

Court No. - 84

Case :- CRIMINAL APPEAL No. - 6051 of 2019

Appellant :- Panna Lal

Respondent :- State Of U.P. And 4 Ors.

Counsel for Appellant :- Sanjeev Mishra Gana

Counsel for Respondent :- G.A., Virendra Singh Yadav

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

Heard learned counsel for appellant, learned counsel for opposite party no. 2, learned A.G.A. for State and perused the record.

This appeal has been preferred against the order dated 31.08.2019 passed by learned Special Judge (SC/ST) Act, Bareilly in Misc. Case No. 105/2019 (Panna Lal Vs. Krishna Pal & others), under Sections 156(3) Cr.P.C., P.S.- Fatehganj East, District- Bareilly.

By the impugned order, application under Section 156(3) Cr.P.C. of the appellant was rejected by the trial court.

As per facts of the case an application under Section 156(3) Cr.P.C. was moved on 22.06.2019 by appellant Panna Lal against four opposite parties showing the incident dated 15.06.2019 that when on 15.06.2019 at 8:00 p.m. he was coming back along with his family, the opposite party persons who belong to the general category, assaulted him with baton, sticks and other illegal weapons, they hurled abuses and caste based words. He and his minor children were thrashed with kicks and blows, threat of life was also given, as he was scared of the incident so he did not go to the police station for lodging the FIR but he sent an application to SSP Bareilly, SHO Fatehganj East, C.O. Faridpur, DIG Bareilly, IG Bareilly zone each by registered post. The appellant belongs to the scheduled caste community. Hence the prayer was made to issue a direction to lodge the FIR.

The trial court while passing the impugned order dated 31.08.2019 found that as the appellant disclosed him to be a person of scheduled caste community but no caste certificate was filed by him. Admittedly he had not gone to the police station also for lodging the FIR and registry receipt do not show that any of the registry was sent to SHO Fatehganj East and finding the rest offences to be under Sections 323, 504 IPC being the non

cognizable offences no proper ground was found of issuing directions to lodge an FIR. Hence, application of the appellant under Section 156(3) Cr.P.C. was rejected.

The caste certificate, which is appended at page -24 of the paper book, has been placed before this Court and learned counsel has drawn the attention of the court towards the registry receipt no. 4 which is addressed to Prabhari Nirikshak, Fatehganj and it is argued that through this registry, he had sent report to the police station concern and hence now the prayer is made to set aside the impugned order.

Learned counsel for opposite party no. 2 opposed the prayer and submitted that as he moved an application before SSP concerned against the appellant that he runs a butcher house in the locality which degrades the living environment there only after that this application under Section 156(3) Cr.P.C. was moved against him.

From the perusal of record, it is found that the application was moved by Shiv Dayal opposite party no. 4 on 19.07.2019 while application under Section 156(3) Cr.P.C. of the appellant is dated 15.06.2019 which shows that the opposite party no. 4 Shiv Dayal moved this application to SSP concerned only after the application moved by the appellant under Section 156(3) Cr.P.C. From the registered receipt also it is found that fourth number of registry receipt filed in the court is addressed to Prabhari Adhikari, Fatehganj East, hence through this receipt as per version of the appellant it may be presumed that through this registry report of the incident was sent to the police station concern and caste certificate of the appellant has been placed before this Court. It is admitted fact that it was not before the trial court when the trial court passed the impugned order.

In the opinion of the Court on the basis of documents placed before the Court, the trial court can pass fresh order regarding this application. Hence the impugned order dated 31.08.2019 is hereby set aside. On the basis of documents placed before this Court, the trial court is directed to pass a fresh order on the application of the appellant under Section 156(3) Cr.P.C. within two months from the date of receipt of certified copy of this order.

The appeal is thus **allowed**.

Order Date :- 7.11.2023

Sharad/-