

(2020) 09 MP CK 0160

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 11299 Of 2019

Kanwaljeet Singh

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(RS), 14A(2), 18
Indian Penal Code, 1860 — Section 294, 506

Citation : (2020) 09 MP CK 0160

Hon'ble Judges : S. K. Awasthi, J

Bench : Single Bench

Advocate : Nilesh Dave, Sameer Verma

Final Decision : Dismissed

Judgement

Appellant has preferred this appeal under Section 14-A(2) of the SC/ST (PA) Act, 1989, feeling aggrieved with the order dated 24/02/2019, passed in B.A. No.364/2019 by Special Judge [SC/ST(PA) Act], District Barwani, whereby the prayer for anticipatory bail has been declined.

Appellant apprehends his arrest in connection with crime No.804/2019, registered at Police Station-Barwani, District Indore in relation to offence punishable under Sections 294, 506 of IPC, 1860 along with Section 3(1)(R-S), of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (for short 'The Act').

As per prosecution story complainant made a written complaint at Police Station Barwani to the effect that appellant is the proprietor of "Gandhi Autodeal" engaged in the business of sale of new and old tractors. On 29/04/2018, complainant purchased one old tractor from the appellant for the consideration of Rs.2,30,000/- and paid him Rs.40,000/- at the time of purchase and gave a cheque for the remaining amount of Rs.1,90,000/- to the appellant. Even after the payment of full consideration amount, the appellant has not handed over him

the registration certificate. On 19/05/2019 complainant went to showroom of the appellant and asked him to hand over the papers of tractor so that he can transfer it in his name, then the appellant hurled abuses upon the complainant by using derogatory words related to the caste of the complainant and also given threatened him of dire consequences. On the basis of the aforesaid written complaint the present case is registered against the appellant.

Learned counsel for the appellant submitted that the appellant is reputed business man, the proprietor of "Gandhi Autodeal" and he has not committed any offence. The incident alleged to have been taken place on 19/05/2019, however, the written complaint has been made on 19/06/2019 after a delay of 1 month and no sufficient explanation has been offered by the complainant regarding the said delay. It is further submitted that the complainant had malafide intention to implicate the appellant hence a false FIR has been registered against the appellant, however, the act of the appellant was not within the sphere of 'The Act', so prima-facie essential ingredients of 'The Act' is not available to connect the applicant with the present crime. Therefore, bar under Section 18 of 'The Act' will not attract. There was a dispute between both the parties regarding one tractor and the complainant has filed a case in Consumer Redressal Forum, District Barwani, which is still pending, therefore, complainant has lodged FIR against the applicant with intend to pressurize him for compromise.

It is also submitted that the complainant has not paid the full consideration amount, some amount is due in the aforesaid transaction and he did not want to pay the remaining amount of the tractor, which he has taken on loan, therefore, he lodged FIR with intend to pressurize the applicant. Learned counsel relied upon the judgment passed by Hon'ble Supreme Court in the case of Dr. Subhash Kashinath Mahajan vs. State of Maharashtra, reported in (2018)6 SCC 454 and the case of Prathvi Raj Chauhan vs. Union of India, reported in 2020 SCC Online SC 159 in support of his submissions. The appellant is ready to co-operate with the investigation and there is no apprehension of his absconsion or tampering with the evidence if the appellant is released on anticipatory bail. Under these circumstances, counsel prayed for bail to the appellant.

Learned Panel Lawyer for the respondent/State as well as the learned counsel for the objector/complainant opposes the application by contending that the complainant has made specific allegation against the appellant that he abused the complainant in the place of public view by using derogatory words related to his caste with a view to intentionally insult and humiliate him, therefore, prima-facie offence punishable under 'The Act' is made out against the appellant. The Hon'ble Supreme Court has recalled the directions issued in the judgment of Dr.Subhash Kashinath Mahajan (Supra) vide order dated 01/10/2019 passed in Review Petition (Cr.) 228/2018. In the case of Prathvi Raj Chauhan (Supra), Hon'ble Apex Court observed that according to Section 18 of 'The Act' grant of anticipatory bail is barred when prima facie offence is made out against a person under the provisions of 'The Act'. Therefore the present application is not

maintainable, hence counsel prayed for rejection of the application.

After considering the arguments advanced by learned counsel for the parties, this Court is of the view that in the written complaint as well as the statement of the complainant and other prosecution witnesses recorded by the Police there are specific allegation against the appellant that he hurled abuses and also called the complainant in the place of public view in the name of his caste with a view to insult and humiliate him, therefore, prima-facie offence punishable under Sections of 'The Act' is made out against the appellant. Therefore, bar under Section 18 of 'The Act' for grant of anticipatory bail, is attracted in the present case.

Thus the present appeal filed by the appellant is hereby dismissed and the appellant is directed to surrender himself before the competent Court and move an application for grant of regular bail.

Accordingly Cr.A. No.11299/2019 stands dismissed.