



2026:AHC:68149

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2988 of 2026

Kusum Devi

.....Appellant(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Kanhaiya Lal Tiwari
Counsel for Respondent(s)	:	G.A.

Court No. - 53

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellant/complainant and the learned A.G.A. for the State. Perused the record.

2. Under challenge is the impugned order dated 08.09.2025 passed by the learned Special Judge (S.C./S.T. Act), Basti, in Warrant Summons Criminal Case No. 3 of 2025 (Kusum Devi vs. Nandlal and others), under Section 173(4) of the B.N.S.S., Police Station Paikolia, District Basti.

3. Learned counsel for the appellant has submitted that the appellant/complainant had sent a complaint by way of registered post on 30.10.2024 to the Superintendent of Police, Basti, stating therein that she is the wife of Ramjeet Dhobi, resident of Village Pikaura, Police Station Paikolia, District Basti, and belongs to the Scheduled Caste (Dhobi community). It is alleged that on 15.10.2024, at about 6:00 p.m., she was proceeding towards her field situated on the eastern side of the village to dump cow dung. At that time, Nandlal Kohar, son of Chedi, and Upendra Singh alias Chhotu Singh, son of Dharendra Singh, residents of the same village, were also returning after dumping cow dung in their respective fields. After dumping cow dung in her field, the appellant started returning towards her house. In the meantime, the aforesaid persons noticed the appellant/complainant alone at the field boundary (siwan) and, on account of previous enmity arising out of pending litigation, caught hold of her with the intention of molesting her and committing wrongful acts, considering her to be a poor woman belonging to the Dhobi community.

4. It is further alleged that they started pressing her private parts, including her breasts, and tore her blouse, as a result of which her chest was exposed. Thereafter, they threw the appellant on the ground. The appellant, sensing their wrongful intention, resisted and raised an alarm. It is also alleged that

upon seeing people passing nearby, the accused persons left the appellant in a dishevelled condition in the field. Before leaving, being annoyed at not having succeeded in their wrongful intention, they assaulted the appellant by kicking, punching, and slapping her. It is next alleged that they hurled filthy caste-based and obscene abuses and fled from the spot. While leaving, they further threatened that although they had not been able to fully dishonour her on that day, they would not spare her without committing wrongful acts or dishonouring her, and challenged her to see how many cases she could file against them.

5. Learned counsel for the appellant has further submitted that despite the application moved by the appellant/complainant before the Superintendent of Police, Basti, no FIR was registered. Consequently, the appellant filed an application under Section 173(4) Cr.P.C., reiterating the same facts; however, the learned trial court did not properly appreciate the same while passing the impugned order.

6. Per contra, learned A.G.A. opposed the appeal and contended that there is no illegality or perversity in the impugned order. The concerned court sought a report from the concerned police station. As per the report, there exists a dispute regarding possession of land between the complainant and the opposite parties, which is pending before the Civil Court. The allegations could not be verified during the inquiry. The appellant/complainant did not file any supporting medical documents or injury report, either with her initial application to the S.P., Basti, or with the application under Section 173(4) Cr.P.C. Therefore, the criminal appeal is liable to be dismissed.

7. From a perusal of the record, it appears that after considering all these facts, the application under Section 173(4) Cr.P.C. was registered as a complaint case. Thereafter, the statements of the appellant/complainant as well as her husband were recorded, and the statement of witness Shakuntala was also recorded.

8. The appellant is neither a minor nor a young person; rather, she is a mature woman. As per her own statement, she is about 37 years of age, whereas the accused, Nandlal Kohar and Upendra Singh @ Chhotey Singh, are stated to be about 56 years and 23 years of age, respectively. The appellant did not file any supporting medical evidence in support of her allegations.

9. The learned trial court specifically held, after perusal of all the records and reports that the application of the appellant is based on false and fabricated allegations arising out of a civil dispute. It was further observed that the appellant and her family members had already encroached upon the

land of the opposite parties. As per the report of the S.D.M., Auraiya, such encroachment is reflected in the records after measurement by the revenue authorities.

10. The husband of the complainant/appellant has already filed Civil Suit No. 313 of 2024 (Meghnath and others vs. Dharendra Singh), which is pending before the Civil Court. Further, when Nandlal purchased the land and began construction of a boundary wall, a dispute arose between the parties, which was verified by the concerned police station as well as the revenue authorities. The daughter of opposite party no. 2 has also filed a case against the appellant, her husband, and their supporters under Sections 323, 504, 506, 452, 354 IPC, in which they have been summoned. The appellant has also filed a complaint, registered as Sessions Trial No. 1175 of 2023.

11. Thus, it is undisputed that the appellant had previously filed several cases against the opposite parties to protect her alleged encroachment, and the present complaint appears to have been filed in continuation of that litigation. There is serious enmity between the parties, and a dispute regarding the land in question persists. Civil suits as well as criminal cases are pending between them.

12. The case is peculiar, as the complainant is about 37 years of age, while the accused persons are about 56 years and 23 years old, respectively. There is no supporting medical evidence on record.

13. It is held by the Hon'ble Supreme Court in **Sujoy Ghosh vs. State of Jharkhand and Another, reported in 2026 INSC 267**, in paragraphs 13 and 14 as follows:

"13. The principles governing the summoning of an accused in a criminal case, as well as the parameters for quashing criminal proceedings, are well settled. Summoning of an accused in a criminal case is a serious matter, and criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect application of mind to the facts of the case and the law applicable thereto. The Magistrate must carefully scrutinise the evidence brought on record and determine whether any offence is prima facie made out. The Magistrate may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise, and then examine if any offence is prima facie committed by all or any of the accused. (See: Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors., (1998) 5 SCC 749; Vikas Chandra v. State of Uttar Pradesh & Another, 2024 SCC OnLine SC 1534.)

14. When an accused seeks quashing of either the FIR or criminal

proceedings on the ground that such proceedings are manifestly frivolous, vexatious, or malicious, the Court is duty-bound to examine the matter with greater care. It will not be just enough for the Court to look into the averments made in the FIR/ complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case, over and above the averments, and, if need be, with due care and circumspection, and try to read between the lines. The Court while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure or Article 226 of the Constitution of India, need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/ registration of the case as well as the materials collected in the the course of investigation. (See: Mohd. Wajid & Anr. v. State of Uttar Pradesh & Ors., (2023) 20 SCC 219)."

14. Accordingly, in view of the aforesaid facts, circumstances, and the law laid down above, this Court finds that the impugned order does not suffer from any illegality, irregularity, or perversity warranting interference by this Court.

15. The criminal appeal, being devoid of merit, is liable to be dismissed and is, accordingly, **dismissed**.

March 31, 2026
M. Tarik

(Abdul Shahid,J.)