

Court No. - 14

Case :- CRIMINAL APPEAL No. - 3991 of 2024

Appellant :- Ram Autar Kashyap @ Ram Autar
And 9 Others

Respondent :- State Of U.P. Thru. Prin. Secy.
Home Lko And Another

Counsel for Appellant :- Prashant Singh,Alok
Singh

Counsel for Respondent :- G.A.

Hon'ble Ajai Kumar Srivastava-I,J.

1. Heard learned counsel for the appellants, learned A.G.A for the State and perused the material available on record.

2. In view of the order, which is proposed to be passed today, notice to respondent No.2 is hereby dispensed with.

3. Under challenge in this appeal is the summoning order dated 02.05.2024 passed by the learned Special Judge, S.C./ S.T. Act, Lucknow in Case No.1096 of 2024 titled State of U.P. vs. Ram Autar Kashyap and others, arising out of Case Crime No.99 of 2023, under Sections 147, 323, 504, 506, 325 I.P.C. and Sections 3(1)(da)(dha) and 3(2)(va) S.C./ S.T. Act, Police Station Nigohan, District Lucknow as well as charge sheet dated 30.07.2023 and the entire proceedings of aforesaid case.

4. Learned counsel for the appellants has

submitted that the charge-sheet has been filed without there being any evidence whatsoever against them. He has further submitted that there is no evidence whatsoever in support of the charge sheet neither there is any material to frame the charge against the accused nor the proceeding can fruitfully be continued against them. His further submission is that the entire prosecution story as narrated in the FIR is improbable and unbelievable. Therefore, the impugned criminal proceeding is liable to be set aside.

5. Per contra, learned A.G.A. for the State controverts the submissions of learned counsel for appellants on the ground that this is not a stage where minute and meticulous exercise with regard to the appreciation of evidence may be done and truthfulness of the allegations could only be tested in a criminal trial and, therefore, the appeal is misconceived and liable to be dismissed.

6. From the perusal of the material on record and looking into the facts of the case at this initial stage, it cannot be said that prima facie no offence is made out against the appellants. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court in proceedings under Section 14A(1) of SC/ST Act.

7. Through a catena of decisions given by Hon'ble Apex Court this legal aspect has been expatiated

upon at length and the law that has evolved over a period of several decades is too well settled. The cases of (1) **Chandra Deo Singh vs. Prokash Chandra Bose** reported in **AIR 1963 SC 1430** , (2) **Vadilal Panchal vs. Dattatraya Dulaji Ghadigaonker** reported in **AIR 1960 SC 1113** and (3) **Smt. Nagawwa vs. Veeranna Shivalingappa Konjalgi** reported in **1976 3 SCC 736** may be usefully referred to in this regard.

8. The Apex Court decisions given in the case of **R.P. Kapur vs. State of Punjab** reported in **AIR 1960 SC 866**, **Zandu Pharmaceutical Works Ltd. vs. Mohd. Saraful Haq**, another (Para-10) reported in **2005 SCC (Cr.) 283** and **Parabatbhai Ahir & Ors. vs. State of Gujarat** reported in **AIR 2017 SC 4843** and in the case of **State of Haryana vs. Bhajan Lal** reported in **1992 SCC(Cr.) 426** have also recognized certain categories by way of illustration which may justify the quashing of a complaint or charge sheet. Some of them are akin to the illustrative examples given in the above referred case of **Smt. Nagawwa vs. Veeranna Shivalingappa Konjalgi** reported in **1976 3 SCC 736**. The cases where the allegations made against the accused or the evidence collected by the Investigating Officer do not constitute any offence or where the allegations are absurd or extremely improbable impossible to believe or where prosecution is legally barred or where criminal proceeding is malicious and malafide instituted with ulterior motive of grudge

and vengeance alone may be the fit cases for the High Court in which the criminal proceedings may be quashed.

9. In view of the aforesaid case law, this Court has adverted to the entire record of the case.

10. The submissions made by the appellants' learned counsel call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial court and while doing so even the submissions made on points of law can also be more appropriately gone into by the trial court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. Therefore, this Court does not find any justification to set aside the proceedings against the appellants as the case does not fall in any of the categories recognized by the Apex Court which may justify their quashing.

11. Accordingly, the prayer for setting aside the impugned summoning order dated 02.05.2024 as well as the impugned charge sheet and the entire proceeding is refused as this Court does not see any illegality, impropriety and incorrectness in the proceedings under challenge.

12. Even otherwise, the appellants shall have an opportunity at the appropriate stage to move an application for discharge before appropriate Court taking therein all the pleas factual and legal which may be available to them, in accordance with law. In case, such an application is moved before the learned trial Court, the learned trial Court shall dispose of the same with utmost expedition by a speaking and reasoned order strictly, in accordance with law having regard to the entire facts and evidence available on record.

13. However, it is provided that if the appellants apply for grant of bail before the learned trial court concerned, the learned trial court concerned shall consider and decide the same expeditiously, in accordance with law laid down by the Hon'ble Supreme Court in **Satender Kumar Antill vs. Central Bureau of Investigation and others reported in **MANU/SC/1024/2021** and **Satender Kumar Antill vs. Central Bureau of Investigation and another** reported in **2022 SCC OnLine SC 825**.**

14. With the aforesaid observations, the instant criminal appeal is finally **disposed of.**

(Ajai Kumar Srivastava-I, J.)

Order Date :- 19.12.2024

cks/-