

Court No. - 85

Case :- CRIMINAL APPEAL No. - 8883 of 2023

Appellant :- Rahmat And Another

Respondent :- State of U.P. and Another

Counsel for Appellant :- Shailesh Pandey

Counsel for Respondent :- G.A.,Devi Prasad Tripathi,Manish Kumar Pandey

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the appellants, Sri D. P. Tripathi, learned counsel for the informant/opposite party no.2, learned Additional Government Advocate for the State of U.P. and perused the record.

This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellants with the prayer to set aside the anticipatory bail rejection order dated 20.07.2023 passed by learned Special Judge [SC/ST (P.A.) Act], Moradabd in Anticipatory Bail Application No. 2612 of 2023, arising out of Case Crime No. 321 of 2022, under Sections 323, 504 of I.P.C. and Sections 3 (i) (DA), 3 (i) (Dha) and 3 (2) (va) of S.C./S.T. Act , Police Station Mundhapandey, District Moradabad.

As per the version of prosecution, on 27.10.2022 at around 9 pm, when informant was convincing his brother-in-law not to drink alcohol, appellants alongwith some other came there and beated him and his family members. They abused him by addressing the caste related words. In the aforesaid incident informant, Omveer and Reena sustained injuries.

It is submitted by the learned counsel for the appellants that appellants are innocent and they have been falsely implicated in

the present case. The name of Daud has been exonerated during investigation, therefore the entire prosecution story is belied. It is further submitted that as per the medical report, injury sustained by the injured persons are simple in nature. It is further submitted that there are general allegations against the appellants in the F.I.R. No specific role has been assigned to them. It is further submitted that informant and his brother-in-law entered into the house of appellant and committed obscene activity with the daughter of appellant Khurshid, therefore, an application under Section 156 (3) Cr.P.C. was moved before the Magistrate to lodge F.I.R. against them. It is lastly submitted that appellants have no previous criminal history.

Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for anticipatory bail contending that appellants are named in the F.I.R. In the incident three persons got injured. Injured Omveer sustained as much as 9 injuries. Injured Reena and Kapil sustained injuries on their person. Appellants had addressed the informant and his family members with caste related words. The application moved by the appellants under Section 156 (3) Cr.P.C. is not brought on record. The appellants prima facie have failed to establish their case for anticipatory bail, therefore, the appeal of the appellants is not maintainable. Hence, the appeal is liable to be dismissed.

Having considered the facts and circumstances of the case, complicity of accused, the Court is of the opinion that appellant has failed to establish prima facie case to enlarge them on anticipatory bail, therefore, the anticipatory bail is liable to be dismissed.

Since the trial court has passed the impugned order after appreciating the evidence available on record, there is no occasion

to interfere with the finding of fact recorded by the trial court, hence, the present criminal appeal lacks merit and deserves to be dismissed.

Accordingly, the criminal appeal is **dismissed**.

Order Date :- 19.10.2023

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