

Ramawatar vs The State Of Madhya Pradesh on 25 October, 2021

Equivalent citations: AIR ONLINE 2021 SC 927

Author: Surya Kant

Bench: Hima Kohli, Surya Kant, N.V. Ramana

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1393 OF 2011

Ramawatar

VERSUS

... Appellant

State of Madhya Pradesh

... Respondent

JUDGMENT

SURYA KANT, J.

A civil dispute over the ownership and possessory rights of a piece of land between the Appellant and his neighbour Prembai took an ugly turn when the Appellant allegedly not only threw a brick on the Complainant but also made filthy and slur remarks on her caste, which prompted the Complainant to lodge FIR No. 18/94 at Police Station O.E. Panna under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989 (in short 'SC/ST Act') read with Section 34 of the Indian Penal Code, 1860 (in short 'I.P.C.'). The Appellant and his co-accused were subsequently tried, which led to the Appellant's conviction under Section 3(1)(x) of 17:18:10 IST Reason:

Page | 1 the SC/ST Act and consequential sentence of six months rigorous imprisonment and fine of Rs. 1000/-. The Appellant challenged his conviction and sentence before the High Court of Madhya Pradesh, Jabalpur Bench but his appeal was dismissed vide the impugned judgment dated 02.08.2010.

BRIEF FACTS:

2. Ramawatar (Appellant) and Prembai (Complainant), who are neighbours and live in adjoining houses, were entangled in a property dispute with respect to a portion of land over which Prembai's house was built. On 25.06.1994, Ramawatar and his brother Katulal @ Kuddu (Co-accused) broke down a wall to make a door that opened into the house of Prembai. When this was resisted by her, a quarrel ensued between the parties and the Appellant threw a brick at the Complainant. Thereafter, this incident was reported and a complaint was lodged at Police Station, Devendra Nagar on the same date itself, and an M.L.C was also performed. Since the nature of the injury was simple, and the offence was found non-cognizable, the Police took no further steps. On the following day, i.e., 26.06.1994, when the Complainant was sitting in front of her residence, the Appellant and his brother appeared at the scene. They were visibly enraged by the fact that Prembai had lodged an F.I.R. against them. They started abusing her with repeated reference to her caste whilst also Page | 2 threatening her of dire consequences. After that, the Complainant and her husband Chotelal reported this incident before the Harijan Welfare Police Station, and the subject F.I.R. under the SC/ST Act was lodged against the Accused.

3. The investigation commenced in light of the afore-stated facts.

Upon collection of substantial evidence, Appellant and co-accused were committed to trial under Section 3(1)(x) of the SC/ST Act read with Section 34 of the I.P.C.

4. The Trial Court noted that the Complainant belonged to the 'Prajapati' community which is a Scheduled Caste. It was also observed that the parties had candidly admitted to a pending property dispute between them. The Trial Court further discerned that the prosecution witnesses had, by and large, supported the version of the Complainant and had indubitably substantiated that Ramawatar and Kuddu used deprecatory language upon the Complainant. It was found that the Appellant had made specific reference to the Complainant's caste escorted by the intent to insult her. The actions of the Appellant & co-accused Kuddu were thus held to be in contravention of Section 3(1)(x) of the SC/ST Act read with Section 34 I.P.C. The Trial Court, therefore, convicted both the accused persons for the said offences and sentenced each of them to undergo rigorous imprisonment for 6 months.

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5. Discontented with their conviction, the accused preferred an appeal before the High Court of Madhya Pradesh, Jabalpur Bench. However, during the pendency of the proceedings, co-accused Kuddu passed away, and the appeal only survived qua the present Appellant. His primary contention before the High Court was that the abuses, if any, were not meant to demean the Complainant on account of her being a member of the Scheduled Caste community. Instead, the incident occurred on account of a property dispute between the parties. It was thus submitted that the alleged incident could not attract the provisions of the SC/ST Act. However, after re-appraising the evidence on record, the High Court disagreed with the Appellant's contention and held that there was sufficient material to establish that the Complainant being a member of the Scheduled Caste community was humiliated by the Appellant. Thus, concurring with the findings of the Trial

Court, the High Court maintained the order of conviction and sentence passed against the Appellant.

6. Aggrieved, the Appellant has approached this Court. CONTENTIONS :

7. When the instant appeal came up for hearing, what prompted this Court to issue notice was that the matter had been settled between the parties, and the Complainant had filed an application for compromise. Reiterating the same plea, learned Counsel for the Page | 4 Appellant canvassed before us that the parties are residents of the same village and there is no existing enmity between them. It was submitted that the parties wished to settle their dispute so that they may continue to have cordial relations. He drew our attention to a decision of this Court in *Hitesh Verma v. The State of Uttarakhand & Anr*¹, wherein, it was held that a property dispute between a vulnerable section of the society and a person of upper caste would not attract an offence under the SC/ST Act, unless the allegations are on account of the victim being a Scheduled Caste. Learned Counsel for the Appellant thus prayed for invocation of this Court's powers under Article 142 of the Constitution to quash the instant criminal proceedings. The Appellant's stand and the application for compromise were fully supported by the learned Counsel for the Complainant.

8. Per Contra, learned Counsel for the Respondent State, without controverting the factum of compromise, vehemently opposed such a recourse. It was contended that there was a concurrent finding of conviction, and no substantial question of law was involved in the present appeal. Referring to the decisions of this Court in the case of *Ram Lal & Anr v. State of J&K* ², *Surendra Nath Mohanty & Anr* ¹ (2020) 10 SCC 710, ¶ 22 & 24 ² (1999) 2 SCC 213 Page | 5 v. *State of Orissa*³ and *Bankat & Anr v. State of Maharashtra*⁴, learned State Counsel submitted that the purported settlement between the parties is inconsequential as the offence in question is not compoundable in terms of Section 320 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C'). It was thus argued that the present case did not warrant any interference by this Court. ANALYSIS:

9. Having heard learned Counsel for the parties at some length, we are of the opinion that two questions fall for our consideration in the present appeal. First, whether the jurisdiction of this Court under Article 142 of the Constitution can be invoked for quashing of criminal proceedings arising out of a 'non-compoundable offence? If yes, then whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?

10. So far as the first question is concerned, it would be *ad rem* to outrightly refer to the recent decision of this Court in the case of *Ramgopal & Anr v. The State of Madhya Pradesh*⁵, wherein, a two-Judge Bench of this Court consisting of two of us (N.V. Ramana, CJI & Surya Kant, J) was confronted with an identical question. Answering in the affirmative, it has been clarified that the jurisdiction of a Court under Section 320 Cr.P.C cannot be construed as a proscription

³ (1999) 5 SCC 238 ⁴ (2005) 1 SCC 343 ⁵ Criminal Appeal No. 1489 of 2012 Page | 6 against the invocation of inherent powers vested in this Court under Article 142 of the Constitution nor on the

powers of the High Courts under Section 482 Cr.P.C. It was further held that the touchstone for exercising the extra-ordinary powers under Article 142 or Section 482 Cr.P.C., would be to do complete justice. Therefore, this Court or the High Court, as the case may be, after having given due regard to the nature of the offence and the fact that the victim/complainant has willingly entered into a settlement/compromise, can quash proceedings in exercise of their respective constitutional/inherent powers.

11. The Court in Ramgopal (Supra) further postulated that criminal proceedings involving non-heinous offences or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level. The Court, however, being conscious of the fact that unscrupulous offenders may attempt to escape their criminal liabilities by securing a compromise through brute force, threats, bribes, or other such unethical and illegal means, cautioned that in cases where a settlement is struck post-conviction, the Courts should, inter-alia, carefully examine the fashion in which the compromise has been arrived at, as well as, the conduct of the accused before and after the incident in question. While concluding, the Court also formulated certain guidelines and held:

Page | 7 “19... Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”
[Emphasis Applied]

12. In view of the settled proposition of law, we affirm the decision of this Court in Ramgopal (Supra) and re-iterate that the powers of this Court under Article 142 can be invoked to quash a criminal proceeding on the basis of a voluntary compromise between the complainant/victim and the accused.

13. We, however, put a further caveat that the powers under Article 142 or under Section 482 Cr.P.C., are exercisable in post-conviction matters only where an appeal is pending before one or the other Judicial forum. This is on the premise that an order of conviction does not attain finality till the accused has exhausted his/her legal remedies and the finality is sub-judice before an appellate court. The pendency of legal proceedings, be that may before the final Court, is sine-qua-non to involve the superior court's plenary powers to do complete justice. Conversely, where a settlement has ensued post the attainment of all legal remedies, the annulment of proceedings on the basis of a compromise would be impermissible. Such an embargo is Page | 8 necessitated to prevent the accused from gaining an indefinite leverage, for such a settlement/compromise will always be loaded with lurking suspicion about its bona fide. We have already clarified that the purpose of these extra-ordinary powers is not to incentivise any hollow-hearted agreements between the accused and the victim but to do complete justice by effecting genuine settlement(s).

14. With respect to the second question before us, it must be noted that even though the powers of this Court under Article 142 are wide and far-reaching, the same cannot be exercised in a vacuum. True it is that ordinary statutes or any restrictions contained therein, cannot be constructed as a limitation on the Court's power to do "complete justice". However, this is not to say that this Court can altogether ignore the statutory provisions or other express prohibitions in law. In fact, the Court is obligated to take note of the relevant laws and will have to regulate the use of its power and discretion accordingly. The Constitution Bench decision in the case of *Supreme Court Bar Assn. v. Union of India & Anr*⁶ has eloquently clarified this point as follows:

"48. The Supreme Court in exercise of its jurisdiction under Article 142 has the power to make such order as is necessary for doing complete justice "between the parties in any cause or matter pending before it". The very nature of the power must lead the Court to set limits for itself within which to exercise those powers and 6 (1998) 4 SCC 409, ¶ 48 Page | 9 ordinarily it cannot disregard a statutory provision governing a subject, except perhaps to balance the equities between the conflicting claims of the litigating parties by "ironing out the creases" in a cause or matter before it. Indeed this Court is not a court of restricted jurisdiction of only dispute-settling. It is well recognised and established that this Court has always been a law-maker and its role travels beyond merely dispute-settling.

It is a "problem-solver in the nebulous areas" (see *K. Veeraswami v. Union of India* [(1991) 3 SCC 655 : 1991 SCC (Cri) 734] but the substantive statutory provisions dealing with the subject-matter of a given case cannot be altogether ignored by this Court, while making an order under Article 142. Indeed, these constitutional powers cannot, in any way, be controlled by any statutory provisions but at the same time these powers are not meant to be exercised when their exercise may come directly in conflict with what has been expressly provided for in a statute dealing expressly with the subject."

15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper-castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of Page | 10 protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement,

if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.

17. Adverting to the case in hand, we note that the present Appellant has been charged and convicted under the unamended Section 3(1)(x) of the SC/ST Act⁷, which was as follows:

“3. Punishments for offences of atrocities□(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,— xxxx 7 Section 3(1)(x) of the Act stands substituted by Act No. 1 of 2016 w.e.f. 26.01.2016.

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(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

xxxx”

18. We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure that the complainant□victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each case.

19. Having considered the peculiar facts and circumstances of the present case in light of the afore□stated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:

Firstly, the very purpose behind Section 3(1)(x) of the SC/ST is to deter caste□based insults and intimidations when they are used with Page | 12 the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre□existing civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the afore□stated civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overwhelmingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

Secondly, the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict Page | 13 their quarters only to certain areas, it is seen that in the present case, the Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed. Thirdly, the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired. Fourthly, the Complainant has, on her own free will, without any compulsion, entered into a compromise and wishes to drop the present criminal proceedings against the accused. Fifthly, given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded.

Sixthly, the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement.

Page | 14 CONCLUSION:

20. Consequently, and for the aforementioned reasons, we find it appropriate to invoke our powers under Article 142 of the Constitution and quash the criminal proceedings to do complete justice between the parties. As a sequel thereto, judgment and orders passed by the Trial Court and the High Court are set aside. Bail bonds, if any, are discharged. The appeal is allowed in above terms.

..... CJI.

(N.V. RAMANA) J.

(SURYA KANT) J.

(HIMA KOHLI) NEW DELHI DATED: 25.10.2021 Page | 15