
(2013) 10 MP CK 0200
In the Madhya Pradesh High Court
Case No : Criminal R. No. 462 of 2013

Santosh Singh Raghuwanshi and Another	APPELLANT
Vs	
State of M.P. and Another	RESPONDENT

Date of Decision : 11-10-2013

Acts Referred:

Citation : (2014) 1 Crimes 456

Hon'ble Judges : D.K. Paliwal, J

Bench : Single Bench

Advocate : S.S. Rajput, for the Appellant; A.K. Shrivastava for the Respondent No. 1/State and Shri Rishikesh Bohare, Advocate for the Respondents No. 2, for the Respondent

Final Decision : Dismissed

Judgement

D.K. Paliwal, J.—This revision petition has been preferred against the order passed by Special Judge (Atrocities), Guna in Special S.T. No. 4/2013, whereby charges under Sections 294, 506B, 326/34 of IPC and u/s 3(i)(x) of Scheduled Caste, Scheduled Tribes (Prevention of Atrocities) Act have been framed against the petitioners. Brief facts giving rise to this petition are that complainant has lodged a report at P.S. Aron alleging that civil dispute is going on with regard to some agricultural land with Udaybhan Singh Raghuwanshi. On 15.10.2012 Udaybhan Singh and Santosh Singh were cutting the crops of complainant, when complainant asked Udaybhan Singh and Santosh Singh why they are cutting her crop, then Udaybhan Singh gave abuses in the name of caste and said that who is she to stop them and gave a Farsa blow on elbow of right hand. Santosh Singh gave a Lathi blow on the back and on right ear. When complainant raised alarm Ramkalibai, Shribai came there and saved the complainant. Udaybhan Singh and Santosh Singh threatened the complainant that if she will again come in the field, she will be killed. Upon this Crime No. 344/2012 has been registered for the offence punishable under Sections 323, 324, 294, 506, 34 of IPC and u/s 3(i)(x) of SC, ST (Prevention of Atrocities) Act. After due investigation charge sheet has

been filed in the Court of the Special Sessions Judge (Atrocities), Guna. Learned Sessions Judge vide impugned order framed the charges against the petitioners under Sections 323, 324, 294, 506, 34 of IPC and u/s 3(i)(x) of SC, ST (Prevention of Atrocities) Act. Being aggrieved by the same petitioners have preferred this revision petition.

2. It is submitted by learned counsel for the petitioners that learned trial Court has not rightly considered the documentary evidence before framing the charges and committed illegality in passing the impugned order. The complainant herself has stated in her report that civil dispute is going on. The complainant party has filed a civil suit for restoration of possession over the disputed land, which shows that the complainant was not in possession of the disputed land. The petitioners were in possession. It is further submitted that prior to the incident an agreement to sell regarding the disputed land was executed in favour of the petitioners. It is submitted that to avoid re-payment of the advance money and the execution of the sale deed a false report has been lodged. It is further submitted that prima facie it is not proved that the incident has been committed in a public view with an intention of insulting the complainant, hence no charge is made out under the provisions of SC, ST (Prevention of Atrocities) Act. It is prayed that petition be allowed, impugned order be set aside and the petitioners be discharged.

3. Learned counsel for respondent No. 1 and 2 have supported the impugned order submitting that prima facie material collected during investigation, which discloses the commission of offence punishable under Sections 323, 324, 294, 506, 34 of IPC and u/s 3(i)(x) of SC, ST (Prevention of Atrocities) Act, therefore, the charges framed by the learned Sessions Judge (Atrocities), Guna are proper and requires no interference.

4. In order to appreciate the submissions of the learned counsel for the parties, I have perused the record.

5. In the FIR lodged by the complainant it has categorically mentioned that when complainant reached the field at that time Udaybhan Singh and Santosh Singh were cutting her crop, when she objected, then Udaybhan Singh abuses her in the name of caste and both petitioners gave beating by means of Farsa and Lathi. From the medical report of Guddibai, it appears that she has received incised wound and contusions. In the case diary statement she has specifically submitted that she belongs to Ahirwar Samaj and Udaybhan has given abuses in the name of her caste. On hearing cries Ramkalibai, Shribai and Laxman came there and saved her. Ramkalibai, Shribai and Laxman have corroborated her statement.

6. Learned counsel for the petitioners submits that to attract Section 3(i)(x) of SC, ST (Prevention of Atrocities) Act intentional insults or intimidation must be at the place in a public view. He has cited decision rendered in the matter of Kavindra Nath Thakur Vs. The State of M.P., and Jasrath Singh and Another Vs.

State of Madhya Pradesh, .

7. From the FIR and the statement of the witnesses, it is clear that incident took place in the field and on hearing the cries Ramkalibai, Shribai and Laxman reached the spot. This prima facie indicates that alleged incident has taken place in full public view, therefore, submission of the learned counsel is devoid of any merits.

8. The next contention of the learned counsel for the petitioners that the family members of the complainant have filed a civil suit praying the recovery of possession against the petitioners in the Civil Court, Aron on 10.7.2012. Thus, allegation in the FIR that crop of the complainant was standing, which petitioners were cutting is false. It is true that a civil suit has been filed by the family members of the complainant in which recovery of possession is prayed. However, at this stage the possession is not so material.

9. At the stage of framing of the charge, the truth, veracity and effect of the evidence, which the prosecutor proposes to adduce are not to be meticulously judged. The standard of test, proof and judgment which is to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied at the stage of Section 227 or 228 of Code of Criminal Procedure. The Court at the stage of framing of charge is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence charge can be framed.

10. In the case of Central Bureau of Investigation, Hyderabad Vs. K. Narayana Rao, , the Apex Court considered the scope of Sections 227 and 228 of Cr.P.C. and held that for framing of charge, a roving enquiry in pros and cons of matter and weighing of evidence as is done in trial is not permissible at this stage. The charge has to be framed if Court feels that there is strong suspicion that accused has committed offence. Thus, even if there is a strong suspicion, which leads the Court to think that there is ground for presuming that the accused has committed an offence, a charge can be framed. Taking into consideration the allegations made in the FIR coupled with the case diary statements of the witnesses, medical report prima facie the charges are made out and the learned Special Judge (Atrocities), Guna has not committed any illegality, impropriety or irregularity in framing the charges. The revision petition is devoid of any merits and the same is hereby dismissed.