
(2014) 11 MP CK 0110
In the Madhya Pradesh High Court
Case No : M.Cr.C. 2119 and 2034/2012

Lakhan

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 13-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 153A, 294, 295A, 325
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x)

Citation : (2014) 11 MP CK 0110

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

Bench : Single Bench

Advocate : Pratip Visoriya, Advocate for the Appellant; Nutan Saxena, Public Prosecutor and V.K. Saxena, Senior Advocate, Advocate for the Respondent

Judgement

S.K. Palo, J.—Regard being had similitude in the controversy involved in the matter, the above mentioned cases were heard analogously and a common order is being passed.

2. The petitioners preferred to file this petition under Section 482 of Cr.P.C. to invoke the inherent powers of this Court seeking the relief to quash the FIR, Annexure P/1 of Crime No. 8/12 registered at Police Station Tentra, district Morena against Narendra Singh, Jayavendra Singh, petitioner Lakhan Singh, and petitioner Jagannath Singh @ Sonu.

3. A written complaint was submitted by Hari Singh at Police Station Tentra, district Morena, that Survey No. 416 area 21 R.A. and survey No. 416 area 42 R.A. land situated at village Pacher under Tehsil Sabalgarh was reserved for construction of Panchayat Bhawan by resolution dated 15.10.2011. In Survey No. 417, a statue of Babasahib Dr. Bheemrao Ambedkar, was situated. Narendra Singh, Sub Engineer, Water Resources and Development, Sabalgarh, resident of village Pacher had given threats to demolish the statue of Babasahib Dr.

Bheemrao Ambedkar. This was brought to the notice of the Administration earlier. Narendra Singh, petitioner Jagannath Singh, petitioner Lakhan Singh and Javendra Singh, residents of village Tirathpur came armed with weapons on 13.2.2012 after the sun set at about 8 P.M. They ploughed Survey No. 417 surrounding the statue of Babasahib Dr. Bheemrao Ambedkar, with the help of a tractor, took out the statue and damaged it. They also said. The complaint also states that these persons be punished sternly for they have outraged the religious feelings of the people of the village by damaging the statue of Babasahib Dr. Bheemrao Ambedkar. Banwari Jatav, Morari Jatav, Birbal and Gajendra Jatav saw the incident.

4. On the basis of the written complaint, Crime No. 8/12 under Sections 294, 295-A, 153-A IPC read with Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 has been registered by Police Station Tetra, Morena.

5. On behalf of the petitioners, it is submitted that the land in which the statue was constructed belongs to the accused Narendra Singh Jadon. The statue was constructed forcibly. Complaints have been made before the Collector and Tehsildar, Sabalgarh in this regard for correction in the revenue records. Copy of the application is Annexure P/2. No action has been taken by Superintendent of Police in this regard. Copy addressed to Superintendent of Police is Annexure P/3. Claiming that no offence is made out against the petitioners under Sections 294, 295-A, 153-A of IPC and under Section 3(1)(x) of S.C.S.T. Act, the registration of the Crime No. 8/12 be quashed.

6. Petitioner Lakhan himself belonging to the community of Scheduled Caste, therefore, Section 3(1)(x) of S.C.S.T. Act is not applicable against the petitioner. It is also contended that there is no allegation of abuses or uttering of any obscene words nor there is any allegation of obscene acts and songs to constitute offence under Section 294 of IPC.

7. It is also contended that there is no allegation in the F.I.R. that the place where the incident took place is the place of worship. Therefore, Section 295-A of IPC is also not made out. As there was no attempt to promote enmity between different groups on the ground of religion, race, place of birth and residence, language etc. Therefore, Section 153-A of IPC is also not attracted.

8. On behalf of the petitioners, a written argument has been submitted and certain case laws have been referred.

9. Learned Public Prosecutor representing the respondents No. 1 and 2 opposed the petition and submitted that the petition has no merit.

10. Shri V.K. Saxena, Senior counsel appearing on behalf of the respondent No. 3 also submitted that the words uttered by the petitioners amounts to offence under Section 295-A of IPC because the complainants worshiped Babasahib Dr. Bheemrao Ambedkar. He also contended that the Chabutara (plat form) of which

the statue of Babasahib Dr. Bheemrao Ambedkar, was constructed was damaged in full public view for it is a open land. Hence, offence under Sections 153-A and 295-A of IPC is clearly made out.

11. Refusing that no case is made out against the petitioners as has been mentioned, learned counsel for the petitioners placed reliance in *Rajendra Singh Bhadoriya & Others Vs. State of M.P. & Others* passed in M.Cr.C.No. 3240/2013 decided on 01.08.2013 by a coordinate Bench of this Court. In a similar circumstances this Court held that,

"From the perusal of the report of the Police Station AJK it seems that the complaint has been filed with a view to extract money and in my considered opinion, continuation of proceedings leading to injustice amounts to abuses of process of Court and, this Court would be justified in preventing injustice by invoking inherent powers of the Court and the instant case is covered under the category No. (1) of *Bhjan Lal case* (supra). Therefore, the petition deserves to be allowed"

12. Another case decided by a coordinate Bench of this Court in *Santosh Lodha Vs. State of M.P.*, it is held that,

"Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 3(1)(x) Penal Code, 1860, Section 325—Special Judge (Atrocities) framed charges against petitioner/accused under Section 325, IPC read with Section 3(1)(x) of the Act, 1989—Against it, this criminal revision—It was alleged that petitioner/ accused was in-charge of reservoir construction work—Complainant was labourer belonging to Scheduled Caste—Accused hurled abuses at him denoting his caste—Held--There was no intention to insult or humiliate the complainant—Ingredients for constitution of offence under Section 3(1)(x) were not established—Hence, charge framed for offence under Section 3(1)(x) is not sustainable—However, trial against petitioner/accused shall continue for other charges. *Surendra Kaurav and Others Vs. State of M.P.*, relied on. *Swaran Singh and Others Vs. State through Standing Counsel and Another*, followed."

13. In both the cases this Court followed decision rendered in *Sarwan Singh and Others Vs. State Through Standing Counsel and Another*, (2008) 3 SCC (Cri) 527, Hon'ble the Supreme Court in the above case, has examined the controversy and explained that the word "chamar" is often used by people belonging to the so called upper caste or even by the OBC as a word of insult, abuse and derision. Calling a person "chamar" today is nowadays an abusive language and is highly offensive. In fact, the words "chamar" when used today is not normally used to denote a caste but to intentionally insult and humiliate some one. But, the Hon'ble the Apex Court has further held that calling a member of Scheduled Caste "chamar" with intent to insult or humiliate in place within public view is certainly an offence under Section 3(1)(x) of the Act. Whether there was intent to insult or humiliate by using the word "chamar" will depend on the context in which it is used.

14. Hon"ble the Apex Court analyzing the evidence has also stated that one must not confuse the expression "in any place within public view" with the expression "public place". A place can be a private place but yet then be public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or municipality (or other local body) or gram sabha or an instrumentality of the State, and not by private persons or private bodies. The Hon"ble the Apex Court in this case finally opined that there is nothing in the F.I.R. to show that any member of the public was present when Swaran Singh uttered these words or that the place where he uttered them was a place which ordinarily could be seen by the public. Hence, in the opinion of the Court, no prima-facie offence is made.

15. Picking up the same thread, it is found that in the case of Sarwan Singh (Supra), Hon"ble the Apex Court has held the same because though it is open public place but no person public ordinarily seen the same. Therefore, no prima-facie offence is made out. But, in the present case, the F.I.R. show that uttering the words was uttered in public place and in the presence of Murari, Banwari, Birbal, Gajendra. Therefore, the ratio of Sarwan Singh (Supra) cannot be applicable in this case.

16. So far as other accused person i.e. Jagannath Singh, Narendra Singh, Jayavendra Singh are concerned they do not claimed to be members of Scheduled Castes or Scheduled Tribes.

17. It is a common practice that the persons follow Buddhist religion also worshiped Babasahib Dr. Bheemrao Ambedkar. That being so, it cannot be denied that the religious feelings of few Sections of society has been out raged as per the as per the allegation in the F.I.R.

18. Keeping in mind that the F.I.R. cannot be quashed partly and if the allegations levelled in the F.I.R. or the complaint is not controverted, it discloses commission of the offences registered against the petitioners and other accused persons.

19. For the reasons stated above, the present petition under Section 482 of Cr.P.C. cannot be maintained, hence, it is dismissed.