

A.F.R.

Court No. - 88

Case :- APPLICATION U/S 482 No. - 7411 of 2018

Applicant :- Pintu Singh @ Rana Pratap Singh And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Manoj Kumar Singh, Virendra Pratap Pal

Counsel for Opposite Party :- G.A., Nanhe Lal Tripathi, Rakesh Singh Yadava

Hon'ble Vikram D. Chauhan, J.

1. List has been revised.
2. Heard learned counsel for the applicants and learned AGA for the State. No one is present on behalf of the opposite party no. 2.
3. This application under Section 482 Cr.P.C. has been filed by applicants for quashing the S.St. No. 36 of 2018 (State Versus Arun Singh and others) Case Crime No. 447 of 2017, under sections 147, 452, 323, 504, 506 I.P.C. and 3(1)(r) SC/ST Act, Police Station Nagara, District Ballia, pending in the court of Additional Sessions Judge, Court No. 2, Ballia as well as charge sheet dated 03.01.2018 arising out of Case Crime No. 447 of 2017, under sections 147, 452, 323, 504, 506 I.P.C. and 3(1)(r) SC/ST Act, Police Station Nagara, District Ballia.
4. At the very outset, learned counsel for the applicants submits that the applicants are pressing 482 application in respect of the offence under section SC/ST Act. In respect of the other offences the applicants are not putting any challenge to the charge sheet at this stage.
5. It is submitted by learned counsel for the applicants that initially an F.I.R. was lodged on 15.11.2017 under sections 147, 452, 323, 504, 506 I.P.C. and 3(1)(r) of SC/ST Act at Police Station Nagara, District Ballia with the allegations that the nominated accused persons who are seven in number including the applicants have entered into the house of the informant and have stated caste based remark and have also assaulted the informant and his family members. Learned counsel for the applicants submits that as per F.I.R. it is alleged that the accused persons have entered into the

house of the informant and thereafter have made caste based remark. On the aforesaid basis, the applicants are proceeded under section 3(1)(r) of the SC/ST Act for an offence intentionally insulting or intimidating with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.

6. Learned counsel for the applicants submits that the offence was committed in the house of the informant which is not the public place nor the same was in the public view. In this respect, learned counsel for the applicants has drawn the attention of this Court to the site plan annexed alongwith the supplementary affidavit as well as the statement of the informant recorded under section 161 Cr.P.C. He submits that once the words uttered was not in public view nor it was in public place then provisions of section 3(1) (r) of SC/ST Act would not be attracted.

7. Learned A.G.A. has opposed the 482 application, however, he could not dispute the fact that the incident is alleged to have occurred in the house of the informant. He could not further dispute the fact that the incident has not occurred in public view.

8. It is to be seen that in the present case as per prosecution case it is alleged that the accused persons including the applicants have entered into the house of the informant and have stated caste based remark and have assaulted. The present 482 application is only confined to the allegations under section 3(1)(r) of the SC/ST Act. The site plan filed by the learned counsel for the applicants would indicate that the place of incident is the house of the informant which is not a public place or public view. A perusal of the statement of the informant under section 161 Cr.P.C. as well as the F.I.R. would further demonstrate that there was no member of the public in the house where the alleged incident is said to have been taken place. As per the provision of Section 3(1)(r) of SC/ST Act is quoted herein below:

"Section 3(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view."

9. One of the essential ingredients for an offence under section 3(1)(r) of SC/ST Act is that the offence ought to have been committed in public view.

10. In the present case, the offence is not committed in public view nor the offence has been committed at public place. In the

statement of the informant it has not been stated that any member of the public was present and the incident has occurred. Once the offence has not taken place in public view the provisions of section 3(1)(r) of the SC/ST Act would not be attracted and as such the same cannot be proceeded with.

11. In view of the facts and circumstances, the present 482 application is **partly allowed**. The Criminal proceedings against the applicants in Case Crime No. 447 of 2017 in respect of offence under sections 3(1)(r) SC/ST Act is hereby quashed. However, in respect of other offences the proceedings may go on and be brought to its logical conclusion, in accordance with law.

Order Date :- 10.5.2024

K.K. Maurya