

(2015) 02 CAL CK 0072
In the Calcutta High Court
Case No : C.R.R. No. 2574 of 2014

Partha Sarathi Mahanti

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 295A, 307, 323, 342, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(ii), 3(1)(vi), 3(1)(xii)

Citation : (2015) 02 CAL CK 0072

Hon'ble Judges : Ashim Kumar Roy, J.

Bench : Single Bench

Advocate : Kunal Ganguly, for the Appellant; Ayan Bhattacharjee, Advocates for the Respondent

Judgement

Ashim Kumar Roy, J.—The petitioner has been arraigned as an accused in connection with Raniganj Police Station Case No. 251 of 2014 relating to the offences punishable under sections 307/295A/323/342/506 I.P.C. and sections 3(1)(ii)/3(1)(vi)/3(1)(xii) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. Now the petitioner has come up for quashing of an F.I.R., for the offences punishable under sections 3(1)(ii)/3(1)(vi)/3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, for the sake of brevity, hereinafter referred to as the "said Act".

3. The learned counsel for the petitioner vehemently contended on face of the allegations made in the impugned F.I.R., no offence punishable under the provisions of the "said Act" has been made out against the petitioner.

4. However, the learned counsel for the State produced the case diary and resisted him. He with reference to the allegations made in paragraphs 2, 3, 4, 5 and 6 of the F.I.R. submitted on the face of the same, the offences for which the F.I.R. has been registered have been certainly made out.

5. Before adverting the rival contentions of the parties, the relevant provisions of the "said Act", for which the petitioner has been charge sheeted are quoted below,

"3. Punishments for offences of atrocities.- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(i).

(ii).. acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;

(iii)

(iv)

(v)

(vi) ... compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do "begar" or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

(vii)

(viii)

(ix)

(x)

(xi)

(xii) ..being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

(xiii)

(xiv)

(xv)

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine."

6. Now, coming to the FIR, it is found that the case against the petitioner for commission of the offences punishable under the provision of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 is essentially based on the allegations made in paragraph 2, 3, 4 and 5 and same are quoted below,

In paragraph 2 of the F.I.R., the allegations were to the effect..... the accused being the Principal of the school, engaged the complainant and his wife for personal domestic work as well as their school duties, he always takes benefit

of his post for commanding the complainant and used to threat him for loosing his job if he or his wife refused to his domestic works and was a habitual drunker and used to take alcohol during school hours.

It is the allegations made in paragraph 3 of the F.I.R., that on several occasions the de facto complainant was asked by the accused to send his wife for physical massage during midnight for getting promotion in service.

So far as the allegations made in paragraph 4 and 5 of the F.I.R. are concerned, it was inter alia to the effect..... on June 22, 2014 at about 8 p.m. the accused person came to his residence and abused him in slang languages for not receiving his calls, at this the de facto complainant politely asked to excuse him but the accused became more angry and assaulted him with sleeper and also slapped on him and scrubbed his teeka from his forehead by his sleeper. Accused person abused him saying "TUM SALA HARI DOM CHOTA JAAT LOG, MANA KIYE AI NA PUJA KARNE SE, HUM BADA HAI KI TUMHARA BHGWAN, MERA PUJA KARO OR MANDIR KO TOR DO SALA".

7. On the next day the de facto complaint informed the incident to the local leader and on June 24, 2014, the Agent of Nimcha Colliery, on June 25, 2014, I/ C Nimcha Police Station and G.M. Nimcha Colliery. Thereafter accused person sought for apology in public but on the next day i.e. June 26, 2014, the accused person again called the de facto complainant at a deserted place in school campus and again misbehaved with him and he was also assaulted. Even the accused person tried to strangulate him but somehow the de facto complainant managed to save his life.

8. Having regard to the aforesaid allegations and without going into the truth or falsehood thereof it can hardly be said no offence for which impugned F.I.R. has been registered has been made out.

9. In the result, this criminal revision fails and stands dismissed.

10. Urgent certified xerox copy of this order, if applied for, be given to the parties at an early date.