

2022 LiveLaw (SC) 14

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
M.R. SHAH; J., KRISHNA MURARI; J.**

JANUARY 05, 2023

CRIMINAL APPEAL NO. 1555 OF 2022 (@ SLP (Crl.) No. 3411/2021)

B. VENKATESWARAN & ORS. versus P. BAKTHAVATCHALAM

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; Sections 3(1)(v) and (va) - Code of Criminal Procedure, 1973; Section 482 - Private civil dispute between the parties is converted into criminal proceedings - Initiation of the criminal proceedings therefore, is nothing but an abuse of process of law and Court - Complaint and summoning order quashed.

For Appellant(s) D. Durga Devi, Adv. Sharath Chandran, Adv. Mr. Pranab Prakash, AOR

For Respondent(s) Respondent-in-person

J U D G M E N T

M.R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of judicature at Madras in Criminal (OP) No.33505 of 2019 , by which, the High Court has dismissed the said petition under Section 482 of the Code of Criminal Procedure and has refused to quash the criminal proceedings initiated by the private respondent herein, initiated against the petitioners for the offence under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the accused have preferred present appeal.

2. That the private respondent herein has filed a private complaint under Section 200 of the Code of Criminal Procedure in the Court of learned Metropolitan Magistrate, Egmore, Chennai for alleged offence under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 alleging inter alia that the petitioners herein – original accused have conspired and unlawfully encroached the pathway adjacent to his house and started to construct temple. It was alleged that the said temple was built up on the complainant water pipeline, Sewage Pipeline and EB cable and thereby caused obstructions to him to enjoy his property. Therefore, it was alleged that even after order passed by the High Court, the accused persons did not stop the illegal construction and thereby committed atrocities on the peaceful living of his family. It was further alleged that the accused persons prevented the complainant from putting up further construction on his building and also criminally intimidated. That the Special Court after receipt of the complaint, recorded the sworn statement of the complainant under Section 200 of the Code of Criminal Procedure and also examined the witnesses under Section 202 of the Code of Criminal Procedure who were produced by the complainant and thereafter took cognizance of the case under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and issued summons to the accused persons. Being aggrieved and dissatisfied with the summons issued by the learned Special Court, the accused persons filed the petition under Section 482 of the Code of Criminal Procedure before the High Court to quash the criminal proceedings against them. By the impugned judgment and order, the High Court has dismissed the said

application and has refused to quash the criminal proceedings. Hence, present appeal at the instance of the original accused.

3. We have heard Shri Nagamuthu, learned senior counsel for the appellants – original accused and the respondent appearing in person. We have also gone through the complaint and considered the allegations in the complaint made against the accused. Having considered the allegations in the complaint and the material on record, it appears that initiation of the criminal proceedings by the respondent against the appellants – original accused for the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is nothing but an abuse of process of law and the court and also provision of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. It appears that a private dispute was going on between the parties with respect to the illegal construction. As per the allegations in the complaint, the original complainant had purchased the vacant land and constructed the building. It is alleged that adjacent to his house and on the common pathway, the accused have unlawfully encroached upon the pathway and started constructing the temple and thereby have put up illegal construction on his water pipeline, sewage pipeline and EB Cable. In the entire complaint, there are no allegations that the complainant is obstructed and / or interfered with enjoyment of his right on his property deliberately and willfully knowing that complainant belongs to SC/ST. From the material on record, it appears that a civil dispute is converted into criminal dispute and that too for the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Prior to filing of the complaint, it appears that the temple was already in existence since many years. The complainant, who resides adjacent to the temple, filed WP No. 1272 of 2007 before the Madras High Court. Pursuant to the order passed by the High Court, the Commissioner of Corporation, Chennai conducted the inspection and found that there was absolutely no encroachment by the temple. It appears that thereafter the complainant filed another Writ Petition No. 30326 of 2013 before the Madras High Court. The High Court directed the official respondent to proceed with the inquiry against both the parties. At this stage, it is required to be noted that it was the case on behalf of the original accused that in fact complainant had violated all building norms and had constructed a building in blatant violation of the set-back rules and had also put-up unauthorized construction on the ground floor and first floor. That thereafter, the Temple filed writ petition being No.3322 of 2017 before the High Court. The Division Bench of the High Court vide order dated 10.2.2017 stayed the proceedings against temple. It appears that thereafter the complainant filed a private complaint for the aforesaid offences under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. From the aforesaid, it seems that the private civil dispute between the parties is converted into criminal proceedings. Initiation of the criminal proceedings for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, therefore, is nothing but an abuse of process of law and Court. From the material on record, we are satisfied that no case for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, even prima facie. None of the ingredients of Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out and/ or satisfied. Therefore, we are of the firm opinion and view that in the facts and circumstances of the case, the High Court ought to have quashed the criminal proceedings in exercise of powers

under Section 482 of the Code of Criminal Procedure. The impugned judgment and order passed by the High Court, therefore, is unsustainable and the same deserves to be quashed and set aside and the criminal proceedings initiated against the appellants deserves to be quashed and set aside.

4. In view of the above and for the reasons stated above, present appeal succeeds. The impugned judgment and order passed by the High Court dismissing the writ petition is hereby quashed and set aside. The criminal proceedings initiated against the appellants, initiated by the respondent herein – original complainant for the offence under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 including summons issued by the learned Special Court in a private complaint filed by the respondent herein are hereby quashed and set aside. Present appeal is allowed accordingly.

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