

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2294/2009

NAGARAJU C

Appellant(s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent(s)

O R D E R

Heard Ms. Kiran Suri, learned senior counsel appearing for the appellant. None present for the respondents.

To narrate the brief facts, the private respondent/Respondent No.2 herein preferred a complaint against the appellant under Section 3 (1) (viii) & (ix) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the said Act') as well as under Sections 191 and 229 of the IPC contending that the appellant not being a member of the Scheduled Caste or Scheduled Tribe instituted a vexatious suit against private respondent/Respondent No.2, who is a member of the Scheduled Caste and that he also gave false or frivolous information to a public

servant and thereby committed offence under Section 3 (1) (viii) & (ix) of the said Act. Such a complaint was preferred by the private respondent on the footing that the appellant sold two properties identified as Site Nos.92 and 93 in her favour and that later on proceeded to claim that such sale was not effected. When the complaint preferred was pending, the appellant moved the High Court by way of an application under Section 482 Cr.P.C. to quash the complaint. When the High Court took up the appellant's application for consideration, it found that in respect of Site No.92 there was a decree in favour of the appellant, and therefore, the complaint cannot survive to that extent, the High Court quashed that complaint. As far as Site No.93 is concerned, it directed the Trial Court to proceed with the trial. Aggrieved by the order, the appellant has come forward with this appeal.

Ms. Kiran Suri, learned senior counsel for the appellant raised a substantive question of law, namely, whether Section 3 (1) (viii) & (ix) of the said Act will at all get attracted in order to maintain the complaint. The contention was that in order to invoke Section 3 (1) (viii) & (ix) of the said Act, a person not being a member of SC/ST alleged to have committed any of the offences enumerated in the sub-clauses of Section 3(1),

i.e. sub-clauses (i) to (xv), the complaint be maintainable and not otherwise. The learned senior counsel contended that the appellant is a member of Scheduled Caste and, therefore, there is no scope to invoke Section 3 (1) (viii) & (ix) of the said Act. She further contended that the other offences alleged, namely, Sections 191 and 229 IPC may not survive, if it is found that the complaint itself is not maintainable under the said Act.

However, forceful the contention may be, we are not inclined to entertain such a submission in this appeal, inasmuch as, we find that the said submission was not raised before the High Court in the petition filed under Section 482 Cr.P.C. Also no ground was raised based on Section 3 (1) (viii) & (ix) of the said Act.

Therefore, we are not inclined to entertain the said question for the first time before this Court, especially when Respondent No.2 is not represented before us. Since the said question is a pure question of law and it depends upon the status of the appellant as a Scheduled Caste, we are of the view that the appellant should be given every liberty to raise this question by filing appropriate application before the High Court. Granting such a liberty to the appellant this appeal stands disposed of.

Interim orders passed by this Court shall continue
to operate for a period of four weeks from today.

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI;
FEBRUARY 12, 2015.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 2294/2009

NAGARAJU C

Appellant(s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent(s)

Date : 12/02/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s) Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Ms. Vithika, Adv.
Dr. (Mrs.) Vipin Gupta, Adv.

For Respondent(s) Mr. Sudhansu Palo, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

(NARENDRA PRASAD)
COURT MASTER(SHARDA KAPOOR)
COURT MASTER

(Signed order is placed on the file)

, 3(1)(ix), 3(1)(x), 3(2)(vi), 3(2)(1), 3(1)
(iv), 3(1)(xv), 3(2)