
(2009) 10 JH CK 0014
In the Jharkhand High Court

Shankar Maharna and Others

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 12-10-2009

Acts Referred:

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2009) 10 JH CK 0014

Hon'ble Judges : Pradeep Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Pradeep Kumar, J.—By Court Nobody appears on behalf of the appellants. At the request of the Court Mr. Tapas. Roy argued on behalf of the appellants as amicus curie.

2. The appeal is directed against the order dated 11.4.2002 passed by Sri N. Mishra, 11 A.D.J.-cumSpecial Judge, Godda in Special Case No. 1/99 which is arising out of Pathargam P.S. Case No. 0117 of 1998, corresponding to G.R. No. 719/9, by which judgment, the court found all the 11 appellants guilty u/s 3(I)(II)(XIV) of S.C. & S.T. (Prevention of Atrocities) Act, 1989 and convicted them thereunder and they have been sentenced to undergo Rigorous Imprisonment for one year each and to pay a fine of Rs. 1000/- each and in default they shall have to undergo S.I. for six months each.

3. The prosecution case was started on the basis of a written report given by the informant, Sardar Soren (P.W. 4) stating therein that in Mauza Mal Nistar Jamabandi No. 11A of Dag No. 19, 20, 22, 50, 27, 58, 39, 40, 37, 30, 6, 4, 5, 83, 76, 79, 246, 247, 252, 253, 261, 262, 284, 275, 93, 94, 109, 110, 123, 118, 116 was settled with his father and his brothers by the Government in Case No. 3090/1933-34 they came in possession over the land and after him he continued in possession of the aforesaid land. His villageers—accused persons, namely, 1. Shankar Maharana. 2. Tulsi Maharana. 3. Basant Maharana, 4. Murli Maharana. 5

Ando Maharana. 6. Budhahi Maharana. V. Dinkar Maharana. 8. Snujay Maharana. 9. Govind Maharana. 10. Doran Maharana. 11. Bibhian Maharana all wanted to dispossess him from the lands belonging to him and his family members called by making propaganda that the informant is a Santhal and he is untouchable. They stated that whoever touched him v/ill be ousted from the society. It is alleged that on 8.8.98 (Saturday) at about 2.00 P.M. when the informant went for taking water from the pump of the village then accused, Shankar Maharana asked him not to touch the pump; but when he put his pitcher for filling the water then he was caught hold of by the accused person. Thereafter, all of them came and they broke his pitcher and said that lie is a Santhal and untouchable and as such he cannot take water from the village pump. They also assaulted him and asked him to leave the village.

4. On the basis of the said written report the police registered a case " u/s 3(I) (II)(XIV) of S.C. & S.T. (Prevention of Atrouties) Act, 1989 and after investigation police submitted charge-sheet against all the accused persons.

5. Since, the case was exclusively triable by the Special Judge the learned C.J.M. after taking cognizance of the case sent the same to the court of Special Judge, where the trial was held and the appellants were found guilty as aforesaid.

6. It is submitted by the learned Counsel for the appellants that although all the prosecution witnesses have stated that propaganda against the informant that he is a Santhal and untouchable and when he went for taking water from the pump of the village then accused, Shankar Miharana asked him not to touch the pump, but when he put his pitcher in filling the water then he was caught hold of the accused persons Thereafter, all of them came and they broke his pitcher, but it appears that the informant and the accused persons have got land disputes between them ind due to which they might have falsely implicated the appellants in this ease. Vioreover, it has been argued that it is the first offence of the appellants and as such their conviction of one and half years R. I. is too harsh.

7. On the other hand, learned Counsel for the State has opposed the prayer and submitted that all the prosecution witnesses have supported the prosecution case beyond all reasonable doubt and the conviction and sentence passed by the trial court are well founded and requires no interference by this Court.

8. After hearing both the parties and going through the record. I find that in order to prove the case prosecution lias examined 7 witnesses. The informant - P.W. 4, Sardar Soren has fully supported his case and submitted that on 8.8.99 at about 2.00 P.M. when he went for taking water from the pump of the village then accused, Shankar Maharana asked him not to touch the pump and the pump is used only by Brainm and others, but when lie put his pitcher in filling the water then he was caught hold of the accused persons. Thereafter, all of them came and they broke his pitcher and said that he is a Santrtal and untouchable. Hereafter, the informant gave information to the police station where the ease was registered. In his cross-examination, he stated that on 8.8.98 (Saturday) at

about 2.00 P.M. when he went for taking water from the pump of the village then firstly accused, Shankar Maharana came and objected him not to touch the pump, but when he put his pitcher in filling the water there he was caught hold of by the accused persons. Thereafter, all of them came and they broke his pitcher and said that his a Santhal and untouchable and as such he cannot take water from the pump of the village. They also assaulted him and asked him to leave the village.

9. The village witnesses, who are independent witnesses and belonging to different community like P.W. 1, Ashok Thakur, P.W. 2. Nageshwar Yadav, P.W.3, vlahesh Kant Bhandari, have supported the informant and slated that on 8.8.98 (Saturday) at about 2.00 P.M. he went for taking water from the pump of the village then all the accused persons objected him and said that he is a Santhal and untouchable aid he cannot take water from the pump of the village and thereafter they broke his pitcher.

10. In that view of the matter, I find that die prosecution case as disclosed by the informant (P.W. 4) has fully been supported, by other independent witnesses, the Investigating Officer (P.W. 6) has also supported the prosecution case and proved the place of occurrence. Hence, in my opinion, that the case u/s 3(I)(II)(XIV) of S.C. & S.T. (Prevention of Atrocities) Act, 1989 is made out against tin; appellants and they have rightly been convicted under the said sections.

11. However, it appears that there was a land dispute between tin: parties and it is the first offence of the appellants. In mat view of the mater, the conviction of one and half years 11.1. each s reduced to minimum conviction R. 1. for 6 months each and they have also been sentenced to pay a fine of Rs. 1,000/- each as passed by the trial court and in default they shall undergo S.I. for six months more.

12. With the aforesaid alteration in the sentence the appeal is dismissed.

13. The appellants are on bail. The limned trial court is directed to issue warrant of arrest for serving out of the sentence.