

Court No. - 84

Case :- CRIMINAL APPEAL No. - 9056 of 2023

Appellant :- Jay Prakash Bind @ Lala

Respondent :- State of U.P. and Another

Counsel for Appellant :- Bal Ram Bind

Counsel for Respondent :- G.A., Kamlesh Kumar
Dwivedi, Vishwanath Vishwakarma

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

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

No one has put in appearance for opposite party no.2, though, the name of the counsel for opposite party no.2 appears in the cause list.

This appeal has been preferred against the order dated 18.08.2023 passed by the Special Judge, S.C./S.T. (Prevention of Atrocities) Act, Jaunpur in Complaint Case No.121 of 2021 (Raj Kumar Gautam Vs. Jay Prakash & others), under Sections 323, 504 I.P.C. and 3(1) (Da) (Dha) of SC/ST Act, Police Station Machhalishahar, District Jaunpur, whereby the discharge application moved by the appellant was rejected by the trial court.

As per facts of the case, a complaint was filed by the opposite party no.2 against the appellant and three other persons on 30.06.2021 with the version that the opposite party no.2 belongs to SC/ST community while appellant and co-accused persons belong to the general class, who have enmity with the opposite party no.2. On 08.05.2021 at about 7:00 PM when the opposite party no.2 was having feast regarding death of the grandfather of co-accused Chandrashekhar it is alleged that all the four accused persons including the present appellant came there, hurled caste based words and abuses that how the opposite party no.2 who belongs to the scheduled caste community dare to have feast with the accused persons. When the opposite party no.2/complainant replied that he had come on the invitation of the appellant and co-accused persons, all the accused persons including the appellant are said to have thrashed the opposite party no.2 with kicks and blows. When Rajesh Gautam and the father of Devraj came for rescue of the opposite party no.2 they were also thrashed at the

hands of the appellant and co-accused persons. The persons present at the time of feast witnessed the incident and saved the opposite party no.2. While going back the accused persons including the appellant gave threat of life also. The report of the opposite party no.2 was not lodged at the police station. He got himself medically examined on 09.05.2021. S.P., Jaunpur was also informed by registered post vide letter dated 11.06.2021.

After the statements of the complainant and his witnesses under Sections 200 Cr.P.C. and 202 Cr.P.C. respectively vide order dated 16.12.2021 the appellant and three co-accused persons were summoned by the trial court to face trial under Sections 323, 504 IPC and Section 3(1) (da) & (dha) of SC/ST. Against that order also, the appellant had approached this Court by moving Application U/S 482 No.9365 of 2022, wherein on the prayer of the appellant a direction was issued for moving bail application in the trial court. Consequently, the bail application was moved by the appellant in the trial court and he was bailed out. After this, a discharge application is said to have been moved by the appellant in the trial court and vide impugned order dated 18.08.2023 this discharge application has been rejected.

It is argued by the learned counsel for the appellant that in fact the altercation took place between the opposite party no.2 and some other villagers. They were challaned by the police under Section 107/ 116 of Cr.P.C. on 09.05.2021. As being Gaon Pradhan he mediated the dispute between the parties, so he has been falsely implicated in the case by the opposite party no.2, hence, prayer is made accordingly.

Learned A.G.A., however, opposed the prayer.

From the perusal of the record, it is clear that on the basis of the complaint after the statements of the complainant under Section 200 Cr.P.C. and his witnesses under Section 202 Cr.P.C., the appellant and three other co-accused persons were summoned to face trial by the trial court. That order was, though, challenged by the appellant only in this Court but later on, the prayer of challenging the summoning order was not pressed and a instruction to move a bail application was sought. Since then no other evidence is placed before the court, as per record. The opposite party no.2 and some other persons are shown to be challaned by the police on 09.05.2021 under Section 107/ 116 Cr.P.C. The medical reports of opposite party no.2 and his witness Rajesh Gautam are on record, wherein on their medical examination dated 09.05.2021 their injuries are found one day old.

Though, the challani report dated 09.05.2021 with respect to the opposite party no.2 and two persons Anand and Vivek is on record but mere a challani report of three persons under Section 107/ 116 of Cr.P.C. cannot be a ground to come at the prima facie conclusion that the appellant has been falsely implicated in the matter or he was not present on the spot at the time of the incident. While on the basis of the statements of the complainant and his witnesses the appellant alongwith co-accused persons have been summoned to face trial. Thus, prima facie evidence was found by the trial court against the appellant to summon him to face trial under the abovementioned sections. No sufficient ground has been placed before the court on the basis of which the appellant can be discharged from the charges levelled against him.

In the opinion of the Court, no sufficient ground exists to interfere in the order of the trial court. The appeal is liable to be dismissed.

The appeal is, hereby, **dismissed**.

Order Date :- 22.11.2023

Radhika