

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 534 of 2019

- Ravi Kumar Agrawal S/o Vijay Kumar Agrawal, Aged About 38 Years, R/o New Sadak Ke Pass, Subhash Chowk, P.S.- City Kotwali, Raigarh, District- Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

- State of Chhattisgarh Through- Station House Officer, P.S.- City Kotwali, Raigarh, District- Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

---- Respondent

For Petitioner – Mr. M.P.S. Bhatia, Advocate.

For State – Ms. Akansha Jain, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-09-2019

Heard.

1. Instant petition has been brought under Article 226/227 of the Constitution of India praying for issuance of appropriate writ(s)/direction(s)/order(s) etc.
2. It is submitted that on the basis of the FIR lodged by complainant Poonam Sidar, who is a member of Scheduled Tribe, offence under Section 354, 341 of the IPC were registered on 07-03-2016 by the respondent against the petitioner. There was no whisper of insult on the basis of the social status in the written complaint filed by the victim of this case that her modesty was outraged for the reason that she was a member of Scheduled Tribe. Further, the victim was examined under Section 164 of the Cr.P.C., copy of which is attached with the petition, in which she has not made any such statement that her modesty was outraged by the petitioner knowingly for the reason that she is a member of Scheduled Tribes. In the statement of the other witnesses also there is no mention that the petitioner intended to outrage the modesty of the victim only for the reason that she belongs to Scheduled Tribes. Further, it is not revealed from the statement of the prosecutrix and the other witnesses that

the petitioner had knowledge that the prosecutrix is a member of Scheduled Tribe. In the presence of these facts there was no material to prosecute the petitioner for offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 (in short 'the SC/ ST Act). In the later on development at the stage of filing the charge sheet offence under Section 3(1) (11) of the SC/ST Act has been added. Which is totally erroneous, therefore, the petition be admitted for final hearing and the interim relief be ordered in favour of the petitioner.

3. Learned counsel for the State opposes the submission made by the counsel for the petitioner and it is submitted that there is clear evidence present against the petitioner regarding commission of offence as alleged.

4. Heard learned counsel for the parties and perused the documents.

5. According to the contents of the petition itself, the case is pending for framing of charges, therefore, all the grounds raised in this petition that the offence under Section 3(1)(11) of the SC/ST Act or Section 3(1)(w) of amended provisions of the SC/ST Act is not made out can be raised at the stage of framing of charges and further if the trial Court frames charges, then the petitioner has remedy to file a revision against the same. Therefore, it cannot be said that the petitioner has exhausted all the statutory remedy available and come before this Court. Hence, this petition is not maintainable, which is dismissed accordingly at the motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
Judge