

Court No. - 80

Case :- CRIMINAL APPEAL No. - 9306 of 2023

Appellant :- Mithun Singh And 4 Others

Respondent :- State of U.P. and Another

Counsel for Appellant :- Kamla Kant Mishra, Varun Mishra

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma, J.

Heard learned counsel for the appellants as well as learned A.G.A. and perused the material on record.

This present criminal appeal has been filed with a prayer to allow the present criminal appeal and quash the charge sheet dated 10.10.2020, Cognizance and summoning order dated 15.12.2020 and bailable warrant dated 17.07.2023 passed by learned Special Judge, S.C./S.T. Act, Kaushambi in Case No. 141 of 2020 (State Vs. Mithun Singh and others) under Sections 147, 148, 149, 323, 504, 506, 186, 352, 353, 332 I.P.C. and Section 3(2)5Ka, 3(1)(Dha) SC/ST Act Police Station Pipari, District Kaushambi as well as the entire proceeding of Case No. 141 of 2020 (State Vs. Mithun Singh and others) pending in the court of Special Judge S.C./S.T. Act, Kaushambi arising out of Case Crime No. 214 of 2020, under Sections under Sections 147, 148, 149, 323, 504, 506, 186, 352, 353, 332 I.P.C. and Section 3(2)5Ka, 3(1)(Dha) SC/ST Act Police Station Pipari, District Kaushambi and also prayed that the further proceeding of Case No. 141 of 2020 (State Vs. Mithun Singh and others) under Sections 147, 148, 149, 323, 504, 506, 186, 352, 353, 332 I.P.C. and Section 3(2)5Ka, 3(1)(Dha) SC/ST Act Police Station Pipari, District Kaushambi may kindly be stayed during the pendency of instant appeal before this Hon'ble Court.

It is submitted by learned counsel for the appellants that in this case the informant was police constable and was posted in the police station where F.I.R. was lodged at his instance. In the same incident injuries were also caused to the appellants regarding which intimation was given to the police station for lodging F.I.R. but no such F.I.R. was lodged by the police. During the course of investigation no any statement of the injured person was recorded. It is also submitted that the incident took place within the jurisdiction of police station Puramufti but case was got registered in the police station Kaushambi and investigation was also got done by the Kaushambi police which cannot be said to be unbiased. It is

also submitted that after investigation charge sheet was filed on the basis of which cognizance was also taken by the learned Special Judge SC/ST Act Kaushambi by passing the order dated 15.12.2020 which is not speaking order, therefore, request to set it aside and allow the appeal.

Learned A.G.A. opposed the prayer as aforesaid and contended that in this case F.I.R. was also challenged by the appellants but after considering the merit of the case it was dismissed. The same issue cannot be re-agitated in this appeal. Further contended that the case was registered at police station Kaushambi and investigation was also done by Kaushambi police after investigation charge sheet was filed. On considering the material collected during investigation of the case learned court concerned took cognizance of the offence by order dated 15.12.2020. The order passed by learned court cannot be said to be cryptic and passed without application of mind. It is also contended that if the case of the appellants was not registered at the police station he had option to approach the appropriate authority and then to the Court or to file complaint. It is also contended that if there is any objection regarding jurisdiction to the court concerned he may have an option to move an application in this regard but on that very basis the order passed by the learned Magistrate cannot be said to be illegal and inappropriate.

Considering the facts and circumstances of the case, submissions made by learned counsel for the appellants as well as learned A.G.A. for the State, perusal of record and the order passed by the learned court concerned for taking cognizance of offences, it appears that in pursuance to lodging of F.I.R. investigation was conducted and charge sheet was filed before the learned court concerned. After considering the material on record as collected during investigation of the case the learned court concerned took cognizance of the offences by passing the order in question. The order in question cannot be said to be cryptic, therefore, there appears no any illegality or impropriety in the order, as a result it does not warrant interference by this Court but this appeal being devoid of merit is liable to be ***dismissed***.

Order Date :- 1.12.2023

Suraj Srivastav