

Shanker Vs. State of U.P. and ors.

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SooperKanoon Citation : sooperkanoon.com/487197

Court : Allahabad

Decided On : Mar-01-2001

Reported in : 2001CriLJ2070

Judge : M. Katju and ;Onkareshwar Bhatt, JJ.

Acts : Scheduled Castes and Scheduled Tribes (Prevention and of Atrocities) Act, 1985 - Sections 3(1) and 10; Indian Penal Code(IPC) - Sections 147, 323, 504 and 506

Appeal No. : C.M.W.P. No. 888 of 2001

Appellant : Shanker

Respondent : State of U.P. and ors.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Aditya Kumar Yadav, Adv.

Judgement :

M. Katju, J.

1. This writ petition has been filed against the impugned F.I.R. dated 4-1-2001 in case crime No. 4 of 2001 under Section 147/323/504/506 IPC read with Section 3(1) 10 S.C./S.T. Act police station Dhanghata, district Sant Kabir Nagar, copy of

which is Annexure 2 to the writ petition.

2. The aforesaid F.I.R. reads as follows :

3. A perusal of the above F.I.R. shows that the allegations therein are that certain persons belonging to the Yadav and Brahmin community came to the house of the respondent No. 3 Shobha Devi who is a Harijan by caste at about 6 p.m. on 20-12-2000. It appears that there was previous enmity between the parties because of Panchayat election in which first informant Smt. Shobha Devi had defeated the candidate set up by the previous Pradhan Ashish Yadav. In this connection the accused Rajesh, Dinesh Pandey had previously beaten up Shobha Devi's son Chandra Mani regarding which a criminal case had also been registered. On 20-12-2000 at about 6 p.m. the accused came to the house of Smt. Shobha Devi and gave filthy abuses calling her 'sali chamaran' and asked her to call her sons Indramani and Chandramani. When Smt. Shobha Devi said that her sons were not there and they should stop giving abuses, some of the accused beat Smt. Shobha Devi, the first informant, with lathis and kicks and fist blows. Some of the accused entered the house and took away the box containing Rs. 15000/- and some silver and gold jewelry. Some of the accused snatched the year-ring, chhalla (ring) etc. of Smt. Shobha Devi. Some of the accused called Smt. Shobha Devi 'chamar' and said that she should be killed and gave filthy abuses. This incident was witnessed by Shobha Devi's daughter and daughter-in-law who had shut the door due to fear. Some unknown persons belonging to the group of the accused were also standing with firearms at Shobha Devi's door. Even after the aforesaid incident the accused had been harassing Shobha Devi and her children.

4. We are not expressing any opinion about the correctness or otherwise of the allegations in the F.I.R. at this stage since that may prejudice the trial but we would like to make some observations in connection with atrocities on caste basis which are still going on in this country although we are now living in the 21st century.

5. The caste system is a great evil and must be destroyed quickly and ruthlessly if our country is to progress. There may have been some utility of the caste system at a certain stage of our nation's historical development, as it introduced a

rudimentary kind of division of labour in society at a certain stage of our social development. However, something which may have been useful at one time may become an evil subsequently. Today there can be no manner of doubt that the caste system is a great evil in our country and must be destroyed. In the modern age of science and technology the division of labour in society cannot be on the basis of birth but must be on the basis of technical skills. The caste system is, therefore, totally outmoded and redundant in society and in fact it is a great obstacle to our nation's progress today.

6. It may be mentioned that the basis of the caste system was the feudal occupational division of labour in society. In our country every feudal age profession became a caste. Thus washerman (dhobi) became a caste, and similarly Badhai (carpenter) became a caste, Kumbhar (potter) became a caste, Lohar became a caste, Chamar (people who do leather work) became a caste, etc. Thus in feudal society one had no choice to choose one's profession, but had to follow his father's profession. The son of Dhobi had to become a dhobi, the son of badhai had to become a badhai, and so on. This was obviously because in the feudal middle ages there were no technical or scientific institutes and hence the only way to learn a craft or trade was to sit with one's father since childhood and learn it. However, in the modern age there are technical institutions, engineering colleges etc. and hence the caste system based on the feudal occupational division of labour in society has today become totally outmoded and is a great hindrance to our nation's progress.

7. As a matter of fact what we have witnessed in our country over the last 50 years or so is that the very basis of the caste system, namely, the feudal occupational divisions of labour in society has been largely destroyed due to the advance of technology. Thus today the son of a Dhobi does not become a dhobi. He comes to the city and may become an electrician or motor mechanic or get employment in some establishment or factory, or having got education may become a lawyer, doctor or engineer. Similarly the son of Badhai does not nowadays become a badhai. The son of a Lohar does not become a lohar nowadays. Thus sons are no longer following the profession of their father, and hence the basis of the caste system has already been largely destroyed in our country. However, the caste

system is being artificially propped up by certain vested interests for vote bank politics etc. which is very harmful to the country. Of course these attempts to perpetuate the caste system is deemed to failure because it is only artificial and in fact in Indian society today the basis of the caste system, namely, the feudal occupational division of labour in society has already been largely destroyed. All patriotic and modern minded people must oppose the caste system everywhere so that this evil can be destroyed as early as possible.

8. In the present case a perusal of the F.I.R. shows that the allegations are that certain Yadavs and Brahmins misbehaved with a Harijan lady and beat up and insulted her calling her 'chamar'. No doubt the word 'chamar' is a word denoting a certain caste, but the said word is also used in a derogatory sense for persons who are regarded as inferior by the so-called upper castes. In our opinion since the word 'chamar' is used in a derogatory sense, it should not be used by members of the so-called upper castes or O.B.Cs. as it hurts the feeling of Harijans. In our country nobody's feelings should be hurt and no one should be treated as inferior. This is the modern age of democracy in which equality is a fundamental principle which must be cherished by all. Thus whoever regard themselves as superior merely because they happen to belong to the so called upper castes are feudal minded, backward persons whose mentality must be opposed by persons with modern mentality.

9. On the facts of the present case we are not inclined to quash the impugned F.I.R. However, we direct that the bail application of the applicant Shanker Yadav in case crime No. 4 of 2001 under Section 147/ 323/504/506 IPC read with Section 3(1) 10(x) S.C.S.T. Act be decided by the Court concerned expeditiously. The observations in this judgment shall not influence the Court hearing the bail application or the trial.