

(2024) 01 RAJ CK 0069
In the Rajasthan High Court
Case No : Criminal Appeal (SB) No. 2065 Of 2024

Kalla Ram

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 09-01-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r) (s), 3(2)(va), 14A
Indian Penal Code, 1860 — Section 34, 323, 341
Probation Of Offenders Act, 1958 — Section 4
Code Of Criminal Procedure, 1973 — Section 313

Citation : (2024) 01 RAJ CK 0069

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : LD Khatri, Anita Gehlot

Final Decision : Dismissed

Judgement

Manoj Kumar Garg, J

Instant criminal appeal has been filed by the appellant-complainant under Section 14A of SC/ST Act against the acquittal of the accused-respondents from offence under Sections 3(1)(r) (s), 2(va) of SC/ST Act vide judgment dated 27.06.2022 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Cases, Jaisalmer in Sessions Case No.191/2017. However, the learned trial court convicted the accused-respondents for offence under Sections 341, 323 or in the alternative 323/34 IPC but extended the benefit of Section 4 of Probation of Offenders Act. The accused-respondents were directed to be released on probation provided each of them furnishes personal bond and a surety bond in the sum of Rs.5000/- each, to maintain peace and good behaviour for a period of one year. They were further directed not to repeat the offence and to appear and receive the sentence whenever called upon to do so during the period of one year.

Brief facts of the case are that on 20.09.2017, appellant-complainant submitted

a written report before Police Station Pokaran, District Jaisalmer to the effect that on 20.09.2017, at Central Bus Stand, when he was booking the tickets of a bus running between Pokaran to Phalsund under RD Charna Travels, accused-respondents came with a gas cylinder and told the appellant to keep the same in the bus. Upon refusal, the accused-respondents started abusing the complainant while using caste oriented language and also gave beating to him.

On this report, Police registered a case against the accused-respondents for offence under Sections 341, 323 or 323/34 IPC and Sections 3(1)(r)(s), 2(va) of SC/ST Act and started investigation.

After investigation, the police filed challan against the accused-respondents. Thereafter, the charges of the case were framed against the accused-respondents. They denied the charges and claimed trial.

During the course of trial, the prosecution examined nine witnesses and exhibited various documents. Thereafter, statement of accused-respondents were recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 27.06.2022 acquitted the accused-respondents from offence under Section 3(1)(r)(s), 2(va) of SC/ST Act but convicted them for offence under Sections 341, 323 or 323/34 IPC and extended benefit of Section 4 of Probation of Offenders Act.

Hence, this criminal appeal against the acquittal of accused-respondents from offence under Sections 3(1)(r)(s), 2(va) of SC/ST Act.

Learned counsel for the appellant-complainant submits that the learned trial court has committed grave error in acquitting the accused-respondent from offence under Sections 3(1)(r)(s), 2(va) of SC/ST Act. It is submitted that the material witnesses have specifically mentioned that the accused-respondents had used caste oriented abusive language against the appellant but the learned trial court while passing the impugned judgment has not considered these material witnesses and other evidence in the right perspective. Therefore, it is prayed that impugned judgment to the extent of acquitting the accused-respondents from offences under Section 3(1)(r)(s), 2(va) of SC/ST Act may be set aside and the matter may be remanded back to the trial court for passing a fresh judgment. In support of his contentions, counsel has relied upon the judgment of the Hon'ble Supreme Court rendered in Joseph Stephen & Ors. Vs. Santhanasamy & Ors. [2022 Live Law(SC)83].

Heard learned counsel for the appellant and perused the evidence of the prosecution as well as defence and the judgment passed by the trial Court.

On perusal of the impugned judgment, it appears that the learned trial court while passing the impugned judgment has considered each and every aspect of the matter and also considered the evidence produced before it in its right perspective.

All the material witnesses have turned hostile and there is no solid evidence available on record against the accused-respondents to convict them for offences under SC/ST Act. From the evidence, it is apparent that the accused-respondents were not having any intention to humiliate the appellant by using caste oriented abusive language and there are material contradictions, omissions and improvements in the statements of the prosecution witnesses in respect of the offence committed under Sections 3(1)(r)(s), 2(va) of SC/ST Act. Thus, the prosecution has completely failed to prove its case for offence under Sections 3(1)(r)(s), 2(va) of SC/ST Act against the accused-respondents beyond all reasonable doubts and the trial court has rightly acquitted the accused-respondents from these offences.

So far as the judgment relied upon by the counsel for the appellant in the case of Joseph Stephen (Supra) is concerned, the same would not apply to the present case as in the said case the Hon'ble Supreme Court has dealt with an issue that an appeal would lie against the acquittal of the accused, instead of a revision petition.

In the light of aforesaid discussion, the appellant has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge.

In the case of 'Mrinal Das & others v. The State of Tripura, : 2011(9) SCC 479,' decided on September 5, 2011, the Hon'ble Supreme Court, after looking into many earlier judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

"An order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed.

Similarly, in the case of State of Rajasthan v. Shera Ram alias Vishnu Dutta, reported (2012) 1 SCC 602,' the Hon'ble Supreme Court has observed as under:--

"A judgment of acquittal has the obvious consequence of granting freedom to the accused. This Court has taken a consistent view that unless the judgment in appeal is contrary to evidence, palpably erroneous or a view which could not have been taken by the court of competent jurisdiction keeping in view the settled canons of criminal jurisprudence, this Court shall be reluctant to interfere with such judgment of acquittal."

There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion

is that there is no substantial difference between an appeal against acquittal except that while dealing with an appeal against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the trial Court is a reasonable one and the conclusion reached by it had grounds well set out on the materials on record, the acquittal may not be interfered with. Learned counsel for the appellant has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge.

In the facts and circumstances of the case, the present criminal appeal has no substance and the same is hereby dismissed.