

**Court No. - 15**

**Case :-** CRIMINAL APPEAL No. - 2935 of 2023

**Appellant :-** Kamal

**Respondent :-** State Of U.P. Thru. Prin. Secy. Home Lko. And  
4 Others

**Counsel for Appellant :-** Dilip Kumar

**Counsel for Respondent :-** G.A.

**Hon'ble Shamim Ahmed,J.**

1. Heard Sri Dilip Kumar, learned counsel for the appellant and Sri V.K. Sahi, learned A.G.A-I for the State and perused the material placed on record.

2. This Criminal Appeal under Section 14-A (1) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the impugned order dated 31.07.2023 passed by Special Judge SC/ST Act, Lucknow, in Crl. Misc. Case No.604 of 2023; Kamal vs. Rajiv Rastogi & Others whereby application under Section 156 (3) Cr.P.C. moved by the appellant has been rejected.

3. Learned counsel for the appellant submits that the appellant has moved application under Section 156 (3) Cr.P.C. before the concerned Magistrate on the ground that the daughter of the appellant was employed as Care Taker in Lucknow by opposite party Nos.3 to 5 but they forcefully took her to Hyderabad, Telangana, where they used to harass and torture her and she was not paid the salary also and thereafter, she was killed by them. He further submits that initially the appellant moved a written application on 15.03.2023 to the concerned S.H.O., wherein he had stated that his daughter was forcefully taken by the accused persons to Hyderabad, Telangana and there she has been killed by the accused persons but the F.I.R. was not registered. He further submits that the appellant also moved an application on 22.03.2023 before Commissioner of Police, Lucknow but no action was taken for lodging of the F.I.R. Adding to his arguments, he further submits that thereafter, the appellant moved an application under Section 156(3) Cr.P.C. on 29.05.2023 to register the F.I.R. against opposite party Nos.3 to 5.

4. Learned Counsel for the appellant further submits that the concerned Magistrate has erred in law by rejecting the application of the appellant in a most mechanical, arbitrary and

casual manner and without application of judicial mind, thus, the present appeal may be allowed and the order impugned may be set aside.

5. Sri V.K. Sahi, learned A.G.A-I. opposed the argument as advanced by the learned counsel for the appellant and on the instructions received submits that the application moved by the appellant was rejected by a detailed order by the learned Magistrate on the ground that the matter pertains to Hyderabad, Telangana, which is outside the jurisdiction of the learned Magistrate as the alleged incident took place in a different State. He further submits that the application under Section 156(3) Cr.P.C. is nothing but abuse of process of law as the appellant belongs to SC/ST category and the opposite party Nos.3 to 5 belong to upper caste category. He also submits that the appellant has moved the said application under Section 156 (3) Cr.P.C. before the concerned Magistrate only with the intention to receive financial gain from the State Exchequer for lodging of the F.I.R. The appellant has a remedy before the competent court in the State of Telangana by filing an appropriate application for redressal of his grievance. The appellant has tried to misuse the liberty of law and it is a clear cut case of abuse of process of law, thus this appeal is liable to be dismissed.

6. After hearing learned counsel for the parties and after perusal of the record this Court finds that the appellant has tried to take financial benefit by the State Exchequer by moving application under Section 156 (3) for lodging of the F.I.R., whereas the cause of action lies in a different State and the appellant has a remedy for redressal of his grievance before the competent court in the State of Telangana, in spite of moving application under Section 156 (3) for lodging of the F.I.R. in State of Uttar Pradesh, thus, the court below has rightly rejected the application of the appellant, thus, I do not find any illegality and infirmity in the impugned order.

7. In view thereof, the present appeal lacks merit and substance, which is hereby **dismissed** at this stage.

**Order Date :- 17.10.2023**

Piyush/-