

Criminal Revision**PRESENT: The Hon'ble Justice Ashim Kumar Roy****Judgment On: 06-01-2010.****C.R.R. No. 4245 of 2009****Shambu @ Shambudev Mohanta & Ors.****versus****The State of West Bengal & Anr.****Point:**

QUASHING: Allegations clearly disclose prima-facie materials constituting the offence – No particular sub-section has been mentioned in the charge-sheet – Whether Court can go into the merits of the allegations as well as truth or falsehood of the same - Whether charge sheet can be quashed- The Code of Criminal Procedure, 1973-S.482 - Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989-Ss 3,4.

Fact: The petitioner filed the instant Criminal Revisional Application for quashing of charge-sheet relating to the offence punishable under Section 147/148/149/341/323 of the Indian Penal Code and under Section 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Held:

Since, the petitioners sought for quashing of a charge-sheet the question is not whether there is any truth in the allegation made but it is the question whether the allegations made in the First Information Report coupled with the evidentiary materials collected by the police during investigation, the alleged offences have been made out or not. At this stage this Court has no scope to go into the merits of the allegations as well as truth or falsehood of the same, those are the matters that can only be decided after recording of evidence is over. Paragraph 3

It cannot be said no offence punishable under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been made out. It might be that no particular sub-section has been mentioned in the charge-sheet, but that is of little consequences when the

allegations clearly disclose prima facie materials constituting the offence. Thus, there is no question of quashing of the charge-sheet.

Paragraph 5

For Petitioners : Mr. Uday Sankar Chatterjee

For State : Mr. Joy Sengupta

The Court:

Invoking Section 482 of the Code of Criminal Procedure the petitioners moved this criminal revisional application for quashing of the charge-sheet relating to the offence punishable under Sections 147/148/149/341/323 of the Indian Penal Code and under Sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Mr. Uday Shankar Chatterjee, Learned Counsel, appearing on behalf of the petitioners raised the following points in support of this application;

- (a) The accused persons do not belong to Scheduled Castes.
- (b) There is no mention that they belong to Scheduled Castes.
- (c) No offence punishable under Sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been made out.
- (d) The investigation has been made in a perfunctory way.
- (e) The provisions of Sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 contained various sub-sections, but in the charge-sheet no such sub-section has been mentioned.

Whereas, Mr. Joy Sengupta, learned advocate, appearing on behalf of the State produced the Case Diary and strongly disputed the submissions of Mr. Chatterjee that no case has

been made out. He referred to the allegations made in the First Information Report as well as statement of witnesses recorded under Section 161 of the Code of Criminal Procedure and submitted that sufficient materials have been collected by the police during investigation which clearly justify submission of the charge-sheet for the aforesaid offences.

3. Since, in the instant criminal revisional application the petitioners sought for quashing of a charge-sheet the question is not whether there is any truth in the allegation made but it is the question whether the allegations made in the First Information Report coupled with the evidentiary materials collected by the police during investigation, the alleged offences have been made out or not. At this stage this Court has no scope to go into the merits of the allegations as well as truth or falsehood of the same, those are the matters that can only be decided after recording of evidence is over.

4. Now, having gone through the First Information Report I find there is a specific averment that accused persons belong to a higher Castes while the complainant belongs to Scheduled Castes. I also find there are allegations that as the complainant married one Tumpa, a major girl belonged to higher castes, the accused persons attacked the complainant being armed with various deadly weapons and also assaulted them physically. It is also the allegations that the accused persons intentionally insulted and intimidated the complainant and the members of his family as they belonged to the Scheduled Castes by abusing them on their Castes. It is also the allegations that the accused persons also prevented the complainant from using water from the village tank and tap and their user of public road. It appears that those allegations have been further corroborated by the statement of the witnesses examined during investigation.

5. In view of above, it cannot be said no offence punishable under the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been made out. It

might be that no particular sub-section has been mentioned in the charge-sheet, but that is of little consequences when the allegations clearly disclose prima facie materials constituting the offence.

Thus, there is no question of quashing of the charge-sheet.

6. This criminal revision has no merit and accordingly fails and stands dismissed.

7. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)