

Court No. - 12

Case :- APPLICATION U/S 482 No. - 2370 of 2009

Applicant :- Shiv Bux Singh

Opposite Party :- State Of U.P. Thru. Secretary Home

Counsel for Applicant :- Balram Singh, Sachin Srivastava

Counsel for Opposite Party :- G.A., Rajendra Prasad, Sudeep Kumar

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material brought on record.
2. This application has been filed for quashing the order dated 15.05.2009 passed in S.T. No. 553 of 2007 arising out of Case Crime No. 270 of 2006, under Sections 323, 504, 506 I.P.C. and Section 3(1)(x) SC/ST Act, P.S. Atrauli, District Hardoi.
3. Learned counsel for the applicant submits that some quarrel was taken place in between the children of the applicant as well as private respondent for taking the mangoes in a mango grove, as a result of which, some altercations broke out in between the parties. Thereafter, private respondent came to Lucknow and obtained fabricated medico legal report to Balrampur Hospital and on the basis of incorrect facts, moved an application before the U.P. Scheduled Caste & Scheduled Tribes Commission, Lucknow in relation to the incident, which was taken place in the jurisdiction of P.S. Atrauli, District Hardoi. It is further submitted that under the orders of the Commission, one inquiry was conducted by the Circle Officer, Sandila, Hardoi and submitted a report on 25.06.2005, in which, it was categorically observed that no such incident was taken place. Learned counsel for the applicant vehemently submits that a fabricated report was obtained by the private respondent and his associates, as it was highly improbable that, in case, any such incident of beating was taken place in the village, then in place of going to the concerned police station or going to the Community Health

Center for treatment, the respondent no. 2 would not go to the Lucknow for medico legal examination. It is also submitted that thereafter, F.I.R. bearing Case Crime No. 270 of 2006 was also lodged. However, after detail investigation, the name of the applicant was dropped on the basis of evidence collected by the Investigating Officer. Thereafter, trial was proceeded and statements of P.W. 1 and P.W. 2 were recorded and they again reiterated the version, which was mentioned in their statements, on which, the summoning order was passed by the court below ignoring the report and the observations made by the Investigating Officer of the Investigating Officer as well as the statements of other independent witnesses. It is, thus, submitted that the indulgence of this Court is necessary.

4. Learned A.G.A. opposes the prayer of the applicant and submits that in the deposition of P.W. 1 and P.W. 2, active participation of the applicant was narrated and, therefore, there is no illegality in the order passed by the court below. However, he does not dispute the fact that under the order of SC/ST Commission, inquiry was conducted by the Circle Officer, Sandila, Hardoi, who reported that no such incident was taken place and the conduct of the private respondent was also suspected. He also does not dispute that there was lack of evidence related to the involvement of the applicant and, therefore, his name was dropped.

5. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application, impugned order as well as report dated 25.06.2005 prepared by Shambhu Singh, Circle Officer, P.S. Sandila, District Hardoi, it is undisputed that the alleged incident was taken place at Village Bhogipur, Majra Mahuadada, P.S. Atrauli, District Hardoi, but in place of going to the nearby CHC for medical aid, private respondent and his associates went to Lucknow for medico legal examination. It is also evident that thereafter, an application was moved before the SC/ST Commission for

lodging of the F.I.R. and under the order of the Commission, an inquiry was conducted by the Circle Officer, P.S. Sandila, District Hardoi, who has reported that no such incident was taken place. Thereafter, the F.I.R. was lodged and after detail investigation, the name of the applicant was dropped. However, the trial court, by only examining P.W. 1 and P.W. 2, allowed the application under Section 319 Cr.P.C. and passed the impugned order without recording the deposition of Investigating Officer, who observed that the involvement of the applicant was not found in the said incident.

6. In view of above facts and circumstances, the impugned order is liable to be set aside and is hereby set aside.

7. The application stands allowed.

8. The court below is directed to pass fresh order in accordance with law after considering all the relevant materials.

Order Date :- 1.11.2023

VKS