

(2002) 03 JH CK 0007

In the Jharkhand High Court

Case No : Criminal M.P. No. 4620 of 2001

Harilal Mahto and Others

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 22-03-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 4

Citation : (2002) 3 Crimes 683

Hon'ble Judges : D.N. Prasad, J

Bench : Single Bench

Advocate : T.R. Bajaj and H.K. Shivshankar, for the Appellant; R.K. Marathia, GP-II, for the Respondent

Final Decision : Allowed

Judgement

Deoki Nandan Prasad, J.—This application u/s 482 Cr PC for quashing the order dated 2.7.2001 passed by the learned Judicial Magistrate, 1st Class, Koderma by which the learned Magistrate held that the offences u/s 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the said Act") are also applicable against the petitioners on the ground that the witnesses have stated that the complainant were not allowed to enter into the temple for performing puja.

2. One supplementary affidavit has also been filed assailing the order dated 2.7.2001 only.

3. The learned counsel appearing on behalf of the petitioners, at the very outset, submitted that none of the Clauses as laid down u/s 3 of the said Act is applicable for the allegation prohibiting the informant/complainant to enter into the temple for performing puja as well as Section 4 of the said Act is in respect of public servant being not a member of the Scheduled Castes, which is apparently not applicable in this case. It is also submitted that the learned court

below without appreciating and going through the evidence held erroneously that offence u/s 3/4 of the said Act is also made out against the petitioners.

However, the learned counsel for the petitioners fairly conceded that he has got no grievance as against the allegation made out for offences under the Indian Penal Code and he has not been assailing the order taking cognizance for the offences under the Indian Penal Code.

5. Apparently. Section 4 of the said Act, in my view, does not applicable in the instant case, which reads as under :

"Punishment for neglect of duties. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year."

6. Apparently, there is no public servant attached with the case nor anything alleged about wilfully negligence in the duty performed by the public servant.

7. It is true that the court below passed the order holding Section 3/4 of the said Act made out only on the basis that complainant/ informants were n"ot allowed to enter into temple to perform puja, but this ingredient does not appear to be present in any of the Clauses of Section 3 of the said Act. Unless the Clauses enunciated u/s 3 of the said Act is attracted, Section 3 will not be applicable. Thus, in my view. Section 3 of the said Act is also not applicable in the circumstances as alleged by the complainant as none of the Clauses attracts to constitute the offence, in the manner as alleged.

8. Having regard to the above facts and circumstances, I find merit in this application, which is accordingly allowed. Thus, the order dated 2.7.2001 taking cognizance for the offences u/s 3/4 of the said Act is quashed.