



2026:AHC:171522

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2474 of 2025

Rakesh

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Kirti Singh, Shailendra Singh
Counsel for Respondent(s)	:	G.A., Sanjive Kumar Gupta

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant 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 the cognizance/summoning order dated 21.01.2025 passed by Special Judge SC/ST (P.A) Act, Budaun as well as impugned charge sheet dated 28.11.2023 in S.S.T No. 155 of 2025 (State vs Rakesh) arising out of Case Crime no. 0236/2023, under Section 323, 504, 506 I.P.C and 3 (1)द, 3 (1)ध,, 3 (2) (Va) S.C. & S.T. Act, Police Station Usawan, District Budaun.
3. Tersely, the prosecution case, as disclosed in the FIR, is that the informant, belonging to the Scheduled Caste (Kori community), alleged that on 02.09.2023, the appellant along with four co-accused entered his house armed with a country-made pistol and sharp-edged weapon and confronted him regarding his cow having entered their agricultural field and damaged the crops. It was further alleged that the accused persons assaulted the informant and his cow, used caste-indicative abusive language, and chased him and his family members from the house. On hearing their cries, the family members arrived, whereupon the accused persons fled away. It was further alleged that on 07.09.2023, the accused persons again came to the informant's house, abused and threatened him. Despite approaching the police station, no F.I.R. was initially registered. Thereafter, pursuant to an application under Section 156(3) Cr.P.C., FIR was registered on 02.11.2023 as Case Crime No. 236 of 2023 under Sections 452, 354, 323, 504 and 506 IPC, Section 3/11 of the Prevention of Cruelty to Animals Act, 1960, and

Section 3(1)(X) of the SC/ST (Prevention of Atrocities) Act, against the appellant and four other accused persons. After investigation, the Investigating Officer submitted charge-sheet against the appellant, while the other accused persons were exonerated.

4. Briefly, the grounds of the appeal are that the cognizance/summoning order dated 21.01.2025 passed by Special Judge SC/ST (P.A) Act, Budaun 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 21.01.2025 has been passed without assigning cogent reasons and the charge-sheet has been submitted mechanically, without proper investigation. It is further submitted that the alleged occurrence took place inside the house of the informant and, therefore, the essential requirement of the offence under the S.C. & S.T. Act relating to insult or intimidation "within public view" is not satisfied. The material collected during investigation does not disclose any specific caste-based insult with the requisite intention or knowledge. Learned counsel further submits that the statement of the alleged victim, Krishna Devi, recorded under Sections 161 and 164 Cr.P.C. contains material contradictions and does not support the prosecution version. Her medical examination also disclosed no injury. The statements of several independent and other witnesses recorded during investigation indicate that no such incident had taken place. It is also submitted that the Investigating Officer deleted Sections 452, 354 IPC and the relevant provisions relating to cruelty to animals and submitted the charge-sheet only under Sections 323, 504 and 506 IPC and sections 3 (1)द, 3 (1)ध, 3 (2) (Va) S.C. & S.T. Act against the appellant, while submitting a final report in favour of the other co-accused.

6. Learned A.G.A. vehemently opposed the submission of learned counsel for the appellant and submits that the FIR contains specific and categorical allegations against the appellant regarding his entering the house of the informant along with other accused persons, abusing and assaulting the informant and his family members, using caste-indicative abusive language and threatening them with dire consequences. It is contended that the allegations in the FIR, coupled with the statements recorded during investigation, disclose the commission of cognizable offences and, therefore, the Investigating Officer was justified in submitting the charge-sheet against

the appellant. He further submits that the impugned order does not suffer from any illegality or perversity.

7. The First Information Report was lodged against the accused persons namely Rakesh, Ravindr, Umesh, Manoj and Vipin, who were specifically named therein. As per the FIR, the incident is alleged to have occurred on 02.09.2023, whereas the FIR was registered on 02.11.2023, after a delay of about two months, pursuant to an application under Section 156(3) Cr.P.C., for the offences under Sections 452, 354, 323, 504 and 506 IPC, Section 3/11 of the Prevention of Cruelty to Animals Act, 1960, and Section 3(1)(X) of the SC/ST (Prevention of Atrocities) Act. After investigation, the Investigating Officer submitted charge-sheet against the appellant, Rakesh, while exonerating the other four accused persons from the alleged offences. From a perusal of the FIR and the case diary, it appears that the alleged incident took place inside the house of the victim/informant and involved the alleged use of caste-based abusive language. Admittedly, no injury was sustained by the informant. It is true that, in an offence under Section 323 IPC, production of a medical report or other medical evidence is not indispensable in every case. However, the genesis of the alleged occurrence, as disclosed from the F.I.R. and the case diary, is that the informant's cow had entered the appellant's field and grazed the crops therein. Significantly, neither the FIR nor the material collected during investigation discloses any specific material to establish that the appellant used caste-based slurs with the requisite intention or knowledge to insult or humiliate the informant on the ground of his caste. Thus, the essential ingredients of the alleged offence under the SC/ST Act are not prima facie established from the material available on record.

8. In the case of ***Swaran singh Vs State (2008)8SCC 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.

9. 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 Section 3(1) (r).

10. 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."

11. 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 (1) ढ, 3 (1)ॡ, 3 (2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The material collected during inquiry 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** further reaffirmed in **Hitesh Verma** and **Shajan Skaria** (supra).

12. For the reasons recorded hereinabove, this Court is of the considered opinion that the essential ingredients constituting the offences under Sections 3 (1)द, 3 (1)ध,, 3 (2) (Va) of the SC/ST Act are conspicuously absent from the material collected during inquiry/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 succeeds in part and is **allowed partly**.

13. The cognizance/summoning order dated 21.01.2025 passed by Special Judge SC/ST (P.A) Act, Budaun in S.S.T No. 155 of 2025 (State vs Rakesh) arising out of Case Crime no. 0236/2023 by which the appellant was summoned under Sections 323, 504, 506 I.P.C. and 3 (1)द, 3 (1)ध,, 3 (2) (Va) S.C. & S.T. Act, is modified to the extent that the appellant stands discharged of the offences punishable under Sections 3 (1)द, 3 (1)ध,, 3 (2) (Va) S.C. & S.T. Act.

14. Nevertheless, since a prima facie case is made out for the offences punishable under Sections 323, 504, 506 I.P.C., 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.

15. 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 five days.

August 14, 2026
Asha

(Santosh Rai,J.)