

Court No. - 83

Case :- CRIMINAL APPEAL No. - 2478 of 2024

Appellant :- Prakash Chandra

Respondent :- State Of U.P. And 2 Others

Counsel for Appellant :- Braj Mohan Singh

Counsel for Respondent :- G.A., Vineet Sankalp

Hon'ble Saurabh Srivastava, J.

1. Heard Sri Mahesh Chandra Chaturvedi, learned senior counsel assisted by Sri Vineet Sankalp for opposite party no. 2 and Sri Yogesh Kumar Singh, learned AGA for the State.

2. Even after proper information from the Secretariat of this Court as well as by learned counsel appearing on behalf of opposite party no. 2, none appeared on behalf of appellant.

3. It is also apparent from the order sheet that the matter was initially listed on 26.09.2024 and was posted for 30.09.2024 at 2 p.m. and thereafter on the request of learned counsel for appellant for filing rejoinder affidavit in reply to the counter at the behest of opposite party no. 2 matter was listed on 4th of October, 2024 at 2 p.m i.e. today on a very specific legal question that "*what right incurred in favour of individual person being the appellant to spouse the case for community at large by way of preferring application under section 156(3) Cr.P.C. seeking prayer for lodging F.I.R. against opposite party no.2.*"

4. The instant appeal has been preferred with following prayer:-

".. to set aside the impugned judgment and order dated 15.02.2024 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act, Prayagraj in Criminal Misc. Case no. 110/2024 (CNR no. UPAD010043932024) Prakash Chandra Vs. Sri Rambhadracharya and others under Section 156(3) of Cr.P.C along with the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Police Station- Bara, District- Prayagraj..."

5. The genesis of the matter relates to an Application preferred on behalf of appellant under Section 156(3) Cr.P.C wherein certain statements made by opposite party no. 2 during religious discourse has been highlighted which sought to be attracted being an offence under Section 120B, 153A, 153B, 295A, 298, 500, 506 IPC along with Sections 3(1)(r)(q)(u)(v) and 3(2)(va) of SC/ST Act, 1989 and Section 67 of IT Act but learned court of Special Judge, SC/ST Act, Prayagraj dismissed the same vide order dated 15.02.2024 on

the ground of maintainability which impugned the present appeal.

6. Sri Mahesh Chandra Chaturvedi, learned senior counsel assisted by Sri Vineet Sankalp learned counsel for opposite party no. 2 submitted that the reasoning and finding recorded by learned court of Special Judge, SC/ST Act, Prayagraj mentioned at the time of passing the order dated 15.02.2024 is quite reasonable and justified. It is also submitted that the cause of action for preferring application under Section 156(3) Cr.P.C. is not under the capacity of individual but for the community at large which is not covered in pursuance to Section 8 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

7. By way of elaborating the arguments, learned counsel for opposite party no. 2 also submitted that the wordings which has been sought to be taken as offence under the same Act is not the personal instigation of any abusive words which may attract Sections 120B, 153A, 153B, 295A, 298, 500, 506 IPC along with Sections 3(1)(r)(q)(u)(v) and 3(2)(va) of SC/ST Act, 1989 and Section 67 of IT Act as submitted through the instant appeal.

8. It is also contended by learned senior counsel that the submission earlier made by learned counsel for appellant is not part of the appeal and as such the offence whatsoever has been alleged is not directly indicating or reflecting any evidences against the opposite party no. 2.

9. Sri Yogesh Kumar Singh, learned AGA appearing on behalf of the State submitted that the sayings which has been pronounced by opposite party no. 2 during religious discourse can be interpreted in so many ways and the same is not attracting any of the sections which has been mentioned under paragraph 'E' of the grounds taken up while preferring the instant appeal and as such the order dated 15.02.2024 is having no legal infirmity and the instant appeal is liable to be dismissed.

10. Perusing the grounds taken up while preferring the instant appeal along with narration available in the application preferred at the behest of appellant under Section 156(3) Cr.P.C. and the reasoning recorded by learned court of Special Judge, SC/ST Act, Prayagraj, it is crystal clear that no specific offence under Sections 120B, 153A, 153B, 295A, 298, 500, 506 IPC along with Sections 3(1)(r)(q)(u)(v) and 3(2)(va) of SC/ST Act, 1989 and Section 67 of IT Act is attracted for taking cognizance over the application preferred by appellant and the same was rightly dismissed on the grounds of maintainability.

11. It is also examined while considering the arguments raised by learned senior counsel for opposite party no. 2 that the pious intention of the legislation for protecting the interest and safeguarding the measures of protection for community at large specifically Scheduled Castes and Scheduled Tribes community, is that, if any damage has been committed by some another person who does not belong to the community of Scheduled Caste and Scheduled Tribe, the Act ensures personal protection espousing the rights available to the person but for community at large the application under Section 156(3) Cr.P.C is not at all maintainable.

12. On the above discussion, the instant appeal lacks merit and hence *dismissed*.

Order Date :- 4.10.2024

Shaswat