affected person of this measurement. Thus, it is said that on the basis of the enmity of this measurement only the appellants have been falsely implicated.

Again the attention of the court is drawn towards the statement of independent witnesses, appended at page no. 74 of the paper book and it is submitted that as per statements of the witnesses also at the time of ploughing the field of the appellants by mistake some part of the demarcation '*medh*' was ploughed by the sons of the appellant - Vedram. The minor altercation took place on the spot. Any physical altercation is denied on the spot. As per the statement, the appellant - Vedram also promised to repair the same. Hence, it is prayed that there is no evidence of thrashing the husband of opposite party no. 2 or her family members. In the statement of the witnesses there is no mention of hurling abuses or using caste based words by the appellants, hence, prayer is made accordingly.

Prayer is opposed by the learned A.G.A.

From the perusal of the record, it is found that the demarcation of the field of the appellant - Vedram was done on his request with regard to dispute with Raj Bahadur, father-in-law of the opposite party no. 2. From the statements of the independent witnesses on record, it is clear that while ploughing the field by the sons of the appellant - Vedram mistakenly the demarcation '*medh*' between the land of opposite party no. 2 and the land of appellants was erased and because of this there was an altercation between the parties. Though, from the statements placed before the court by the appellants, mere oral altercation between the parties is alleged. From the statements of the appellants on record, erasing the demarcation (*medh*) at the time of ploughing the field is admitted.

Though, it is argued that no caste based words or abuses or any physical altercation took place on the spot.

In the opinion of the court, there is nothing on record to support the version of the appellants, while as per evidence on record, the oral altercation between the parties regarding erasing the demarcation (*medh*) is admitted.

As the dispute is factual, in the opinion of the court, whether the incident of hurling caste based words or physical altercation took place between the parties or not, shall be decided after the evidence of the parties. The cognizance order, which is passed on the basis of charge sheet filed by the Investigating Officer, needs no interference. The appeal is liable to be dismissed.

The appeal is **dismissed**.

Order Date :- 22.11.2023

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