

Sessions Case No.691/2022
FIR No. 585/2022
P.S. Kalkaji
U/s 3(1)(r)(s)(p)(q)(za) SC & ST Act
State Vs. Sanjeev Jain & Ors.

20.10.2023

Present: Sh. R.K. Gurjar, Ld. Addl. P.P. for the State.

All accused persons are present.

Sh. Ramesh Kumar, Sh. Tarun Kumar & Sh. Sunil Kumar,
counsels for all accused persons.

- (1) Ld. Counsel for accused persons has submitted that accused persons must be discharged in this case. In support thereof, he has highlighted following aspects:
- a) That no independent public witness has stated during investigation that accused persons have made casteist remarks against complainant.
 - b) That complainant and his wife, who have claimed that accused persons have levelled casteist remarks are interested witness only.
 - c) That initial information received by police vide GD entries, did not mention that casteist remarks were levelled by accused persons.
 - d) That in complaint dated 27.10.2021, addressed to SHO concerned, no allegations of casteist remarks are levelled by complainant against accused persons.
 - e) That two friends, mentioned in the complaint dated 27.10.2021, who were friends of complainant, were not examined during investigation by police.
 - f) That issue in this case, pertains to illegal construction and present case is lodged by complainant by giving different and serious colour of grave offences of SC & ST Act.

- (2) Ld. Addl. P.P. for the State has submitted that prima facie is made out against accused persons and charge must be framed against accused persons, for the offences, they are chargesheeted.
- (3) Arguments heard. Record perused.
- (4) At the stage of framing of charge, as per law prosecution case is not to be seen with suspicion. Fishing inquiry and deep appreciation of evidence collected by police is not to be done. A strong suspicion of commission of offences, is the yardstick, which courts have to bear in mind, while deciding the issue of framing of charge.
- (5) Keeping in mind abovementioned legal tenets I am proceedings further with the case.
- (6) In this case, complainant and his wife have alleged that accused persons had fought with them and had levelled casteist remarks. That is what complainant and his wife could have done. Investigation is not within the domain of complainant and his wife. During investigation, if public persons are reluctant to join investigation or if they make statements, not supporting the version of complainant, then at the stage of framing of charge, version of complainant and his wife does not get vilified.
- (7) Issues pertaining to complainant and his wife being interested witnesses, matter pertaining to illegal constructions only, non-levelling of casteist remarks, absence of casteist remarks based facts in the statement of public witnesses and likewise other aspects, are such that they can be appreciated, only after giving opportunity to prosecution to lead evidence. All the said aspects are fact based. They are not based on law. Appreciation of facts can be done at the stage of judgment. Lastly, initial recording of information based on GD entries, is basically

receiving of information from the victim. it is not the law of the land that said information has to be given in detail. There are provisions under Section 161 Cr.P.C & 164 Cr.P.C wherein complainant and other witnesses get opportunity to depose before police and Ld. Magistrate concerned. All this is part of investigation. Absence of casteist remarks in GD entries by itself is no ground to dismiss the claim of complainant. Therefore, in these circumstances, accused persons cannot be discharged in this case.

- (8) Based on allegations of complainant, statements of witnesses and other evidence collected by police, prima facie accused persons have committed offences punishable u/s 3(1)(r)(s)(p)(q)(za) of SC & ST Act.
- (9) Arguments of Ld. Counsel for accused persons stands dismissed.
- (10) Put up for framing of charge on 25.11.2023.

[PRASHANT SHARMA]
ASJ-02, South-East/Saket/Delhi
20.10.2023