

Smt. Deepa Bajwa Vs. State and ors.

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Court : Delhi

Decided On : Nov-01-2004

Reported in : 115(2004)DLT202; 2004(77)DRJ725

Judge : R.C. Chopra, J.

Acts : [Constitution of India](#) - Article 226; Code of Criminal Procedure (CrPC) - Sections 482; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3

Appeal No. : WP (Crl) 825/2001

Appellant : Smt. Deepa Bajwa

Respondent : State and ors.

Advocate for Def. : Rajdipa Behura, Adv. for Respondent Nos. 1-4 and ; S.C. Singhal, Adv. for Respondent No. 5

Advocate for Pet/Ap. : D.C. Mathur, Sr. Adv. and; D.K. Mathur, Adv

Judgement :

R.C. Chopra, J.

1. This writ petition under Article 226 of the [Constitution of India](#) read with Section 482 Cr.P.C. is with a prayer to quash F.I.R. No. 246/2001 registered at Police

Station Delhi Cantt under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (hereinafter referred to as the 'Act' only).

2. The petitioner prays for quashing the aforesaid F.I.R. mainly on the ground that in the complaint lodged by the complainant on 19th April, 2001, it was nowhere mentioned that the petitioner/accused knew that the complainant belonged to the community of Scheduled Castes or Scheduled Tribes. When no F.I.R. could be registered in view of this deficiency, opinion was taken from the prosecution Branch and thereafter a supplementary statement of the complainant was recorded to the effect that the petitioner new that the Complainant belonged to the said Caste. Thereafter, on 14th June, 2001, the F.I.R. in question on the basis of complaint dated 19th April, 2001, was registered. The petitioner pleads that since the complaint as lodged by the Complainant did not make out any case under Section 3 of the Act the police misused its powers by recording supplementary statement of the complainant so as to fill up the lacuna in the complaint and thereafter register an F.I.R.

3. The facts relevant for the disposal of this petition, briefly stated, are that the respondent No. 5/Complainant had allegedly visited the office of the petitioner, who was Cantonment Executive Officer, on 19th April, 2001, along with the Councillor of the area, Shri Chhannu Mal and some others. According to the complaint when Shri Chhannu Mal was introducing the complainant and others to the petitioner, the petitioner called the Complainant 'Chooru, Chamar and Goonda' and asked him to get out of her office. He then lodged a complaint at Police Station Delhi Cantt under Section 3 of the Act.

4. The status report filed by the respondents shows that the complaint was kept pending as the ingredients of the offence under Section 3 of the Act were not complete. Legal opinion from the prosecution Branch was obtained by the S.H.O. and thereafter the complainant was asked as to whether the petitioner had prior knowledge or not about his caste. After recording a supplementary statement of the complainant, in which he stated that the petitioner had knowledge about his caste, the F.I.R. in question was registered on 14th June, 2001. The affidavit filed

by the respondent No. 3 also confirms that the complaint dated 19th April, 2001, made by the Complainant did not disclose the ingredients of Section 3 of the Act and as such clarifications were sought and after receipt of clarifications, the F.I.R. was registered.

5. Learned counsel for the petitioner vehemently argues that the police had no business to fill up the lacunae or gaps in the complaint and then register an F.I.R. against the petitioner after about two months on the basis of the complaint which did not disclose the ingredients of the offence under Section 3 of the Act. It is submitted that the F.I.R. in question is an abuse of the process of law and as such liable to be quashed. He relies upon a judgment of this Court in *Daya Bhatnagar and Ors. v. State*; reported in 0085/2004 : 109(2004)DLT915, in which it was categorically held that the accused must have knowledge or awareness that the victim belongs to Scheduled Caste or Scheduled Tribe community and if an accused does not know that the person whom he is insulting, intimidating or humiliating is a member of a Scheduled Caste or Scheduled Tribe, no offence under this Section would be constituted. Learned counsel for the State as well as learned counsel for respondent No. 5 have contended that the registration of the F.I.R. after recording supplementary statement of the Complainant was fully justified and as such there are no good grounds for quashing the F.I.R. as prayed.

6. After considering the submissions made by learned counsel for the parties, this Court is of the considered view that a complaint, on the basis of which the complainant seeks registration of an F.I.R., must disclose essential ingredients of the offence and in case a complaint lacks or is wanting in any of the essential ingredients, the lacuna or deficiency cannot be filled up by obtaining additional complaint or supplementary statement and thereafter proceed to register the F.I.R. If such a course is permitted, it would give undue latitude as well as opportunity to unscrupulous complainants to nail others by hook or by crook in spite of the fact that their initial complaint does not make out the offence complained of. Such a course would be utter abuse of the process of law. First version as disclosed in a complaint is always important for adjudicating as to whether an accused has committed or not an offence. In the complaint dated 19th April, 2001, the Complainant himself alleged that the Councillor Chhannu Mal was introducing him

to the petitioner. If that was the case, how could he say later that on that day the petitioner knew that he was a Scheduled Caste. This statement, therefore, was a crude falsity introduced at the behest of the police to implicate the petitioner under Section 3 of the Act. This effort on the part of the police to supply the deficiency and cover up a lacuna in the complaint in view of legal opinion was totally unwarranted and an abuse of the process of law.

7. In the result, it is held that it is a fit case for exercise of powers under Article 226 of the [Constitution of India](#) read with Section 482 Cr.P.C., to quash the F.I.R. No. 246/2001 registered at Police Station Delhi Cantt. and the proceedings initiated in consequence thereof. It is ordered accordingly.

8. The petition stands disposed of.

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