
(2002) 04 JH CK 0086
In the Jharkhand High Court
Case No : Criminal M.P. No. 4660 of 2001

Md. Sarfuddin Nut and Another

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 04-04-2002

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) 04 JH CK 0086

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

Bench : Single Bench

Advocate : P.C. Tripathy, for the Appellant; Assistant Public Prosecutor, for the Respondent

Final Decision : Partly Allowed

Judgement

Deoki Nandan Prasad, J.—This is an application u/s 482 of the Code of Criminal Procedure for quashing (he entire criminal proceedings of DaltonganJ (Town) P.S. Case No. 359/1999 (G.R. No. 1166 of 1999). whereby and whereunder the learned Chief Judicial Magistrate, Daltonganj took cognizance by order dated 29.3.2001 for the offences under Sections 447 : 323 : 324/34. IPC and also u/s 3/4 of the S.C. & ST. (Prevention of Attrocities) Act.

2. The learned Counsel for the petitioners confined his argument at this stage as regards to the offences u/s 3/4 of the S.C. S S.T. (Prevention of Attrocities) Act and it is submitted that he does not press this application as regards to the cognizance taken for the offence under Sections 447. 323, 324/34, IPC and his grievance is only in respect of the Section 3/4 of the SC and ST (Prevention of Attrocities) Act on the ground that both Sections are not applicable against the petitioners, who are themselves belonged to the Scheduled Caste community and to this effect, the caste certificate has also been filed.

it is further submitted that Section 4 of the said Act will also not applicable

against the petitioners which is in relation to the public servant and the petitioners are not the Public Servants.

3. Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. 1989 reads as follows :

"3. Punishments for offences of atrocities,-

(i) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

(i).....to(xv).....

From going through the provisions of Section 3 of the said Act, it is apparent that the said Section will be applicable against the person not being a member of Scheduled Castes and Scheduled Tribes and committed mischief either of the Clauses as laid down in the said Section. The petitioners are admittedly belonged to the Scheduled Caste community as it is evident from the caste certificate as well as the statements made on oath by the petitioners. Thus the offence u/s 3 of the said Act will not be applicable against them.

4. Section 4 of the said Act is apparently in respect of public servant, but the petitioners are also admittedly not the public servants, moreover, they are being the Scheduled Castes community and as such Section 4 of the Act is also not applicable against the petitioners.

5. Thus, I find that the court below committed error in taking cognizance against the petitioners for the offence u/s 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

6. In the result, I find merit in this application, which is allowed partly. The order taking cognizance dated 29.3.2001 "as regards to the offences u/s 3/4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is. thereby, quashed.

7. It is made clear that the offence under Sections 447, 323. 324/34 will remain continued and the court below will proceed accordingly under the offences of India Penal Code only.