



2026:AHC:58533

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1837 of 2023

Fayeem @ Fahim Ahmad And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Chandra Prakash Garg, Saroj Kumar Dubey
Counsel for Respondent(s)	: Dhanraj Singh Yadav, G.A.

Court No. - 51

HON'BLE ANIL KUMAR-X, J.

1. Heard learned counsel for the appellants, learned counsel for the respondent no. 2 and Sri Amrit Raj, learned A.G.A for the State as also perused the record.

2. The present criminal appeal under Section 14-A(1) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred to allow the appeal and set aside the order dated 7.1.2023 passed by Special Judge (SC/ST Act), Chitrakoot in FR No. 291 of 2022 (Mamta Devi vs. Fahim and another), arising out of Case Crime No. 94 of 2022, under Sections 504, 506 IPC, 3(2)(Va) SC/ST Act and Section 67 IT Act, P.S. Kotwali Karvi, District Chitrakoot.

3. The respondent/victim stated in the FIR that appellant no. 1, who is posted as a police constable at Police Line Banda, and his father-in-law, appellant no. 2, who is posted as a Sub-Inspector at Police Station Banda, called her on her mobile phone on 23-08-2021 and threatened and abused her. She also alleged that they sent obscene messages and videos to her on her mobile phone. She further stated that she had earlier lodged FIRs against appellant no. 1, including Case Crime No. 7/2020 under Sections 376, 323, 504 IPC and Section 3(2)(va) of the SC/ST Act, as well as Case Crime No. 232/2019 and Case Crime No. 722/2019. Case was investigated and evidences to corroborate allegations were not found. Consequently, closure report was filed. Protest petition filed by informant was allowed by Trial Court and it summoned the appellants under section 190(1)(b) Cr.P.C.

4. Learned counsel for the appellant submitted that this is the fourth FIR lodged by the respondent against the appellants. It is submitted that earlier an FIR in Case Crime No. 232/2019 under Sections 352, 504, 506, 507 IPC

and Section 3(2)(va) of the SC/ST Act was lodged against appellant no. 2 and one Masroor Ahmad, in which the allegations were found to be false and a closure report was submitted. It is further submitted that in another FIR being Case Crime No. 722/2019 under Sections 147, 394, 352, 323, 504, 506 IPC and Section 3(2)(va) of the SC/ST Act, lodged by the victim against appellant no. 2 and the wife of appellant no. 1, a closure report was also submitted. It is also submitted that another FIR being Case Crime No. 7/2020 under Sections 376, 323, 504 IPC and Section 3(2)(va) of the SC/ST Act was lodged by the victim against appellant no. 1. On the basis of the above, it is submitted that the respondent is habitual in lodging false FIRs against the appellants and other persons. It is further submitted that she has even lodged an FIR against Naib Tehsildar Ram Gopal Verma in Case Crime No. 751/2014 under Sections 493, 307, 316, 323, 504, 506 IPC.

5. Learned counsel for the appellant further submitted that the Investigating Officer conducted the investigation, but respondent no. 2 did not provide her mobile phone to him. It was argued that since the mobile phone, through which the alleged threats and abuses were said to have been made, was not produced, the Investigating Officer could not collect any evidence to support the allegations. This fact has been recorded by the Investigating Officer in the case diary, wherein it is mentioned that respondent no. 2 stated that her mobile phone was with her sister who had gone to Delhi. It was further submitted that the learned Trial Court relied upon a Compact Disc filed by respondent no. 2 along with her protest petition, claiming that it contained audio recordings of the incident. It is alleged that the said recording was earlier offered to the Investigating Officer, who refused to accept it. However, the Trial Court itself noted that no certificate for authentication of the said Compact Disc was filed by the respondent. Despite this observation, the Trial Court relied upon the said Compact Disc while passing the impugned order.

6. Learned AGA and Learned Counsel for respondent submitted that statement of respondent were recorded during investigation and she has corroborated the allegations mentioned in FIR. She had recorded telephonic conversations and the Compact Disc carrying the said conversation was produced before I.O.. He had also made it part of case diary. Hence, impugned order of summoning appellants does not warrant any interference because the allegations in FIR cannot be dismissed.

7. After hearing the parties and going through the record, this Court finds that the impugned summoning order passed by the Trial Court cannot be sustained.

8. The main allegation in the FIR is that the appellants made phone calls, abused the respondent and sent obscene messages and videos. However, the entire case is based on mobile communication, and the respondent did not produce her mobile phone before the Investigating Officer. As per the case diary, she stated that her mobile was with her sister who had gone to Delhi. Because of this, the Investigating Officer could not verify the alleged calls, messages or videos. No call details or other evidence were collected to support the allegations. Thus, the main basis of the case remains unproved.

9. It is also important that the Trial Court relied on a Compact Disc said to contain audio recordings. The Trial Court itself noted that no certificate for its authenticity was filed. Even then, it relied on the said Compact Disc. In absence of proper proof, such electronic evidence cannot be relied upon. Another important fact is that this is not the first case filed by the respondent. She has earlier filed several FIRs against the appellants and their family members, in which serious allegations were made. However, in those cases, after investigation, closure reports were submitted as no evidence was found. She has also filed cases against other persons. This shows a pattern of filing repeated complaints which are not supported by evidence.

10. Apart from her own statement, there is no independent evidence to support the allegations in the present case. The statements are general and not supported by any reliable material. The investigation also did not find anything to connect the appellants with the alleged offence. The Trial Court, while passing the summoning order, did not properly consider these facts. It ignored the lack of evidence and relied on material which was not properly proved. The order appears to have been passed without proper application of mind.

11. In these circumstances, this Court finds that the allegations are not supported by reliable evidence and appear doubtful. Continuing the case against the appellants would be misuse of the legal process.

12. Accordingly, the appeal is allowed. The impugned order dated 7.1.2023 passed by Special Judge (SC/ST Act), Chitrakoot in FR No. 291 of 2022 (Mamta Devi vs. Fahim and another), arising out of Case Crime No. 94 of 2022, under Sections 504, 506 IPC, 3(2)(Va) SC/ST Act and Section 67 IT Act, P.S. Kotwali Karvi, District Chitrakoot is set aside.

March 20, 2026
Ujjawal

(Anil Kumar-X,J.)