

Court No. - 29

Case :- CRIMINAL APPEAL No. - 3075 of 2023

Appellant :- Surendra Kumar Dhobi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko. And 5 Others

Counsel for Appellant :- Sachin Pandey, Sachin Pandey, Satyendra Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Instant Criminal Appeal under Section 14(A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred against the order dated 04.10.2023 passed by the learned Special Judge, Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), Sultanpur in Criminal Misc. Case No. 603 of 2022 under Section 323, 504, 506, 427, 379 I.P.C. and Section 3(1)(X) of the SC/ST Act, Police Station Kurebhar, District Sultanpur whereby the learned Special Judge SC/ST Act has rejected the application under Section 156(3) vide order dated 04.10.2023.

2. Heard learned counsel for the appellant and learned AGA for the State.

3. It is submitted that appellant tried to file F.I.R. which was not registered, thereafter, he moved an application to S.S.P. and no heed was paid on his application and his application under Section 156(3) Cr.P.C. was rejected on the ground that dispute is civil in nature and relates to revenue department. It is further submitted that notice be issued to opposite party No. 2.

4. Learned AGA for the State submitted that the application moved by the appellant under Section 156(3) Cr.P.C. was not supported by an affidavit as per the requirement of law. The case is of civil nature regarding possession of land in dispute, hence, order passed by the learned trial court is well within the purview of law, hence, the appeal is liable to be dismissed.

5. Perusal of application under Section 156(3) Cr.P.C. reveals that on 04.12.2021

at about 12:00 PM, opposite parties demolished the wall of appellant and when the appellant forbade the private respondents to do so, they abused the appellant and threatened to kill him, they also addressed the appellant taking his caste name. It is also mentioned in the said application that private respondents took away 2000 bricks which were laying down at the place of occurrence. From the perusal of the impugned order, it is evident that there was no injury report, however, Marpeet is said to have occurred. It is also mentioned in the impugned order that the dispute arose regarding the possession of land in dispute which the to be determined by Revenue Courts and merely to pressurize the opposite parties, application under Section 156(3) Cr.P.C. is moved without an affidavit in support of the application, hence the application was rejected by court below.

6. The present appellant moved an application under Section 156(3) Cr.P.C. without an affidavit in support of the contents of the application. The dispute between the parties is of civil nature regarding the measuring of land and the crux of the matter is that whether the wall was constructed in the land of appellant or opposite parties No. 4, 5 and 6.

7. In this case, nothing is required to be investigated after lodging of the F.I.R. and all the facts are within the knowledge of the appellant and no cognizable offence is made out except allegation under Section Section 3(1)(X) of the SC/ST Act. There is no illegality, irregularity or perversity in the order passed by the learned trial court. There is equally efficacious remedy available to the appellant of filing complaint in the court concerned.

8. In view of the above, instant criminal appeal is liable to be dismissed and **is dismissed accordingly**, with a liberty to the appellant to avail the remedy of filing a complaint before the court concerned.

(Renu Agarwal,J.)

Order Date :- 2.11.2023/Karan