

Court No. - 85

Case :- CRIMINAL APPEAL No. - 9954 of 2023

Appellant :- Ravi Singh

Respondent :- State of U.P. and Another

Counsel for Appellant :- Vidya Kant Rai

Counsel for Respondent :- G.A., Shiv Nath Singh

Hon'ble Mayank Kumar Jain, J.

1. Pursuant to order dated 26.10.2023, learned A.G.A filed counter affidavit and submitted that he is presenting a pen drive before the Court alongwith photographs which are part of the investigation but they were so indecent that it cannot be played in the Court or cannot be brought on record.

2. Supplementary affidavit filed today by learned counsel for the appellant is taken on record.

3. Heard learned counsel for the appellant, learned counsel for the informant, learned Additional Government Advocate for the State of U.P. and perused the record.

4. This criminal appeal under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred by the appellant with the prayer to set aside the order dated 23.08.2023 passed by Additional District and Sessions Judge, Court No. 2/learned Special Judge (SC/ST Act), Kanpur Dehat in bail application no. 2429 of 2023, arising out of Case Crime No. 129 of 2023, under Sections 452, 384, 323, 504, 506 and 376 I.P.C., Section 66D of Information Technology Act, 2008 and Section 3(2)(V) of SC/ST Act, Police Station Shivali, District Kanpur Dehat.

5. There is an allegation in the F.I.R against the appellant that on 02.04.2023 at around 9:00 a.m, the appellant entered in the house of the informant along-with his kept Moni Singh and made a demand of Rs. 1 lakh from the informant otherwise he will defame her by showing objectionable photographs. The appellant also threatened and addressed her with caste related abuses. The informant was also beaten up by both of them. It is also mentioned in the F.I.R, he threatened the informant that he has taken such photographs of the informant which he will show to her in-laws

and to the entire village Even before this incident he had threatened her and called her to his house where blackmailing has been done in collaboration with other named persons. The informant is a married lady.

6. Learned counsel for appellants has submitted that the appellants are innocent and have been falsely implicated in this case. It is further submitted that victim in her statement under Sections 161 and 164 Cr.P.C did not make any allegation with regard to abusing with caste related words to her by the appellant, therefore, no offence under S.C./S.T. Act is made out against the appellant. It is also submitted that so far as the contents in the pen drive and photographs are concerned, the mobile phone of the prosecutrix was not provided by her husband to the investigating officer for forensic investigation. There is a delay of 6 days in lodging the F.I.R and no reasonable explanation is offered for such delay. It is also submitted that the victim with intention to implicate the appellant in grievous offence stated that in her statement that appellant forcefully established physical relation with her and continued to establish physical relation even in her matrimonial house. It is also submitted that as per the statement of the husband of the informant he was having the knowledge of the incident. The appellant is languishing in jail since 04.05.2023 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

7. Per contra, learned A.G.A. assisted by learned counsel for the informant vehemently opposed the prayer for bail and submitted that since the contents in pen drive and photographs are so indecent that they cannot be brought on record. It is also submitted that there is no contradictions in the statements of the victim and her husband regarding the incident as disclosed in the F.I.R. The prosecutrix did not consented for her medical examination since she was a married lady. It is also submitted that so far as the mobile phone on which the indecent contents were sent by the appellant were not taken by the investigating officer, has been explained by the husband of the informant that both of them were having two mobile phones with each other and the husband of the prosecutrix use to go to earn his bread to another place, therefore, if the phone was given to the investigating officer, it would be difficult for him to connect with his wife. It is also submitted that allegations made in the statements of the prosecutrix under Sections 161 and 164 Cr.P.C are grievous in nature. The prosecutrix in her statement under Sections 161 and 164 Cr.P.C has consistently corroborated the version of the F.I.R.

8. Having regard to the facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the active participation of the appellant in the commission of crime, I do not find it fit case for bail.

9. 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.

10. Accordingly, the criminal appeal is dismissed.

11. However, the trial court is directed to expedite the trial and to record the statements of the prosecution witnesses within a period of three months from the date of receipt of certified copy of this order without granting any unnecessary adjournment to either of the parties subject to full co-operation by the appellant.

Order Date :- 20.11.2023

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