2025:AHC:222499

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 8537 of 2024

Chhote Lal Kushwaha And 3 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Ankita Pandey
Counsel for Respondent(s)	:	G.A.

Court No. - 86

HON'BLE SHEKHAR KUMAR YADAV, J.

1. Heard Mrs. Ankita Pandey, learned counsel for the appellants and learned A.G.A for the State as well as perused the record.

2. This criminal appeal under Section 14-A(1) of the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989* has been preferred against the order dated 26.07.2024, passed by the learned Special Judge, SC/ST Act, Kushinagar at Padrauna, rejecting the application under Section 321 Cr.P.C. (Paper No. 12-Ka) moved by the Public Prosecutor seeking withdrawal of prosecution in *Sessions Trial No. 576 of 2020* arising out of *Case Crime No. 169 of 2020*, under Sections 420, 406, 504, 506, 188 IPC, Section 51(b) Disaster Management Act, and Section 3(1)(da) SC/ST Act, P.S.- Seorahi, District- Kushinagar.

3. The prosecution case, originating from an application under Section 156(3) Cr.P.C., is that the complainant/opposite party No. 2 paid ₹80,000/- to appellant No. 1 for arranging a visa and employment in Qatar for her husband. A visa valid up to 23.02.2019 was allegedly handed over on 01.01.2019. The complainant alleges that the visa was not usable and that despite repeated demands, her money was not returned. Panchayat proceedings dated 31.01.2019 and an alleged written

she was subjected to caste-indicating abuses and criminal intimidation by appellant No. 1 and his family members.

5. After investigation, the Investigating Officer exonerated two named accused but filed a charge-sheet against the appellants under Sections 420, 406, 504, 506, 188 IPC, Section 51(b) Disaster Management Act, and Section 3(1)(da) SC/ST Act.

6. The Public Prosecutor, on the basis of a communication dated 05.01.2024 from the State Government, filed an application under Section 321 Cr.P.C. seeking withdrawal of prosecution on the ground that the case did not warrant further continuation.

7. The complainant filed objections (Paper No. 13-Kha), opposing withdrawal and asserting that the prosecution was initiated only after her application under Section 156(3) Cr.P.C. was allowed, and that the allegations involved offences against a member of a Scheduled Caste, warranting full trial.

8. The Trial Court, after considering the rival submissions, rejected the application under Section 321 Cr.P.C., observing that the case involved serious allegations of cheating, caste-based insults were *prima-facie* supported by material on record, and withdrawal was not in public interest . The Court further held that the Public Prosecutor's application did not reflect independent application of mind, thus rendering it unsustainable. Hence, this Criminal Appeal.

9. Learned counsel for the appellants contended that the contradictions in the complainant’s statements under Section 161 Cr.P.C. were overlooked; that the visa issued was valid; and that the complainant’s husband voluntarily chose not to travel. It was argued that since the Governor and the State Government directed withdrawal, the trial court ought to have allowed the application. Reliance was placed on ***Abdul Wahab K. v. State***

leading to submission of a charge-sheet under relevant provisions of the IPC, SC/ST Act, and Disaster Management Act. It is further submitted that the trial court has already taken cognizance and issued summons and the order dated 26.07.2024 is a well reasoned order passed after due judicial scrutiny and the same does not warrant interference by this Court.

11. Upon consideration, this Court finds no merit in the appeal. The learned Special Judge has meticulously examined the FIR, the statements recorded under Section 161 Cr.P.C., and other material indicating cheating and caste-based abuses. A mere expression of intention by the State Government for withdrawal of prosecution case does not bind the Court nor dilute the statutory requirement of independent scrutiny by both the Public Prosecutor and the Court, particularly in prosecutions under the SC/ST Act.

12. In **State of Bihar v. Ram Naresh Pandey**, **AIR 1957 SC 389**, the Supreme Court held that withdrawal under Section 321 Cr.P.C. is permissible only where the Public Prosecutor acts **independently and in good faith**, and the Court must ensure that the withdrawal is in **public interest** and not to shield the accused.

13. In **Sheonandan Paswan v. State of Bihar**, **(1987) 1 SCC 288** (Constitution Bench), it was reiterated that the Public Prosecutor must apply an independent mind, and the Court must assess whether withdrawal serves the **cause of justice**. Government directions cannot compel withdrawal.

14. In **State of Kerala v. K. Ajith**, **(2021) 17 SCC 318**, it has been held that withdrawal cannot be permitted merely because of a change in Government policy; the Court must evaluate **public interest**, the **rights of the victim**, and whether the prosecution is frivolous or vexatious.

16. This Court finds **no illegality, perversity, or impropriety** in the order dated 26.07.2024 passed by the learned Special Judge, SC/ST Act, Kushinagar. The rejection of the application under Section 321 Cr.P.C. warrant no interference by this Court.

17. The appeal, being devoid of merit, is liable to be **dismissed.**

18. However, considering the fact that the Sessions Trial is pending since 2020 and is waiting its logical conclusion, it is expected that the trial court shall conclude the trial proceedings, preferably within a period of **six months** in accordance with law without granting unnecessary adjournments to either of the parties.

19. With the aforesaid observation, the instant criminal appeal stands **disposed off.**

December 11, 2025
Krishna*

(Shekhar Kumar Yadav,J.)