

Court No. - 15

Case :- CRIMINAL APPEAL No. - 3347 of 2023

Appellant :- Subhash Verma

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

Counsel for Appellant :- Bhanu Pratap Kushwaha, Mohammad Salman

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

1. Heard Sri Bhanu Pratap Kushwaha, learned counsel for the appellant and Sri Ashok Kumar Singh, 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 19.07.2023 passed by learned Special Judge, S.C./S.T. (P.A.) Act, Hardoi in Complaint Case No.247 of 2023, "Subhash Verma Vs. Jaswant Singh and 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 father of the appellant has taken loan on the scheme of Kisan Credit Card on mortgage of agricultural land from the bank which must be recovered from the agricultural land, but inspite of doing so, the respondent forcibly seized the rented shop of the appellant.
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. Learned A.G.A-I. opposed the argument as advanced by the learned counsel for the appellant and submits that the application moved by the appellant was rejected vide a detailed order by the learned Magistrate stating therein that while passing order on an application under Section 156(3) Cr.P.C., the Court has to apply its judicial mind as well as it has to look into the reality of facts and averments made into the

application. He further submits that the application under Section 156(3) Cr.P.C. is nothing but an abuse of process of law as the appellant belongs to SC/ST category and the opposite party Nos.2 to 6 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 civil court 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 appellant has a remedy for redressal of his grievance before the competent court for release of his shop in spite of moving application under Section 156 (3) for lodging of the F.I.R., thus, the court below has rightly rejected the application of the appellant, as such, this Court does not find any illegality and infirmity in the impugned order.

7. In view of the aforesaid observations, the present appeal lacks merit and substance, which is hereby **dismissed**.

Order Date :- 6.12.2023

Saurabh