

Kamal Singh Vs. State of M.P.

Kamal Singh Vs. State of M.P.

SooperKanoon Citation : sooperkanoon.com/507308

Court : Madhya Pradesh

Decided On : Jul-23-2002

Reported in : 2002(4)MPHT7

Judge : Uma Nath Singh, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 294 and 506; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3(1)

Appeal No. : Criminal Revision No. 597/2002

Appellant : Kamal Singh

Respondent : State of M.P.

Advocate for Def. : Alka Pandya, Govt. Adv.

Advocate for Pet/Ap. : Manish Datt, Adv.

Disposition : Criminal revision allowed

Judgement :

ORDER

Uma Nath Singh, J.

1. Heard the Counsel for the parties and perused the records.

2. Shri Datt appearing for the applicant assails the impugned order whereby the learned Special Judge, Hoshangabad, has framed charges under Sections 294 and 506 and has discharged the applicant from offence under Section 3(1)(x) of SCs and STs (Prevention of Atrocities) Act. According to Mr. Datt, on the basis of materials on record, if the applicant/accused has been discharged in respect of the charge under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act, he could not have been proceeded against, again on that basis under Sections 294 and 506, IPC. Mr. Datt submits that the complainant, a member of SC/ST community, was also a member of Panchayat and the quarrel is said to have originated in hot exchange of words over some financial matter concerning a social welfare scheme. Mr. Datt further submits that the class of society to which, the applicant and the complainant, belonged does not mind uttering abuses or words of threat because such words are not taken seriously in their society. Mr. Datt to substantiate his submission has placed reliance on judgments of this Court. In the case of Dalsingh v. State of M.P. (1957 MPLJ 21 Note No. 62), this Court sitting in criminal revision quashed the charges under Section 294 by holding as under:--

'That in the class of society to which the parties belonged the abuses had no more significance than mere platitudinous utterances signifying the enraged state of the person's mind. As the accused were villagers and filthy abuses were not uncommon among villagers and in the strata of society to which they belonged, the sting was taken out of the words and they could not be characterised as obscene within the meaning of Section 294 of the IPC. Annoyance is the gist of the offence under Section 294 and in the absence of positive proof of annoyance, there could be no offence under Section 294, IPC.'

3. Similarly, in another decision namely Roshanlal v. State of M.P. (1966 MPLJ 87 Note No. 172), this Court has reiterated the position.

4. Ms. Alka Pandya, learned G.A. for the State, opposing the submissions of Mr. Datt contended that from the materials collected during investigation like the statements of other members of the Panchayat, who were present on the scene of occurrence, a prima facie case for putting the applicant to trial under the sections charged with, is made out. Ms. Pandya in support of her submissions cited a

decision of the Hon'ble Apex Court namely, *Ranjit D. Udeshi v. The State of Maharashtra* (AIR 1965 SC 881), which is rendered in the context of Section 292 and it says that the prosecution need not prove knowledge of obscenity on part of accused.

5. On due consideration of rival submissions, I find that the submissions of Mr. Datt are not devoid of merits. If, on the basis of same materials no offence under Section 3(1)(x) of SC/ST (Prevention of Atrocities) Act, is made out as the said abuses did not lead to humiliation, then it appears un-reasonable to use the same materials for prosecution of the applicant under Sections 294 and 506, IPC. Thus in the terms of the judgments (*supra*), the words so spoken by the accused against the complainant may not be called uncommon in their society to cause alarm and thus the circumstances of the case do not attract the ingredients of Section 503, IPC for the purpose of -prosecution under Section 506, IPC.

6. In the premises, I hold that the trial of the accused/applicant under Sections 294 and 506, IPC would be an exercise in futility and may cause un-necessary harassments.

7. Accordingly, charges under Sections 294 and 506, IPC framed as per order dated 20-11-2001 are hereby quashed and the impugned order is set aside. Hence, M.Cr.P. No. 2435/02 for grant of stay is also dismissed. Thus the criminal revision succeeds.