



2024:DHC:1000



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on: 12.02.2024

+ CRL.A. 132/2024

PRIYANKA ARORA

..... Appellant

Through: Mr.Mohit Mathur, Sr.Advocate with
Mr.Mohit Lakra and Ms.Aditya Gauri,
Advocates.

versus

STATE GOVT. OF NCT OF DELHI

....Respondent

Through: Mr.Ajay Vikram Singh, APP for State
with ACP Niraj tokas and SI Dham
Singh, PS Hauz Khas.

Mr.Siddharth Luthra, Sr.Advocate
with Mr.Neeraj Gupta, Ms.Tajinder
Kaur, Ms.Deepshikha Gupta,
Mr.Anmol, Ms.Anshula Verma and
Mr.N.Tripathi, Advocates along with
complainant in person.

+ CRL.A. 131/2024

KAPIL DEV ARORA

..... Appellant

Through: Mr.Mohit Mathur, Sr.Advocate with
Mr.Mohit Lakra and Ms.Aditya Gauri,
Advocates

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr.Ajay Vikram Singh, APP for State
with ACP Niraj tokas and SI Dham
Singh, PS Hauz Khas.

Mr.Siddharth Luthra, Sr.Advocate
with Mr.Neeraj Gupta, Ms.Tajinder
Kaur, Ms.Deepshikha Gupta,
Mr.Anmol, Ms.Anshula Verma and
Mr.N.Tripathi, Advocates along with
complainant in person.



CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

ANOOP KUMAR MENDIRATTA, J.

1. CRL.A.132/2024 and CRL.A.131/2024 have been preferred on behalf of the appellants under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**hereinafter referred to as “the Act”**) read with Section 482 of Code of Criminal Procedure, 1973 (Cr.P.C.) challenging the order dated 28.12.2023 thereby remanding the appellants to judicial custody along with order dated 05.01.2024 passed by the learned ASJ in FIR No.489/2023 dated 14.11.2023 under Section 506/509/34 IPC registered at PS: Hauz Khas, New Delhi, whereby the bail applications under Section 439 Cr.P.C. was withdrawn with liberty to move the appropriate forum against order dated 29.12.2023 declining the first bail application preferred on behalf of the appellants. Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is stated to have been invoked by the prosecution subsequent to registration of FIR.

2. In brief, as per the case of the prosecution, a complaint was received from Ms.'C' on 26.10.2023, alleging that on 25.10.2023 at 02:00PM, Priyanka Arora (appellant in CRL.A.132/2024) and Kapil Dev Arora (appellant in CRL.A.131/2024) along with Harish Chander Pahwa followed her and drove the car towards her. Further, a complaint lodged by her earlier against Priyanka Arora, Kapil Dev Arora and Harish Chander Pahwa had culminated in registration of FIR No.460/2022 at PS: Hauz Khas, New Delhi



under various Sections of Indian Penal Code, 1860 (IPC) and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. She further stated that in her earlier two complaints, it was also pointed out that aforesaid accused/appellants followed her regularly and tried to hit her by a car. As such, she apprehended danger to her life from the aforesaid accused/appellants who threatened her and used vulgar language earlier.

3. It is further the case of the prosecution that an inquiry was conducted and CCTV footage nearby the place of incident was examined, on the basis of which, a vehicle with registration No.DL4CY8230 was observed on P Block, South Extn.II, New Delhi. The said vehicle halted briefly, executed a sharp turn and thereafter left. Further, the said vehicle was found to be in the name of Neena Arora c/o Kapil Dev Arora.

4. As per the status report filed by the prosecution, complainant, during investigation stated that earlier FIR No.460/2022 was registered under Section 420 IPC wherein both the parties are engaged in mediation. The said case pertains to dispute of sale of property wherein the appellants allegedly refused the execution of sale deed in favour of the complainant. Complainant during investigation also alleged that on 25.10.2023, she was verbally abused by the appellants and they also showed her middle finger and threatened her by saying "*Kutiya case wapas le-le nahi to iska anzam acha nahi hoga*", and attempted to hit her by the vehicle. Statement of the complainant was also recorded under Section 164 Cr.P.C.

FIR was accordingly registered on 14.11.2023 under Section 506/509/34 IPC, PS: Hauz Khas, New Delhi. Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was invoked by the prosecution on 04.12.2023.



5. Learned counsel for the appellants challenges the order declining the bail to both the appellants and submits that appellant Priyanka Arora aged about 43 years is running an NGO and staying with her parents. The present case is stated to have been lodged on the next day of the alleged incident in order to pressurize the appellants to settle the civil dispute relating to sale of property.

6. It is further submitted that Agreement to Sell dated 01.10.2020 was executed by her father Kapil Dev Arora (appellant in CRL.A.131/2024) along with Harish Chander Pahwa, wherein she is one of the witnesses and a Civil Suit is also pending before the competent court of law. It is also pointed out that charge-sheet in FIR No.460/2022 was presented against the appellants only under section 420/34 IPC without arrest and were placed in Column No.12 of the charge-sheet in respect of offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellants are stated to have been summoned in the aforesaid case after wrongly invoking the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and matter was referred for mediation with the consent of the complainant, since the genesis of the litigation is civil dispute with respect to sale of property. The appellants are stated to be on bail in the said case. It is further contended that both the appellants had already joined the investigation even prior to arrest and are in custody since 28.12.2023. The provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are stated to have been misused to ensure that appellants are deprived of the benefit of bail. It is also submitted that the CCTV footage collected during the course of investigation, does not corroborate the allegations except that the aforesaid car passed at the relevant time, while the complainant appears



to be passing. Reliance is further placed upon *Arnesh Kumar v. State of Bihar and Another, Criminal Appeal No.1277/2014* decided by Hon'ble Supreme Court of India on 02.07.2014.

7. On the other hand, Shri Siddharth Luthra, Senior Advocate vehemently opposes the appeals. He submits that the allegations leveled by the complainant are corroborated by the CCTV footage and the appellants have been stalking and harassing the complainant. It is contended that since an attempt had been made to hit the complainant even in the past, they do not deserve the benefit of bail. It is pointed out that both the appellants and the complainant stay within the same area and the possibility of influencing or threatening the complainant cannot be ruled out. The car is stated to have been driven by appellant Priyanka Arora at the relevant time while the other occupants were seated.

8. I have given considered thought to the contentions raised.

Admittedly, the relations between both the parties went sour after the dispute arose with regard to sale of property. An FIR No.460/2022, PS: Hauz Khas, New Delhi was registered earlier under Section 420/34 IPC without arresting the appellants, considering that the genesis of the complaint related to dispute regarding sale of property. Appellants are stated to have been placed in Column No.12 in the final report but also stand summoned under Section 3(1)(r)(s), Section 3(1)(w)(ii) & Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

9. On the face of record, as per status report, improvements have been made by the complainant during the course of investigation as in the initial FIR, alleged threats extended were not specified. It may also be observed that on the alleged date and time of the incident i.e. 25.10.2023, appellants



could not have contemplated that the complainant would also be passing the street while approaching from opposite direction. Further, nothing substantive can be concluded on the basis of CCTV footage, relied upon by the prosecution and even the learned ASJ observed that as per CCTV footage, only the brakes appear to have been applied in the Baleno car belonging to the appellants but nothing further is visible. The observations made by the learned ASJ that the appellants after first FIR, again committed the similar offence on 25.10.2023, can be determined only after the evidence is led by the prosecution and the same cannot be *prima facie* concluded by the CCTV footage. The genesis of the dispute is on account of civil dispute relating to sale of property. The appellants are no more required for any custodial investigation.

10. In the facts and circumstances, order passed by the learned ASJ declining the bail to the appellants does not appear to be on cogent grounds and is accordingly set aside. Both the appellants are admitted to bail on furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one surety in the like amount to the satisfaction of the learned Special Court/Trial Court/Duty MM concerned, subject to following conditions:

- (i) Appellants shall not induce, threat or influence the witnesses in any manner;
- (ii) Appellants shall not indulge in any similar conduct or offence during the pendency of trial;
- (iii) Appellant shall join the investigation as and when required.

11. Since investigation is still pending, no observations are made *qua* order dated 28.12.2023 whereby the appellants were remanded to judicial



2024:DHC:1000



custody, invoking the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Liberty is granted to the appellants to challenge the same, if so advised, after conclusion of investigation and filing of charge-sheet.

Both the appeals are accordingly allowed on the point of bail. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to Jail Superintendent as well as learned Trial Court for information. Also, a copy be provided to the appellants under the signatures of Court Master.

(ANOOP KUMAR MENDIRATTA)
JUDGE

FEBRUARY 12, 2024/sd