



2026:AHC:171528

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 760 of 2025

Shivam Kumar Kushwaha

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Sunil Kumar Kushwaha
Counsel for Respondent(s)	:	G.A., Vikas Srivastava

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant, learned counsel for opposite party no.2 and learned A.G.A. for the State and perused the record.
2. This criminal appeal has been filed under Section 14 (A)(1) of S.C. & S.T Act to set aside cognizance/summoning order dated 26.11.2024 passed by Additional Sessions Judge/Special Judge (S.C. & S.T.) Act, Jalaun at Orai in compliant case no.61 of 2024, P.S. Kotwali Orai, District Jalaun whereby the appellant has been summoned for the offence under Sections 406 and 506 I.P.C. and Section 3(2) (va) of S.C. & S.T. Act.
3. Tersely, opposite party no.2 filed an application under Section 156(3) Cr.P.C., alleging that the appellant and co-accused Shyam Singh had received Rs.200000/- as advance for purchase of a plot in January, 2021, but neither executed the sale deed nor refunded the amount. It was further alleged that on 30.04.2024, the appellant extended threats and used caste-indicative abusive words. The application was treated as a complaint and registered as Complaint Case No. 61 of 2024. After recording her statement under Section 200 Cr.P.C., the learned court below, by order dated 26.11.2024, summoned the appellant and co-accused for offences under Sections 406, 506 IPC and Section 3(2)(va) of the S.C./S.T. Act.
4. Briefly, the grounds of the appeal are that the impugned summoning order dated 26.11.2024 passed by Additional Sessions Judge/Special Judge (S.C. & S.T.) Act, Jalaun at Orai is wholly illegal and not sustainable in the eyes of law. The impugned order is based on surmises and conjunctures as such same is liable to be quashed.

5. Learned counsel for the appellant submits that the impugned summoning order dated 26.11.2024 has been passed without proper application of judicial mind. The complaint is false, fabricated and motivated by mala fide intention. The allegation regarding payment of Rs.200000/- as advance for purchase of a plot is contrary to the stand taken by opposite party no. 2 in Civil Suit No.100 of 2024, wherein she stated that the land was sold for meeting the expenses of her husband's treatment. It is further submitted that the statements of the witnesses recorded under Section 202 Cr.P.C. are contradictory and no specific offence under Sections 406, 506 IPC and Section 3(2)(va) of the S.C./S.T. Act is made out. It is, therefore, argued that the summoning order is illegal, suffers from non-application of mind and amounts to abuse of the process of law, and is liable to be set aside.

6. Learned counsel for opposite party no.2 and learned A.G.A. vehemently opposed the submission of learned counsel for the appellant and submits that the complaint discloses a clear prima facie case against the appellant and co-accused. The appellant is alleged to have received Rs.200000/- as advance towards purchase of the plot and, despite failure to execute the sale deed or refund the amount, subsequently extended threats and used caste-indicative abusive words against opposite party no. 2. Her statement under Section 200 Cr.P.C. and the statements of witnesses under Section 202 Cr.P.C. support the allegations. At the stage of summoning, only a prima facie satisfaction is required and the defence of the appellant, including alleged contradictions with the pleadings in the civil suit, cannot be examined in detail. The learned court below has rightly exercised its jurisdiction and summoned the appellant for the offences disclosed from the complaint material. Hence, no interference is warranted with the impugned order.

7. It has been stated in the complaint that the accused-appellant Shivam Kumar Kushwaha and co-accused Shyam Singh were known to the complainant, Smt. Aruna Bhaskar, who is an old lady, and were also related to her. It is alleged that the complainant had paid a consideration amount of Rs 16 lakh, pursuant to which both the accused persons had assured her that a plot would be transferred in her favour through a registered sale deed. However, no sale deed in respect of the promised plot was executed, and the aforesaid amount was allegedly misappropriated by the accused persons. Admittedly, plot bearing Khasra No. 474, measuring 2400 square feet, was transferred in favour of Virendra Singh Kushwaha by means of a registered

sale deed. The said sale deed specifically records that the execution thereof was by the complainant, Aruna Bhaskar, in favour of Virendra Singh Kushwaha. The accused-appellant Shivam Kumar Kushwaha admittedly stood as a witness to the said sale-deed and identified the parties in accordance with the prescribed procedure. So far as the knowledge of the caste and identity of the complainant is concerned, no contradiction or inconsistency has been pointed out either in the complaint or in the statements of the complainant and the witnesses. At the stage of summoning, the Court is required to examine only whether a prima facie case is made out against the accused. The Court is not required to undertake a meticulous appreciation of the evidence or conduct a mini-trial at the stage of taking cognizance and summoning the accused.

8. In view of the facts and circumstances available on record, this Court finds that the trial court has rightly summoned the accused-appellant. No illegality or infirmity is found in the impugned order warranting interference.

9. Accordingly, the criminal appeal is **rejected**.

August 14, 2026

Asha

(Santosh Rai,J.)