

Kultar Singh and Others Vs. State of U.P. and Another

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Court : Allahabad

Decided On : Nov-20-2012

Judge : Sunil Hali

Appeal No. : Application No. 43264 of 2012

Appellant : Kultar Singh and Others

Respondent : State of U.P. and Another

Judgement :

The present application under Section 482 Cr.P.C. has been filed with a prayer for quashing the entire proceedings as well as Charge sheet dated 23.9.2012 in Case No. 623 of 2012, arising out of Case crime no. 260/12 under sections 323, 504, 506 IPC and section 3(1) X SC and ST Act, P.S. Mandawar, District Bijnor.

Perusal of the first information report transpires that the only allegation leveled by the complainant is that when the complainant was abused by the applicants by caste denoting words and when he opposed the acts of applicant he was alleged to have beaten by the applicants.

Learned counsel for the applicants has submitted that offence under Section 3(1)(10) of SC/ST Act is not made out as against the applicants. Learned counsel for the applicant argued that the provisions of the SC/ST Act are not attracted in this case as it was nowhere mentioned that the applicant intentionally insulted or intimated with intent to humiliate the respondent no. 2 within public view, hence

the offence punishable under the SC/ST Act is not made out. I find force in this argument put forth on behalf of the petitioners.

The allegation leveled in the report does not show that the insult and intimidation was made with a intention to humiliate the member of the SC/ST community. Mere, insult or intimidation would not attract the provisions of Section 3(1)(10) of the SC/ST Act. The act of Insult or intimidation done with an intention of humiliating the member of the SC/ST community at any place within public would attract the provisions of the Act. There is no mention of this fact in the report.

It is settled law that when the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the applicant to face the criminal trial under the SC/ST Act would be totally unjustified leading to abuse of process of law. Reliance is placed upon a Hon'ble Supreme Court verdict in the case of Gorige Pentaiah Vs. State of Andhra Pradesh and others reported in (2009) 1 SCC (Cri.) 446. Paragraph 6 of the said judgment is reproduced as below: -

"In the instant case, the allegation of Respondent 3 in the entire complaint is that on 27.05.2004, the appellant abused them with the name of their caste. According to the basic ingredients of Section 3 (1)(x) of the Act, the complainant ought to have alleged that the appellant- accused was not a member of the Scheduled Caste or a Scheduled Tribe and he (Respondent 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate Respondent 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law"

Perusal of the FIR lodged by the respondent no.2 shows that the complainant has nowhere alleged that the applicant is not the member of the Scheduled Caste of Scheduled Tribe community and he intentionally insulted or intimated with intent to

humiliate the respondent no.2 within public view. As such, the Court is of the view that as against the applicant since the ingredients of the offence punishable u/s 3(1)(x) of the Act are not made out, as such the criminal trial with respect to the said offence is liable to be quashed.

Accordingly, this application is partly allowed. Proceedings of Case No. 623 of 2012 with regard to Section 3(1)(10) of SC/ST Act are quashed. However, it is provided that the Court below shall proceed with regard to offences under sections 323, 504, 506 I.P.C. in accordance with law.

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