

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1163 of 2015

1. Surendra Kumar Mishra S/O Late Ram Kripal Mishra Aged About 59 Years Occupation Service, R/O Maha Mrityunjay Bhawan, Nehru Nagar, Thana Civil Lines, Police Chowki Saman, Rewa, Madhya Pradesh.
 2. Meena Mishra D/O Surendra Kumar Mishra Aged About 37 Years R/O Maha Mrityunjay Bhawan, Nehru Nagar, Rewa, Madhya Pradesh.
 3. Maya Mishra D/O Surendra Kumar Mishra Aged About 35 Years Occupation Service, R/O Maha Mrityunjay Bhawan, Nehru Nagar, Thana Civil Line, Police Chowki, Saman, Rewa, Madhya Pradesh.
- Petitioners**

Versus

State of Chhattisgarh Thru The Station House Officer, P.S. Gandhi Nagar, Ambikapur, Distt. Surguja, Chhattisgarh. ---
Respondent

For the applicants : Mr. Sachin Singh Rajput, Adv.

For the Respondent : Mr. Ramakant Mishra, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.12.2015

1. Apprehending arrest in connection with Crime No. 23 of 2012 registered at P.S., Gandhi Nagar, Ambikapur, for the offences punishable u/ss 294, 506, 323, 115, 332, 186, 147, 353 of IPC and Section 3(1)(x) of the Scheduled caste and Scheduled Tribe (Prevention of Atrocities) Act, the applicants have filed this application u/s 438 Cr.P.C.
2. The back ground of the case is that A-1 is father- in-law of the complainant Atul Dubey. Complainant Atul Dubey was married to A-2 Meena Mishra in the year 1998. There has been matrimonial dispute between the parties. A-1 was father-in-law, A-2 was wife and A-3 was sister-in-law. Earlier the petition was filed by the complainant Atul Dubey u/s 406

IPC at Ambikapur that a car belonged to him was taken by Applicant No.1 Surendra Kumar Mishra, father-in-law and has been misused. Consequently, when the police personnel alongwith RTO officer went to Rewa for seizure of the Car it was objected and they were abused by the applicants and at that time, Applicants 2 & 3 were also present in the house. However, on second day, the car was seized. This incident took place in the year 2011. Subsequently, the complainant came back to Ambikapur and filed complaint u/s 200 Cr.P.C., alleging that while the car was being seized, the persons who went there for seizure were abused in the name of caste. It is further contended that complainant Atul Dubey has not stated that he was present. Though the complaint was not filed by the persons who went to Rewa for seizure but the complaint was filed by Atul Dubey and the Court directed for cognizance of the matter in exercise of power under Section 156(3) Cr.P.C. He submits that though the earlier case u/s 406 was compromised between the parties, however, the complaint is still existing, therefore, the applicants are apprehending arrest. Accordingly, he prays for extending the benefit of provisions of Section 438Cr.P.C., to the applicants.

3. Per contra, learned State Counsel opposes the prayer for grant of anticipatory bail.
4. Perused the order of the court below and the case diary.
5. In the rejection order of the Court below it has categorically been recorded that bar of Section 18 of the Act do not apply as the abuses in the name of caste has not been proved.
6. The court has accepted the fact that since no case is made out u/s 3(1)(x) of the SC/ST Act, prima facie the Court has

exercised his jurisdiction. Consequently, after going through the records, this Court is also of the opinion that prima facie, it does not make out a case u/s 3(1)(x) of the SC/ST Act.

7. On perusal of the documents and looking to the nature of allegations it appears that the cases have arisen out of a matrimonial dispute between the parties and the complaint is being proceeded at the behest of erstwhile husband against his former wife, father-in-law and sister-in-law.
8. Taking into the totality of the facts and circumstances involved in this case and after perusal of the records, prima facie it appears that the report has not been lodged by any of the persons against whom the resistance was alleged on 19.01.2011. A perusal of the complaint lodged by Atul Dubey shows that the complaint was not filed by the persons who had gone for seizure of the vehicle on 19.01.2011, it is however, on behalf of the Atul Dubey.
9. Thus, taking into facts and circumstances and the nature of allegations, prima facie, a case u/s 3(1)(x) of the SC/ST Act is not made out against the applicants.
10. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they will be released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the officer arresting them or the concerned Investigating Officer. The applicants shall also abide by the following conditions :-
 - (i) that they will make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that they will not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from

disclosing such facts to the Court or any police officer;

(iii) that they will not act in any manner which will be prejudicial to fair and expeditious trial; and

(iv) that they will appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

Rao