
(2018) 02 CHH CK 0082
In the Chhattisgarh High Court
Case No : Criminal Revision No. 54 Of 2018

Daljit Singh @ Chintu Saluja And Ors	APPELLANT
Vs	
State Of Chhattisgarh	RESPONDENT

Date of Decision : 05-02-2018

Acts Referred:

Indian Penal Code, 1860 — Section 147, 148, 149, 186, 332, 353
Code Of Criminal Procedure, 1973 — Section 161
Scheduled Caste & Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(2)(v)

Citation : (2018) 02 CHH CK 0082

Hon'ble Judges : Arvind Singh Chandel, J

Bench : Single Bench

Advocate : Sunil Tripathi, U.K.S. Chandel

Final Decision : Allowed

Judgement

Arvind Singh Chandel, J

1. The revision is listed for hearing on admission. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The revision has been preferred against the order dated 5.12.2017 passed by the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth 'the Act of 1989'), Baloda Bazar in Special Sessions Trial No.26 of 2017 framing charges against the accused/Applicants under Sections 148, 186/149, 332/149, 353/149 of the Indian Penal Code and Section 3(1)(r) of the Act of 1989.
3. It is alleged that on 19.4.2017 at about 4:00 p.m., on account of unnatural death of Nikku Saluja, some members of Sikh community made a procession to the office of S.D.M. Baloda Bazar to submit their resolution (memo) for a proper inquiry into the death of Nikku Saluja. It is further alleged that Complainant Ashutosh Banjare, who was a Traffic Constable, was on duty at Housing Board

Tiraha (Trijunction). At the time of return of the procession, the accused/Applicants, shouting that the Complainant is one of the culprits who had issued challan to deceased Nikku Saluja, caught hold the Complainant, beat him with fists and hands and threatened him of his life. The Complainant rushed down at the police station, but the accused/Applicants also entered the premises of the police station and there they again beat him with hands, bricks and sticks and snatched his badge and torn his uniform. The matter was reported by the Complainant. After investigation, a charge-sheet was filed against the accused under Sections 147, 148, 149, 186, 332, 353 IPC and Section 3(2)(v) of the Act of 1989. Vide the impugned order dated 5.12.2017, charges were framed against the accused/Applicants under Sections 148, 186/149, 332/149, 353/149 of the Indian Penal Code and Section 3(1)(r) of the Act of 1989. Hence, this revision.

4. Learned Counsel appearing for the Applicants argued that from a bare perusal of the First Information Report and the statement of the victim/Complainant, it appears that there was a procession to submit a resolution (memo) before the S.D.M., Baloda Bazar by some members of Sikh Community for proper inquiry into the death of Nikku Saluja. Therefore, there was no question of any unlawful assembly. It was further argued that the attempt was made by a mob of Sikh Community on account of a sudden provocation. Hence, the offence alleged under Sections 332 and 186 IPC are not made out. Even if the entire charge-sheet, statement of victim/Complainant Ashutosh Banjare and his written complaint are taken as they are, there is no iota of evidence available against the Applicants to show that they intentionally insulted or intimidated the Complainant with intent to humiliate him in a place within public view knowing that he is a member of a Scheduled Tribe. But, the Learned Special Judge ignored the legal definition of Section 3(1)(r) of the Act of 1989 and framed the charges.

5. Per contra, Learned Counsel appearing for the State supported the impugned order framing charges against the Applicants.

6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.

7. Section 3(1)(r) of the Act of 1989 runs thus:

"3. Punishments for offences of atrocities.--(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,--

xxxxx xxxxx xxxxx

(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;"

8. From a perusal of the material available, it reveals that Jaswant Singh Saluja alias Nikku Saluja died in police custody on 9.4.2017 and on 19.4.2017, the Applicants and other members of Sikh Community went to the office of S.D.M. to submit a memorandum. Complainant Ashutosh Banjare was on traffic duty at

Main Road Tiraha (Trijunction). At that time, the Applicants beat him and tore his uniform. Initially, a written report was made by Ashutosh Banjare in the police station. In the said report, it is nowhere mentioned that any comment was made by any of the Applicants against his caste nor is it mentioned therein that the Complainant was a member of a Scheduled Caste or a Scheduled Tribe was in the knowledge of any of the Applicants. Later on, in the statement of the Complainant recorded under Section 161 of the Code of Criminal Procedure on 20.4.2017, he has stated that Sonam Saluja, Kajal Saluja and Sejal Saluja made a comment against his caste and the Applicants abused and beat him. Even if the above statement of the Complainant is taken as it is, prima facie, it is not established that the Applicants intentionally insulted or intimidated the Complainant with an intent to humiliate him. Thus, the offence alleged against the Applicants under Section 3(1)(r) of the Act of 1989 is not made out. So far as the charges framed against the Applicants under Sections 148, 186/149, 332/149, 353/149 IPC are concerned, it appears from the material available that the said charges have rightly been framed against them.

9. In the result, the revision is allowed in part to the extent indicated above.

10. A copy of this order be sent to the Court below forthwith for information and necessary compliance.