



2026:AHC:126759

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 11331 of 2025

Jatashankar Upadhyay And 2 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Ashish Jaiswal, Ashish Kashyap, Brijendra Kumar Pandey, Sushil Kumar Mishra
Counsel for Respondent(s)	: G.A.

Court No. - 1

HON'BLE SAMIT GOPAL, J.

1. List revised.

2. Heard Sri Ashish Jaiswal, learned counsel for the appellants, Sri Birendra Pratap Singh, learned counsel for the State and perused the record.

3. A compliance affidavit of the State has been filed today in Court which is taken on record. Notice was issued to the opposite party no. 2 vide order dated 15.12.2025. As per office report dated 26.5.2026 notice has been served upon opposite party no. 2 personally. A report of C.J.M. concerned to the said effect has been annexed as Flag-X. This Court has perused the report dated 16.5.2026 of C.J.M., Jaunpur to the said effect which encloses with it an undated report of police station- Badlapur, District Jaunpur which states that service of notice has been done through telephone and whatsapp. But the compliance affidavit dated 23.5.2026 in its paragraph no. 3 states that notice has been served on the opposite party no.2. Proof of service of notice is annexed as Annexure No. 1 to the compliance affidavit. This Court has perused the same, which shows that notice has been served on the opposite party no.2. Despite service no one appears on his behalf even in the revised call.

4. The present appeal has been filed by the appellants- Jatashankar Upadhyay, Adarsh Upadhyay, Ambuj Upadhyay with the following prayers:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this instant appeal, and set aside the impugned order dated 23.01.2025 passed by the learned court of Special Judge (SC/ST Act), Jaunpur in SST No. 28 of 2025 under Sections 115(2), 351(2), 352 BNS and 3(2)(va) SC/ST Act alongwith charge sheet dated 28.12.2024 as well as entire proceedings of aforesaid case arising out of case crime no. 444/2024, P.S. Badlapur, District Jaunpur."

5. The F.I.R. of the matter was lodged on 10.11.2024 by Rajesh Kumar/opposite party no.2 against the appellants alleging therein that the appellants are the persons of criminal nature and often threatened him. On 24.09.2024 work of SLWM Scheme was being executed in the house of Jatashankar. On 25.09.2024 the work could not be done as the labour could not come. On 26.06.2024 at about 09:00 a.m. the accused Ambuj called him on his phone and abused him. He also used caste related abuses and objected regarding nature of work being done to which he stated that the work would be completed on some days. He threatened him that if the work is not done by 5.00 p.m. today he would teach him a lesson. The accused then came to his house and hurled abuses and asked why the work has not been done after which they immediately started assaulting him with kicks and fists and hurled abuses. In the meantime, mobile fell down and was broken. The accused threatened him of not going to the police station or else they would murder him and his family. He went to the police station but S.H.O. told him to come tomorrow. On 30.09.2024 at 09:41 a.m. the accused again threatened him, after which he called police on Dial-112 but no action was taken. He then moved an application before the S.P., Jaunpur. The matter was taken up for investigation. Rajesh Kumar the first informant was medically examined and complaint of pain was found at two places. The opinion of the doctor was that no visible injury was seen. He was medically examined by the Medical Officer, CHC, Badlapur, Jaunpur. Investigation concluded and a charge sheet dated 28.12.2024 was filed against the appellants for the offences under Sections 115(2), 351(2), 352 BNS and 3(2)(va) SC/ST Act. The court of Special Judge (S.C./S.T.Act), Jaunpur vide order dated 23.1.2025 has taken cognizance and summoned the accused appellants. The present appeal thus has been filed before this Court with the prayers as aforesaid.

6. Submission of learned counsel for the appellants is that the appellants have been falsely implicated in the present case. It is submitted that the present F.I.R. has been lodged with false and concocted allegations and with malafide intentions. It is submitted that the first informant although was medically examined but no visible injury was seen despite the fact that he stated that he was assaulted with kicks and fists. It is submitted that there exists a dispute between the informant and the appellant no. 2, para no. 11 of the stay application in support of appeal has been placed before the Court. It is submitted that the appellants have no criminal history as stated in para-13 of the affidavit in support of stay application.

7. Per contra, learned State counsel opposed the prayer for quashing and the arguments of learned counsel for the appellants and submitted that the appellants are named in the F.I.R. and in the statement of the first informant and there is allegation of assault on him by the appellants. It is further submitted that the first informant was medically examined wherein there was complaint of pain found on his body. It is submitted that as such it cannot be said that it is a case of no injury. It is submitted that charge sheet in the matter has been submitted against the appellants on which the court concerned has taken cognizance and summoned the accused-appellants. It is submitted that there is no illegality and irregularity in the same.

8. After having heard learned counsels for the parties and perusing the records, it is evident that the appellants are named in the F.I.R. and there are allegations against them of assaulting the first informant. Identity of the appellants cannot be doubted since they are known persons. In so far as the argument regarding previous dispute between the first informant and the appellant no.2 is concerned, the same cannot be a ground for quashing of criminal proceedings. The Apex Court in the case of ***Central Bureau of Investigation vs. Aryan Singh Etc. : 2023 SCC OnLine SC 379***, has held that malafides cannot be a ground for quashing of the proceedings. Further the Apex Court in the case of ***State of M.P. vs. Awadh Kishore Gupta and others: (2004) 1 Supreme Court Cases 691***, has held that appreciation of evidence cannot be done for quashing of proceedings under Section 482 Cr.P.C. It is further settled that annexures to the affidavit cannot be termed as evidence without being

tested and proved. Further it has been held that the allegations of malafides against the informant cannot itself be a ground for quashing. The present case thus does not fall within the parameters of cases which are fit for quashing and the same deserves to be dismissed and as such is **dismissed**.

9. Pending application(s), if any, shall stand disposed of.

10. Registrar (Compliance) to communicate this order within 10 days to the District and Sessions Judge, Jaunpur and the trial court concerned for information.

(Samit Gopal,J.)

June 11, 2026

Naresh