

Court No. - 85

Case :- CRIMINAL APPEAL No. - 10528 of 2023

Appellant :- Pushpendra Sahu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Rajeev Kumar

Counsel for Respondent :- G.A.

Hon'ble Mayank Kumar Jain,J.

1. Learned A.G.A informed that service on opposite party no. 2 is sufficient as per record available with him. Despite service of notice upon the informant/opposite party no.2, no one has put in appearance on his behalf.
2. Heard learned counsel for the appellant, learned Additional Government Advocate for the State of U.P. and perused the record.
3. 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 judgment and order dated 21.09.2023 passed by learned Special Judge (SC/ST Act), Jhansi in Case Crime No. 339 of 2023, under Section 305 I.P.C., Section 3(2)(5) of SC/ST Act, Police Station Prem Nagar, District Kanpur Jhansi.
4. There is an allegation against the appellant in the F.I.R that daughter of the informant was a student of class Xth. A complaint was lodged against the appellant about an earlier incident that the appellant used to tease the victim. The matter was amicably settled but even thereafter the appellant continued to defame and tease her daughter. On 09.09.2023, when the informant and other family members were not at home the daughter of the informant committed suicide.
5. Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. As per the postmortem report the cause of death was ascertained to be asphyxia as a result of antemortem strangulation (manual), therefore, the allegation made in the F.I.R against the appellant are not corroborated with the postmortem report. The deceased had taken some money from the appellant and the appellant was asking her to refund that money and for this reason she committed

suicide. Body of the deceased was found on the floor and she was alive when the informant and other persons reached at the place of occurrence. The appellant is languishing in jail since 13.09.2023 having no criminal history and the age of the appellant is 70 years. 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.

6. Per contra, learned A.G.A. vehemently opposed the prayer for bail and submitted that independent witnesses Akash @ Manoj Kumar, Muskan Raikwar as well as Sunny Ahirwar brother of the deceased have corroborated in their statements that appellant used to tease the deceased inspite of the fact that on earlier occasion the matter was settled. The victim committed suicide as she was distressed by the misconduct of the accused/appellant.

7. 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.

8. 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.

9. Accordingly, the criminal appeal is dismissed.

Order Date :- 1.12.2023

PS