

(2007) 08 JH CK 0030
In the Jharkhand High Court

Ram Awatar Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-08-2007

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 202, 216
Penal Code, 1860 (IPC) — Section 323, 379, 447
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2008) 1 JCR 67

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.K. Sinha, J.—The present Cr. Revision has been preferred by the petitioner Ram Awatar Ram son of the complainant Deoki Ram (since dead) of SC/ST (Prevention of Atrocities) Act Case No. C-536 of 2003 against the order impugned dated 15.5.2007 passed by the learned Special Judge-cum-Ist Addl. Sessions Judge, Garhwa corresponding to SC and ST. Case No. 2 of 2005 whereby and whereunder the petition filed by the petitioner herein u/s 216 of the Code of Criminal Procedure for modification in the charge was dismissed.

2. The brief fact of the case is that the father of the petitioner namely Deoki Ram (since dead) had preferred a complaint case against the members of the Opposite Party Nos. 2 to 6 and after enquiry u/s 202 of the Code of Criminal Procedure, cognizance of the offence was taken u/s 3(iv) of the SC and ST (Prevention of Atrocities) Act, 1989 and the case was referred to the Special Court competent to try and after framing of charge in the aforesaid section the accused O.P. Nos. 2 to 6 were put on trial by the Court of Special Judge.

3. Learned Counsel for the petitioner submitted that a petition was filed on behalf of the prosecution u/s 216 of the Code of Criminal Procedure on 21.12.2006

before the Special Judge stating therein that after framing of charge against the accused 5 witnesses were produced and examined on behalf of the prosecution including the complainant (PW 5) and they were consistent that the accused persons (O.P. Nos. 2 to 6) had committed the offence for the alleged charge as also under Sections 323, 447 and 379, IPC and u/s 27 of the Arms Act and therefore, it was prayed that aforesaid section may also be added as additional charges against the accused persons and accordingly appropriate order may be passed.

4. Learned Special Judge by the order impugned dismissed the petition on 15.5.2007 with the observation,

As none of the witnesses has stated anything at the time of enquiry to attract Sections 323, 447 and 379 of IPC and Section 27 of the Arms Act, only on the basis of improvement in the evidence at the time of trial, and be altered. Considering the facts circumstances of the case prayer made on behalf of the prosecution is rejected and case is fixed on 17.5.2007 for argument.

5. The trial Court further observed:

It appears that some of the witnesses namely PWs 3, 4 and 5 have improved their evidence at the time of trial to attract the aforesaid sections. But such improvement cannot be the basis of alteration or addition of the charges.

6. I find that the Special Judge is justified in dismissing the petition filed on behalf of the prosecution u/s 216 of the Code of Criminal Procedure in the backdrop of the aforesaid reasoning as also the testimony of the complainant PW 5 as contained in paragraph 33 under cross-examination.

7. I do not find any illegality or irregularity in the order impugned so as to call for interference and therefore, there being no merit, this Criminal Revision is dismissed.