

(2019) 12 JH CK 0111

In the Jharkhand High Court

Case No : Criminal Appeal (S.J.) No. 515 Of 2019

Ram Janam Rawani

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 09-12-2019

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(i)(x), 4, 5, 6, 18
Indian Penal Code, 1860 — Section 34, 323, 324, 354, 504
Code Of Criminal Procedure, 1973 — Section 107

Citation : (2019) 12 JH CK 0111

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Bhaskar Trivedi, Lakshman Kumar

Final Decision : Dismissed

Judgement

1. Heard Mr. Bhaskar Trivedi, counsel appearing on behalf of the appellant along with Mr. Rahul Dev, Advocate.

2. Heard Mr. Laxman Kumar, counsel appearing on behalf of the opposite party no. 2.

3. This appeal has been filed against the order dated 22.04.2019, passed by learned Addl. Sessions Judge-VII-cum-M.C.A. (Miscellaneous Criminal

Application) No. 660 of 2019 in connection with S.C./S.T. Case No. 212 of 2018 registered under Sections 4,5,6 of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 324/354/504/34 of the Indian Penal Code and cognizance was taken for the

offence under Sections 323/504 of the Indian Penal Code and under Sections 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 whereby the anticipatory bail application filed by the

appellant has been rejected which is now pending in the court of learned Addl. District Judge-VII, Dhanbad.

4. Counsel for the appellant submits that the learned court below has rejected the anticipatory bail application of the appellant by referring to Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Learned counsel further submits that the present case is arising out of malicious prosecution in as much as one complaint was made by the complainant before the police upon which a procedure under Section 107 Cr. P.C. was instituted and the case was ultimately dropped on 22.04.2018. Learned counsel submits that in the meantime, the complaint case was filed making allegation against the appellant and others but cognizance has been taken only against the present appellant.

5. Counsel submits that no case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out against the appellant and accordingly the learned court below has erred in coming to the conclusion that the anticipatory bail itself is not maintainable.

6. Counsel appearing on behalf of the opposite party no. 2 submits that upon perusal of the complaint petition and the solemn affirmation of the complaint it appears that at the place of occurrence objectionable language was used against the complainant in presence of the witnesses and accordingly it cannot be said that no prima-facie case under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out. It is further submitted that the appellant has refused to pay Rs. 1 lakh as compensation to the complainant as a condition for bail which has been indicated in the order dated 22.08.2019 passed by this court.

7. After hearing counsel for the parties and after considering the facts and circumstances of this case and the nature of allegation which has been levelled against the appellant and from perusal of the solemn affirmation of the complainant it appears that the complainant has alleged use of objectionable language against the complainant in presence of the witnesses. In this view of the matter, it cannot be said that no prima-facie case is made out against the appellant under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and accordingly the order passed by the learned court below rejecting the anticipatory bail of the appellant on the ground that it is not maintainable does not call for any

interference. Accordingly the appeal is dismissed.

8. It is made clear that the observation made will have no bearing in the proceedings before the learned court below and the same will not prejudice the case of the either parties before the learned court below.

9. The appellant is directed to surrender before the learned court below within 15 days from today and upon surrender if any bail application is filed

along with prayer to consider the bail application on the very same day, it will be duly considered by the learned court below in accordance with law

without being prejudiced by rejection of the appeal.

10. Let this order be communicated to the court concerned through FAX.