



2026:AHC:125023

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 593 of 2025

Anoop Kumar Pandey And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s) : Lal Chandra Mishra

Counsel for Respondent(s) : Abhishek Kushwaha, G.A., Pradeep Kumar, Prashant Kumar

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. List revised. Heard Sri Lal Chandra Mishra, learned counsel for the appellants, learned A.G.A. for the State and perused the record. Despite service of notice, none has appeared on behalf of the opposite party no.2.
2. This Criminal Appeal under Section 14-A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred to set aside the summoning order dated 07.01.2023 passed by the Special Judge (SC/ST Act), Allahabad in Complaint Case No.101 of 2020 (Computer No.41 of 2020), *Satya Narayan Vs. Anoop Kumar Pandey and another*, under Sections 323, 504, 506, 427 IPC and Section 3(1)(x) of the SC/ST Act, Police Station Kaundhiyara, District Prayagraj.
3. Learned counsel for the appellants submits that the impugned complaint is a counterblast to the civil and criminal proceedings arising out of a long-standing land dispute between the parties. It is submitted that the original tenure-holder, Smt. Shanti Devi, had executed a registered agreement to sell dated 01.11.2019 in favour of appellant no.1 and his mother in respect of the disputed property. Subsequently, a sale deed dated 21.01.2020 is alleged to have been fraudulently executed by Smt. Prabhawati, wife of the complainant Satyanarayan, by impersonating Smt. Shanti Devi and using forged identity documents. Upon gaining knowledge of the said transaction,

Smt. Shanti Devi lodged Case Crime No.311 of 2020 under Sections 120-B, 419, 420, 467, 468, 471 and 506 IPC and Section 3(2)(V) of the SC/ST Act against the complainant, his wife Smt. Prabhawati and other accused persons. It is further submitted that a civil suit seeking cancellation of the aforesaid sale deed is also pending between the parties.

4. It is further submitted that the allegations made in the complaint are inherently improbable. According to the complaint, appellant no.2 assaulted the complainant with the butt of his licensed gun on 18.08.2020. However, documentary material brought on record shows that the said firearm had been deposited in Shri Ram Gun House since 03.04.2014 and remained in the custody of the said gun house on the date of the alleged occurrence. It is thus argued that the allegation regarding use of the firearm is demonstrably false.
5. Learned counsel for the appellants further submits that the complaint and statements recorded under Sections 200 and 202 Cr.P.C. do not disclose the essential ingredients of the offence under Section 3(1)(x) of the SC/ST Act. The alleged caste-related abuses are not stated to have been uttered in any place within public view. It is also argued that the witness examined under Section 202 Cr.P.C., namely Suresh Kushwaha, is admittedly not an eye-witness to the occurrence and has merely deposed that after reaching the place of occurrence he was informed by the complainant that the appellants had assaulted him. His statement is therefore hearsay in nature.
6. Per contra, learned A.G.A. has opposed the appeal and submitted that at the stage of summoning the Court is only required to examine whether a prima facie case is disclosed from the complaint and the statements recorded under Sections 200 and 202 Cr.P.C. It is submitted that the complainant as well as the witnesses have supported the allegations and, therefore, the learned Special Judge has rightly summoned the appellants. It is further submitted that the defence of the appellants cannot ordinarily be examined in detail at the stage of summoning.

7. I have considered the rival submissions and perused the record.
8. The complaint discloses a pre-existing dispute regarding ownership and possession of the land in question. The material brought on record by the appellants indicates that civil litigation as well as criminal proceedings relating to the same property were already pending between the parties prior to the passing of the impugned summoning order. The existence of such background assumes significance while examining whether the criminal process has been invoked for redressal of a genuine criminal wrong or as a tool in a property dispute.
9. A perusal of the statement of PW-2 Suresh Kushwaha recorded under Section 202 Cr.P.C. shows that he did not witness the alleged assault. His statement reveals that he reached the place subsequently, found the complainant and his son lying near the canal and, on inquiry, was informed by them that the appellants had assaulted them. Thus, the testimony of PW-2 is admittedly hearsay so far as the actual occurrence is concerned.
10. So far as the allegation regarding assault by appellant no.2 with the butt of his licensed double-barrel gun is concerned, the appellants have brought on record documentary material indicating that the said firearm had been deposited with Shri Ram Gun House much prior to the date of the alleged occurrence and continued to remain in the custody of the said gun house. The complaint specifically alleges that appellant no.2 assaulted the complainant with the butt of the licensed firearm. In view of the documentary evidence regarding deposit of the weapon, the aforesaid allegation appears inherently improbable and creates a serious doubt about the veracity of the prosecution version.
11. So far as the offence under Section 3(1)(x) of the SC/ST Act is concerned, the complaint and the statements recorded under Sections 200 and 202 Cr.P.C. do not indicate that the alleged caste-related abuses were made in any place within public view, which is an essential ingredient of the offence as it stood at the relevant time.

Mere use of caste-related words, without satisfaction of the statutory requirements, would not attract the offence. The expression "**any place within public view**" has been interpreted by the Hon'ble Supreme Court in **Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710** and reiterated in subsequent decisions including **Karuppudayar v. State represented by the Deputy Superintendent of Police, Lalgudi, Trichy and Others, 2025 INSC 132**, wherein it has been held that "... It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place where members of the public are not present, then it cannot be said that it has taken place at a place within public view."

12. Thus, the presence of public persons at the time of the alleged incident is a **sine qua non** for attracting the provisions of the SC/ST Act.
13. The background facts brought on record further indicate that prior to institution of the complaint, disputes relating to the ownership and transfer of the land in question had already arisen between the parties and proceedings, both civil and criminal, were pending in respect thereof. The complaint appears to have been instituted in the backdrop of the said dispute and the attendant circumstances lend support to the contention of the appellants that the criminal proceedings have been initiated with an oblique motive to exert pressure upon them in relation to the property dispute.
14. The Supreme Court in the case of **State of Haryana Vs. Bhajan Lal, 1992 AIR 605** has recognized that criminal proceedings instituted with mala fide intention or for wreaking vengeance arising out of private disputes are liable to be interfered with in appropriate cases. Considering the nature of the dispute, the background litigation between the parties, the deficiencies in the evidence collected under Sections 200 and 202 Cr.P.C., the doubtful nature of the allegation regarding use of the licensed firearm, and the absence of the essential ingredients of the offence under the SC/ST Act, this Court

is of the view that continuation of the proceedings would amount to abuse of the process of law.

15. Accordingly, the appeal succeeds and is **allowed**.
16. The summoning order dated 07.01.2023 passed by the Special Judge (SC/ST Act), Allahabad in Complaint Case No.101 of 2020 (Computer No.41 of 2020), *Satya Narayan Vs. Anoop Kumar Pandey and another*, under Sections 323, 504, 506, 427 IPC and Section 3(1)(x) of the SC/ST Act, Police Station Kaundhiyara, District Prayagraj, is hereby set aside.
17. Consequently, the entire proceedings of Complaint Case No.101 of 2020 (Computer No.41 of 2020), *Satya Narayan Vs. Anoop Kumar Pandey and another*, under Sections 323, 504, 506, 427 IPC and Section 3(1)(x) of the SC/ST Act, Police Station Kaundhiyara, District Prayagraj, are also quashed.

(Madan Pal Singh,J.)

June 3, 2026

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