

Court No. - 15

Case :- CRIMINAL APPEAL No. - 3307 of 2023

Appellant :- Ram Kumar

Respondent :- State Of U.P. Thru. Secy. Home Deptt. Lko. And 2 Others

Counsel for Appellant :- Uma Kant Gupta

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Uma Kant Gupta, learned counsel for the appellant and Sri Ashok Srivastava, learned A.G.A. for the State.

The instant appeal has been moved on behalf of the appellant, namely, Ram Kumar with a prayer to set aside the order dated 26.09.2023 passed in Criminal Misc. Case No.310 of 2023 (Ram Kumar Vs. Hari Om Yadav and Another), whereby the application under Section 156(3) Cr.P.C. moved by the appellant has been rejected by the learned court below.

Learned counsel for the appellant submits that the impugned order is passed in a mechanical manner without considering the evidence on record whereas the person against whom the appellant wants to get F.I.R. registered has demanded Rs.30,000/- for electricity connection on tube well. However, when the electricity connection was not installed, the appellant demanded his Rs.30,000/- to be returned but instead of returning the same, he was abused by the opposite party no.2 in caste abusive language as well as he was also physically tortured by the opposite party no.2. Thus, learned counsel for the appellant submits that the impugned order be quashed and the trial court be directed to pass a fresh order for lodging of first information report.

On the other hand, learned A.G.A. for the State submits that there is no illegality or infirmity in the impugned order. A proceeding under Section 135 of the Electricity Act, 2003 regarding theft of electricity has already been initiated by the Department against the appellant. The application under Section 156(3) Cr.P.C. moved by the appellant is nothing but an abuse of process of law only with intention to create pressure on the Department, so that the case which has been lodged against him, may be compromised. Learned A.G.A. for the State further submits that there is no proof regarding demand of Rs.30,000/- made by the opposite party no.2 nor there is any independent

witness to support the allegation levelled against the opposite party no.2.

Learned A.G.A. for the State further submits that the application under Section 156(3) Cr.P.C. is just moved with intention to get financial benefit from the State Exchequer as the appellant belongs to S.C./S.T. community, therefore, the instant appeal be dismissed.

After considering the arguments advanced by learned counsel for the parties and perusing the material available on record, this Court finds that a proceeding under Section 135 of the Electricity Act, 2003 regarding theft of electricity has already been initiated by the Department against the appellant, as such, the application under Section 156(3) Cr.P.C. moved by the appellant is nothing but an abuse of process of law only with intention to create pressure on the Department so that the case which has been lodged against him may be compromised and also to get financial benefit from the State Exchequer as the appellant belongs to S.C./S.T. community and even there is no proof regarding demand of Rs.30,000/- made by the opposite party no.2 nor there is any independent witness to support the allegation levelled against the opposite party no.2 and counsel for the appellant has also not been able to point out any such illegality or impropriety or incorrectness in the impugned order which may persuade this Court to interfere in the same. In such circumstances to meet the ends of justice, the impugned order does not require any interference. There is no illegality, impropriety and incorrectness in the impugned order.

In view of the above, this appeal lacks merit and stands **dismissed**.

Order Date :- 28.11.2023

Saurabh