

(2020) 08 MP CK 0258

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 24620 Of 2020

Ramakant Agrawal Alias Kheru Agrawal

APPELLANT

Vs

State Of MP & Anr.

RESPONDENT

Date of Decision : 06-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 228, 397, 482

Indian Penal Code, 1860 — Section 294, 323, 506

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(va)

Citation : (2020) 08 MP CK 0258

Hon'ble Judges : G. S. Ahluwalia, J

Bench : Single Bench

Advocate : Vijay Dutt Sharma, Sankalp Sharma

Final Decision : Dismissed

Judgement

This petition under Section 482 of CrPC has been filed for quashing the FIR in Crime No.213/2020 registered at Police Station Bhonti, District Shivpuri for offence under Sections 323, 294, 506 of IPC and under Sections 3(1)(r), 3(1)(s), 3(2)(v-a) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and all other consequential proceedings.

It is submitted by the counsel for the applicant that the FIR has been lodged by the respondent No.2 on the allegations that on 09/07/2020 at about 08:30 in the evening he had gone to a medical shop for purchasing the medicines. In the said shop, the applicant was sitting and due to old enmity, he started abusing the complainant and also humiliated and insulted him by his caste name and when the complainant objected to it, then the applicant assaulted him by fists and blows. Rameshwar Prajapati and Deepak Koli intervened in the matter. While going away from the place of incident, the applicant also extended a threat that in case if the applicant lodges a report, then he would face the dire consequences and while extending the threat, the complainant once again humiliated him, in

the public place by calling him by his caste.

It is submitted by the counsel for the applicant that the FIR has been lodged with malafide intention. In fact, no incident had taken place. Calling the complainant by his caste name would not make out an offence punishable under Section 3(1)(r)(s)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Even if the allegations are accepted, then there was no intention on the part of the applicant to humiliate the complainant.

Heard the learned counsel for the applicant.

So far as the intention of the applicant to humiliate the complainant is concerned, it is suffice to say that in the light of Section 3(1)(s) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, the intention is immaterial. Further, the intention of an accused cannot be decided in a proceeding under Section 482 of Cr.PC. Furthermore, in view of provisions of Sections 3(1)(r)& (s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, it is clear that if any person intentionally insults or intimates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view, then he would be guilty of committing offence under Section 3(1)(r) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, whereas, if a person abuses any member of a Scheduled Castes or a Scheduled Tribes by caste name in any place within public view, then he would be punishable under Section 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Intention of the applicant is immaterial for offence under Section 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

So far as the malafide intention of the complainant is concerned, it is suffice to say that if the allegations made in the FIR constitute a cognizable offence, then the malafides of the complainant loses its effect.

The Supreme Court in the case of Renu Kumari Vs. Sanjay Kumar reported in (2008) 12 SCC 346 has held as under :

..... When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in the court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings. [See Dhanalakshmi v. R. Prasanna Kumar, State of Bihar v. P.P. Sharma, Rupan Deol Bajaj v. Kanwar Pal Singh Gill, State of Kerala v. O.C. Kuttan, State of U.P. v. O.P. Sharma, Rashmi Kumar v. Mahesh Kumar Bhada , Satvinder Kaur v. State (Govt. of NCT of Delhi) and Rajesh Bajaj v. State NCT of Delhi.]"

The Supreme Court in the case of Amit Kapoor vs. Ramesh Ramakant Agrawal alias Kheru Agrawal Vs. State of MP & Anr. Chander and Another, reported in

(2012) 9 SCC 460 has held as under:-

"27. Having discussed the scope of jurisdiction under these two provisions i.e. Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

27.6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender."

Since the FIR which has been lodged against the applicant prima facie discloses the ingredients of offence under which the FIR has been lodged, therefore, no case is made out for quashment of the FIR.

Accordingly, this petition under Section 482 of CrPC fails and is hereby dismissed.