

Court No. - 15

Case :- CRIMINAL APPEAL No. - 1666 of 2023

Appellant :- Mathura Prasad

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko. And 3 Others

Counsel for Appellant :- Dharmendra Kumar Trivedi

Counsel for Respondent :- G.A., Shailendra Misra

Hon'ble Shamim Ahmed,J.

Heard Sri Dharmendra Kumar Trivedi, learned counsel for the appellant; Sri Shailendra Mishra, learned counsel for the opposite party Nos. 2 and 4 and Sri Ajai Kumar Agnihotri, learned A.G.A. for the State/opposite party No.1.

This Criminal Appeal under Section 14-A (1) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been preferred by the appellant against the impugned order dated 17.4.2023 passed by learned Special Judge, S.C./S.T. Act, Raebareli, in Misc. Case No. 967 of 2022, Police Station Dalmau, District Raebareli, whereby the application under Section 156(3), Cr.P.C. moved by the appellant has been rejected.

Learned counsel for the appellant submits that the appellant had moved an application under Section 156(3), Cr.P.C. before the Magistrate for a direction to the the S.H.O. to register and investigate the case, but the said application moved by the appellant has been rejected by the learned Magistrate, without considering the grounds taken in the application filed by him on 11.10.2022 regarding the incident dated 28.9.2022.

The learned counsel has further submitted that the Trial Court has rejected the application in a cursory manner, without considering the facts of the case and recording that no medical paper has been filed in support of the prosecution case, therefore, no cognizable offence is made out, and the entire story is based on facts, thus, the impugned order be quashed and a direction be given to the court below to direct for registration of the first information report.

Sri Shailendra Kumar Mishra, learned counsel for the opposite party Nos. 2 and 4 and Sri Ajai Kumar Agnihotri, learned A.G.A. opposed the arguments, as advanced by the learned counsel for the appellant and submitted that the entire allegations, as leveled in the application filed under Section 156(3), Cr.P.C., are based on factual aspects. From the plain

reading of the application, it appears that whatever the incident is said to have taken place on 28.9.2022, that was inside the house of the appellant, which is not a 'public place' nor there is any 'public view', thus, the provisions of S.C./S.T. (P.A.) Act are not attracted. Even though regarding the other sections of I.P.C., no case is made out, as there is no any medical document available on the record. The trial court has rightly rejected the application filed by the appellant under Section 156(3), Cr.P.C., giving a clear-cut finding that the appellant has not filed any medical document regarding the injuries to prove his case. The entire story as narrated by the appellant in the application is based on the factual aspects that cannot be considered. Even though it was further argued that the appellant has admitted this fact that due to election dispute this incident took place, but he has not mentioned anything about the rivalry in his application nor there is any eye witness of the alleged incident, thus, it appears that it is a ploy played by the appellant only with the intention to get some financial aid by the State Exchequer in lodging the first information report by way of moving an application under Section 156(3), Cr.P.C., which is nothing, but an abuse of process of law, thus, the court below has rightly rejected the application filed by the appellant, by the impugned order. This appeal lacks merits and is liable to be dismissed.

After considering the arguments as advanced by the learned counsel for the parties and after perusal of the impugned order, this court finds force in the arguments advanced by the learned A.G.A. and Sri Shailendra Mishra, learned counsel for the opposite party Nos. 2 and 4 that the entire allegations leveled in the application filed under Section 156(3), Cr.P.C. moved by the appellant are based on factual aspects. From the plain reading of the application, it appears that whatever the incident is said to have taken place on 28.9.2022, that was inside the house of the appellant, which is not a 'public place' nor there is any 'public view', thus, the provisions of S.C./S.T. (P.A.) Act are not attracted. Even though regarding the other sections of I.P.C., no case is made out, as there is no any medical document available on the record. The trial court has rightly rejected the application giving a clear-cut finding that the appellant has not filed any medical document in support of his case. The entire story as narrated by the appellant in the application is based on the factual aspects that cannot be considered. The appellant has admitted this fact that due to election dispute this incident took place, but has not mentioned anything about the rivalry in his application nor there is no eye witness of the alleged incident, thus, it appears that it is a ploy played by the appellant only with the intention to get some financial aid by the State Exchequer in lodging the first information report by way of

moving an application under Section 156(3), Cr.P.C., which is nothing, but an abuse of process of law, thus, the court below has rightly rejected the application filed by the appellant, by the impugned order. This appeal lacks merits and is liable to be dismissed. The appeal is accordingly **dismissed**.

(Shamim Ahmed, J.)

Order Date :- 6.12.2023
A.Nigam