

(2012) 09 SC CK 0064

In the Supreme Court Of India

Case No : Criminal Appeal No's. 1393-1394 of 2012 (Arising out of SLP
(Criminal) No's. 2963-2964 of 2010)

State of U.P. and Another

APPELLANT

Vs

Ram Ashrey and Another

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 3(1)
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules,

Citation : (2012) 9 SCALE 664 : (2012) 12 SCC 219

Hon'ble Judges : Surinder Singh Nijjar, J;H.L. Gokhale, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Permission to file SLP is granted.
2. Delay condoned.
3. Leave granted.
4. These appeals have been preferred against the judgment and orders dated 26th February, 2010 and 17th August, 2009 passed by the High Court of Judicature at Allahabad, Lucknow Bench, in pending Criminal Miscellaneous Case No. 2009 of 2009 seeking quashing of the FIR Case Crime No. 194/2005 as also the consequential proceedings pending before the Court of Judicial Magistrate, Ambedkar Nagar. The relevant facts have been noticed in the impugned orders and, therefore, it is not necessary to repeat the same herein. However, it is necessary to notice certain crucial dates which led to filing of the petition by Respondent No. 1 u/s 482 of the Code of Criminal Procedure. On 3rd May, 2005, Respondent No. 2 (Ram Shakal) made a complaint that Respondent No. 1 (Ram Ashrey Yadav) attempted to take forcible possession of the Abadi land which was the subject matter of a civil suit. On 30th April, 2005, while attempting to take

forcible possession of certain piece of land, Respondent No. 1, along with some other persons, abused Respondent No. 2. They also beat him up and threatened to kill him. According to the complaint, Respondent No. 1 and his party entered the house of Respondent No. 2 and inflicted injuries with intention to kill his daughter-in-law. Assuming her to be dead, the attacking party left the house of Respondent No. 2. When Respondent No. 2 along with his injured daughter-in-law went to the local Police Station to lodge an FIR of the incident, no action was taken by the police. Rather, the complainant along with his daughter-in-law, were forced to remain seated at the Police Station for quite some time. He, therefore, made a written complaint to Appellant No. 2 (Mr. Anil Sant) for initiation of appropriate action against Respondent No. 1.

5. Appellant No. 2, at the relevant time was posted as Secretary, Social Welfare Department, U.P. Acting on the complaint made by Respondent No. 2, Appellant No. 2 on 6th May, 2005 forwarded the same to Shri K. Satyanarain, Superintendent of Police, Ambedkar Nagar with the following observations:

Thus, a copy of the application is being enclosed with the request that the First Information Report may be lodged and a thorough investigation in the matter be conducted by an officer not below the rank of Deputy Superintendent of Police, so that effective action may be taken and the Government may also be informed.

6. It appears that an FIR was actually registered on 27th October, 2005. It further appears that in the meantime, Respondent No. 2 filed a complaint before the Chief Judicial Magistrate, Ambedkar Nagar on 16th May, 2005. In the complaint proceedings, the learned Chief Judicial Magistrate on 17th August, 2005 directed registration of an FIR with a further direction to the police to act in accordance with law. Aggrieved by the aforesaid order passed by the learned Judicial Magistrate, Respondent No. 1 challenged the same by filing Criminal Misc. Revision No. 191 of 2005 in the Court of District & Sessions Judge, Ambedkar Nagar.

7. By order dated 5th September, 2005, the Sessions Judge stayed the operation of the order passed by the learned Magistrate on 17th August, 2005 and ultimately on 15th February, 2007, Criminal Misc. Revision No. 191 of 2005 was allowed and the order dated 17th August, 2005/2nd September, 2005 directing the registration of the FIR was quashed. In view of the order passed by the Sessions Judge, no FIR was registered pursuant to the direction issued by the learned Magistrate. However, it appears that on the basis of the letter dated 6th May, 2005, Circle Officer, Jabalpur, District Ambedkar Nagar, on 21st October, 2005 directed the Station Officer, Malipur, to register the case against Respondent No. 1 and others. A First Information Report (FIR) being Case Crime No. 194 of 2005 under Sections 323, 324, 504, 506 of IPA and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the Act") came to be registered on 27th October, 2005. Subsequently, upon investigation, it appears that the police also filed charge-sheet on 27th May, 2007 in the Court of learned Magistrate. The filing of the

charge-sheet and consequential proceedings have been challenged by the Appellants by way of Criminal Miscellaneous Petition u/s 482 of the Code of Criminal Procedure in the High Court of Judicature at Allahabad, Lucknow Bench. When the matter was taken up for preliminary hearing, the High Court passed an interim order on 26th February, 2010 and the petition was directed to be listed on 2nd April, 2010.

8. It is this interim order that is challenged in the present special leave petition.

9. We have heard the learned Counsel for the parties.

10. Mr. Dash, learned senior Counsel for the Appellants 1 and 2 has pointed out that in the impugned order the conduct of Appellant No. 2 was severely criticized by the High Court. It was observed that Appellant No. 2 had written a letter dated 6th May, 2005 ignoring the consideration that such a letter would play havoc with the liberty and character of the person who is otherwise not involved in the crime. The High Court also observed:

The conduct of such officer should be taken into consideration by the Court as reckless, unmindful and being without jurisdiction and also with a view to harass the innocent citizens/Petitioners under his authority of high rank. The higher officer the more responsibility lies on the shoulder of the said officer and he should not act casually, but with a sense of deep responsibility.

11. The High Court further observed as follows:

Therefore, in the circumstances of the case and with a view to curb such incidents, so that such letters may not be written in future and also that people may be certain in their mind as to what is the proper forum to approach and in order to reduce the administrative chaos, it is necessary that a censure entry be recorded in the character roll of the officer for writing such letter without authority of law. The Court, therefore, directs the Chief Secretary to record a censure entry in the character roll of the officer.

12. Mr. Dash, learned senior Counsel appearing on behalf of Appellant Nos. 1 and 2 submitted that the officer - Appellant No. 2 herein, has been unnecessarily castigated by the High Court as he was unaware of the orders passed by the Sessions Judge on 5th September, 2005. Furthermore, the said officer has not played any role other than writing the letter dated 6th May, 2005 forwarding the complaint made by Respondent No. 2 against Respondent No. 1 to the competent authority for further action in accordance with law.

13. We are of the considered opinion that in the facts and circumstances of this case, the High Court was not justified in recording such scathing remarks about the action taken by Appellant No. 2 on the complaint made by Respondent No. 2. It must be remembered that the petition u/s 482 of the Code of Criminal Procedure is still pending before the High Court. In our opinion, the High Court unnecessarily proceeded to record a conclusion that the Respondent No. 1 is an innocent person not involved in any crime. Such a finding could not have been

recorded at an interim stage. The petition u/s 482 was yet to be heard on merits, and was listed for hearing on 2nd April, 2010.

14. Having perused the relevant provisions of the Act and the rules, we are satisfied that the action taken by Appellant No. 2 was within the scope of Rule 5(3) and Rule 6(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995. A perusal of the aforesaid rules clearly indicates that it was not even necessary for Appellant No. 2 to be holding the position which he was actually holding, for forwarding the complaint made by Respondent No. 2 against Respondent No. 1. Any person who has knowledge about the atrocities being committed which would constitute an offence u/s 3 of the aforesaid Act would be within his right to forward the complaint to the appropriate authority requesting that action be taken against the alleged offender in accordance with law. In such circumstances, we are of the opinion that the High Court was not justified in making the scathing remarks against the officer. We, therefore, direct that the adverse remarks recorded by the High Court including the direction to make an entry of "censure" in the service record of Appellant No. 2, be expunged. The impugned orders are accordingly set aside and the appeals are allowed.

15. Before we part with the case, we make it clear that the petition filed by Respondent No. 1 u/s 482 of the Code of Criminal Procedure shall be decided on its own merits, strictly in accordance with law, without being influenced by any observations made by this Court.