



2026:AHC:65277

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1383 of 2026

Akash Kumar And 4 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Atharva Dixit, Gaurang Dwivedi, Sr. Advocate
Counsel for Respondent(s)	: Man Mohan Mishra, G.A.

Court No. - 53

HON'BLE ABDUL SHAHID, J.

1. Counter affidavit filed on behalf of the opposite party no. 2 is taken on record.
2. Heard Sri Manish Tiwari, Senior Advocate, assisted by Sri Atharva Dixit and Sri Prajit Chaturvedi, learned counsel for the appellants and learned counsel for the opposite party no. 2.
3. The present criminal revision has been filed against the impugned summoning order dated 21.01.2026 passed by the learned Special Judge (SC/ST Act) Bhadohi in connection with Case Crime No. 0095 of 2024, Police Station Gyanpur, District Bhadohi, under Sections 451, 461, 511, 166, 426, 448, 506 IPC and Section 3(2)(v) of the SC/ST Act and all further proceedings of Criminal Misc. Case No. 02 of 2025, Police Station Gyanpur, District Bhadohi pending before the Court of Special Judge (SC/ST Act), Bhadohi.
4. Learned Senior Counsel appearing for the appellant submits that all the appellants are government officials and have been impleaded as opposite parties in the application filed under Section 156(3) Cr.P.C. He further submits that they discharged their official duties in compliance with official orders and have been wrongly impleaded in the said case. There has been no compliance with Section 197 Cr.P.C. He further submits that Opposite Party No. 2/complainant, Ravi Shankar, has filed a petition being Writ-C No. 3699 of 2024 (Ravi Shankar vs. State of U.P. and seven others), which is still pending. This Court had sought a report from the District Magistrate. In compliance with the aforesaid order dated 08.02.2024, the District

Magistrate submitted a report, which is annexed as Annexure No. 6 to the present appeal. It is stated therein, particularly in points nos. 2, 3, and 4, that the partially constructed portion in the form of an R.C. pillar had been demolished, which was not covered under the scheme of Pradhan Mantri Awas Yojana. The house provided under the said scheme to the applicant and his family members still exists, and the daughter-in-law of the applicant's family is residing therein.

5. Learned Senior Counsel further submits that the alleged incident took place on 11.10.2023, whereas the FIR was lodged on 04.09.2024 pursuant to an order under Section 156(3) Cr.P.C. After investigation, no offence was found to have been made out, and a final report has been submitted against all the appellants, which is annexed as Annexure No. 13 to the present criminal appeal.

6. Learned Senior Counsel further submits that, in the statement of the complainant/Opposite Party No. 2 recorded under Section 161 Cr.P.C., specific questions were put to him. When asked whether he had any photo or video of the constructed house allegedly demolished, he replied that he did not have any such photo or video. When further asked where the debris of the demolished house had gone, he, after some hesitation, replied that some part of the demolished pillar was still present at the spot. Upon being asked when the construction was demolished by the administration and which officers or employees of the Revenue Police were present at the spot, he stated that he did not remember the exact date and that it had occurred about 8–10 months earlier, though he had mentioned the date and time in the FIR. When asked whether he had any documents relating to the land, Opposite Party No. 2 replied that he did not have any documentary evidence of ownership.

7. Learned counsel for Opposite Party No. 2 has relied upon Annexure CA-4 of the counter affidavit dated 27.03.2026, as well as the Amin's report submitted before the learned Civil Judge (Junior Division), Bhadohi, in Original Suit No. 1245 of 2023 (Ravi Shankar and others vs. State of U.P.). The said report is a prima facie report dated 16.11.2023 and forms the subject matter of Civil Suit No. 1245 of 2023. The Amin's report, by itself, does not constitute evidence and remains subject to proof and consideration in accordance with any order that may be passed by the learned Civil Judge in the said original suit.

8. Learned Senior Counsel has further relied upon the law laid down in **G.C. Manjunath and others vs. Seetaram, 2025 INSC 439**. Paragraph 36 of the said judgment is quoted hereinbelow:

"36. In light of the aforesaid judgments, the guiding principle governing the necessity of prior sanction stands well crystallised. The pivotal inquiry is whether the impugned act is reasonably connected to the discharge of official duty. If the act is wholly unconnected or manifestly devoid of any nexus to the official functions of the public servant, the requirement of sanction is obviated. Conversely, where there exists even a reasonable link between the act complained of and the official duties of the public servant, the protective umbrella of Section 197 of the CrPC and Section 170 of the Police Act is attracted. In such cases, prior sanction assumes the character of a sine qua non, regardless of whether the public servant exceeded the scope of authority or acted improperly while discharging his duty."

9. It is undisputed that, in the present case, all the petitioners are government officials. Opposite Party No. 2 has failed to produce any documentary evidence in support of his ownership of the land in question or any pre-evidence regarding the alleged demolition. He has also failed to satisfactorily account for the debris of the alleged demolished construction. The report of the District Magistrate clearly states that the houses allotted to Opposite Party No. 2 under the Pradhan Mantri Awas Yojana are intact, and the daughters-in-law of Opposite Party No. 2/complainant are residing therein.

10. The case was initiated on the basis of an application under Section 156(3) Cr.P.C., whereby the Station House Officer, Gyanpur, was directed to register the FIR under the relevant sections. It is, therefore, a private complaint initiated against government officials. The FIR was registered under Sections 451, 461, 511, 166, 426, 448, and 506 IPC, and Section 3(2)(v) of the SC/ST Act, 1989, pursuant to the order dated 29.07.2024 directing such registration.

11. In the observations made by the learned Magistrate, it is noted that the land in question is recorded as "new parti" in the revenue records. However, in the entire order, there is no finding or observation regarding the commission of any offence under the SC/ST Act. It has been observed by the learned Magistrate that the Pradhan Mantri Awas Yojana house of the daughter-in-law of the complainant/Opposite Party No. 2 had been

completely demolished. However, as per the report of the District Magistrate, which forms part of the record in Writ-C No. 3699 of 2024, the houses allotted under the said scheme to the applicant and his family members are intact, and his daughters-in-law are residing therein.

12. The offence under Section 451 IPC is punishable with imprisonment up to two years, or up to seven years if the offence intended is theft. Section 461 IPC is punishable with imprisonment up to two years. Section 511 IPC relates to attempts to commit offences punishable with life imprisonment or other imprisonment. Section 166 IPC is punishable with imprisonment up to one year. Section 426 IPC is punishable with imprisonment up to three months. Section 448 IPC is punishable with imprisonment up to one year. Section 506 IPC is punishable with imprisonment up to two years, or up to seven years in aggravated cases. In contrast, Section 3(2)(v) of the SC/ST Act, 1989 applies only where the underlying offence is punishable with imprisonment for a term of ten years or more. Even in the order passed by the learned Magistrate, there is no observation attracting the provisions of the SC/ST Act. The offences under which the FIR has been registered do not appear to carry punishment exceeding ten years; hence, Section 3(2)(v) of the SC/ST Act, 1989 does not appear to be applicable. Section 3(2)(v) of the SC/ST Act reads as follows:

"Section 3(2)(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property [knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member], shall be punishable with imprisonment for life and with fine;"

13. After completion of the investigation, a final report has been submitted. The learned Special Judge has observed that, in execution of the order, the petitioners exceeded their authority and used excessive force. However, as per the report of the District Magistrate, no demolition of any house constructed under the Pradhan Mantri Awas Yojana took place, and the same are still intact. The daughter-in-law of the complainant is residing therein.

14. There is also no mention of the specific provisions under which the petitioners have been summoned. The entire genesis of the offence is unsupported, as the sections invoked do not substantiate the averments made by Opposite Party No. 2/complainant. Any act, if at all performed by the appellants, appears to have been done in discharge of their official duties.

The complainant/Opposite Party No. 2 has failed to furnish any convincing explanation during investigation. He neither possesses any documentary proof of ownership nor has he been able to substantiate the existence of debris of any demolished house under the Pradhan Mantri Awas Yojana. The District Magistrate, in the report submitted before this Court in Writ-C No. 3699 of 2024, has clearly stated that the houses allotted to the complainant and his family members under the said scheme are still in existence, and his daughter-in-law is residing therein. Section 14-A of SC/ST Act, 1989, is as follows:

"14A. Appeals.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law."

15. Thus, this Court has jurisdiction to examine both questions of fact and law in accordance with Section 14-A(1) of the SC/ST Act, 1989.

16. In view of the facts, reasons, circumstances, and legal provisions discussed hereinabove, the impugned order dated 21.01.2026 passed by the learned Special Judge (SC/ST Act), Bhadohi, cannot be sustained in the eyes of law and is liable to be set aside. Accordingly, the same is hereby set aside, and the final report is accepted.

17. The criminal appeal is, accordingly, allowed.

March 28, 2026
K.K. Maurya

(Abdul Shahid,J.)