



2026:AHC:167587

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2253 of 2025

Rahul Chauhan

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Shiv Bahadur Singh	
Counsel for Respondent(s)	:	G.A., Peeyush Kumar Pathak,	
		Prateeyush Kumar Pathak	

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Compliance affidavit filed by learned AGA and supplementary affidavit filed on behalf of the appellant, in the Court today, are taken on record.
2. Heard learned counsel for the appellant, learned counsel for opposite party no.2 and learned AGA for the State.
3. The present criminal appeal has been filed by the appellant with a prayer to set aside the impugned order dated 7.2.2025 passed by Special Judge, SC/ST Act, Bijnor in Special Case No.1044 of 2025 (State vs. Rahul Chauhan and others), arising out of Case Crime No.719 of 2024, under Sections 318(4), 316(2), 352, 351(3) B.N.S. and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S.- Chandpur, District- Bijnor, whereby the appellant/applicant has been summoned.
4. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case and that the allegations made in the FIR are not supported by any independent or reliable material. It is submitted that although an amount of Rs.3,00,000/- was transferred into the appellant's account, the same by itself does not establish any dishonest intention or misappropriation on the part of the appellant. It is further submitted that the essential ingredients of the offences under the SC/ST Act are not made out, as there is no reliable material to establish that any caste-based insult or abuse was made by the appellant in a place within

public view. It is also submitted that the alleged occurrence took place inside the appellant's house. Accordingly, it is prayed that the appeal be allowed and appropriate relief be granted to the appellant.

5. Learned counsel for opposite party no.2 as well as learned AGA have opposed the appeal and submits that the appellant is specifically named in the FIR and a specific allegation has been levelled against him regarding receipt of Rs.3,00,000/- in his account pursuant to the promise made by co-accused Vishal Yadav. It is submitted that the allegations disclose that the appellant, along with the co-accused, induced the victim and his son to part with a substantial amount of money on the false promise of executing a sale deed and thereafter misappropriated the same. It is further submitted that the allegations regarding abuse and the occurrence are supported by the statements of the complainant and the victim and that the disputed questions of fact cannot be conclusively adjudicated at this stage. Accordingly, it is prayed that the appeal be dismissed.

6. The accused-appellant and one co-accused, namely, Vishal Yadav, are named in the FIR. The allegation in the FIR is that, on the promise made by co-accused Vishal Yadav, an amount of Rs.3,00,000/- was deposited in the account of the accused-appellant. This fact has not been disputed by learned counsel for the accused-appellant. It is further alleged that some additional amount was also paid to the appellant and that, taking advantage of the friendly/close relationship between the son of the victim and the accused-appellant, Rahul Chauhan and Vishal Yadav obtained a substantial amount from the victim and his son and misappropriated the same. The aforesaid amount was allegedly taken on the false promise of executing a sale deed. It is alleged that when the victim and his son demanded return of their money from the accused-appellant and co-accused, they were abused, and the incident allegedly took place at the house of the appellant. However, there is no independent or reliable material on record to substantiate the allegations made in the FIR or in the statements of the complainant and the victim. So far as the offence under the SC/ST Act is concerned, the alleged incident is stated to have taken place inside the house of the accused-appellant. There is no reliable material on record to establish that the alleged occurrence took place within public view. Likewise, there is no reliable material to establish that

the accused-appellant used any caste-based slur against the victim on the ground of her belonging to the SC/ST category.

7. Learned counsel for both the parties submits that charges have not yet been framed in the present case. In view of the judgment of the Hon'ble Supreme Court in **Delhi Race Club (1940) Ltd. & Ors. v. State of Uttar Pradesh & Anr. (2024) 10 SCC 690**, the learned Trial Court, at the stage of framing of charge, shall consider the applicability of Sections 406 and 420 IPC in accordance with law. It is clarified that the learned Trial Court shall be at liberty to frame the appropriate charge, either under Section 406 IPC or Section 420 IPC, as may be warranted on the basis of the material available on record and in light of the aforesaid judgment.

8. For the purpose of summoning the accused appellants under Sections 3(1)(r), 3(1)(s) of S.C. & S.T. (P.A.) Act, it requires that the incident occurred in "public view". The prosecution has to show prima facie that the offence under Sections 3(1)(r), 3(1)(s) of S.C. & S.T. (P.A.) Act has been committed at the place within "public view" but in this case this Court finds that the incident is said to be occurred inside the house of the appellant. The prosecution has not pointed out any evidence of 'public view' and intentional insult/humiliation solely on the ground that victim belongs to SC/ST category.

9. In the case of **Swaran Singh Vs State (2008) 8 SCC 435** the Hon'ble Apex Court drew a clear distinction between the expressions "public place" and "any place within public view." A private place may still be a place within public view if the incident is visible to members of the public. Conversely, merely because an incident occurs in a public building does not automatically satisfy the requirement if it is not within public view. The Supreme Court held that words such as "Chamar", though originally denoting a caste, may amount to an offence if used as a casteist abuse with intent to humiliate a member of the Scheduled Castes. The Court emphasized that words should be understood in their popular and social meaning, not merely their etymological meaning. For attracting Section 3(1)(x) (now Sections 3(1)(r) and 3(1)(s)), there must be intentional insult or intimidation; and intent to humiliate the victim because he or she belongs to a Scheduled Caste or Scheduled Tribe. Mere

abuse or quarrel, without the requisite intention contemplated by the Act, is insufficient. The Court reiterated that criminal proceedings should continue only where the allegations disclose a prima facie offence against the particular accused. Proceedings may be quashed where the FIR does not disclose the essential ingredients against an accused.

10. In **Gorige Pentaiah Vs state of AP & Ors 2009 Cri.L.J.350** Honble Apex court held "when the basic ingredients of the offence are missing in the complaint, then permitting such complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law." In the case of **Hitesh Verma vs. State of Uttarakhand (2020) 10 SCC 710**, the Hon'ble Supreme Court held that 'a dispute that arose inside the private house of a complainant over the possession of the land without the presence of independent public witnesses, does not satisfy the statutory threshold of Section 3(1)(r).

11. In the case of **Shajan Skraria vs. State of Kerala and another, 2024 SCC Online SC 2249** the Hon'ble Apex Court by quoting the cases of **Hitesh Verma (Supra)** has held as under:

"13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure

established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste."

In Khuman Singh v. State of M.P., (2020) 18 SCC 763

"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe.

Thus, the dictum as laid aforesaid is that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. I say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status."

12. Accordingly, having bestowed anxious consideration to the rival submissions and upon a careful scrutiny of the entire material available on record, this Court is of the considered opinion that the prosecution has failed to disclose even a prima facie case attracting the provisions of Sections 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The material collected during inquiry/investigation does not indicate that the alleged words or conduct were actuated by the caste of the informant or were intended to intentionally insult or humiliate the informant on the ground that he belonged to a Scheduled Caste or Scheduled Tribe. Equally absent is any

material to establish that the alleged occurrence took place in a place within "public view", which is a sine qua non for constituting the offence under the aforesaid provisions, as explained by the Hon'ble Supreme Court in **Swaran Singh (supra)** further reaffirmed in **Hitesh Verma & Shajan Skaria (supra)**.

13. For the reasons recorded hereinabove, this Court is of the considered opinion that the essential ingredients constituting the offences under Sections 3(2)(va) of the SC/ST Act are conspicuously absent from the material collected during investigation, and the continuance of proceedings for the said offences would amount to an abuse of the process of law. Consequently, the appeal under Section 14-A of the SC/ST Act is **partly allowed**.

14. The order dated 7.2.2025 passed by Special Judge, SC/ST Act, Bijnor in Special Case No.1044 of 2025 (State vs. Rahul Chauhan and others), arising out of Case Crime No.719 of 2024, under Sections 318(4), 316(2), 352, 351(3) B.N.S. and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S.- Chandpur, District- Bijnor, is modified to the extent that the appellant stands discharged of the offences punishable under Sections 3(2)(va) of the SC/ST Act.

15. Nevertheless, since a prima facie case is made out for the offences punishable under Sections 318(4), 316(2), 352, 351(3) B.N.S., the prosecution in respect thereof shall continue and be concluded expeditiously, in accordance with law. The trial court shall proceed uninfluenced by any observation made herein on the merits of the case.

16. Registrar (Compliance) is directed to serve a copy of this order by FAX/e-mail to the court concerned through District & Sessions Judge concerned within one week.

(Santosh Rai,J.)

August 11, 2026
RA