

A.F.R.



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No.34372 of 2016

Faujdar Yadav & 2 Others

.....Applicant(s)

Versus

State Of U.P. And
Another

.....Opposite Party(s)

Counsel for Applicant(s)	: Kailash Pati Singh Yadav
Counsel for Opposite Party(s)	: G.A., Praveen Kumar Singh

Court No. -18

HON'BLE RAJEEV BHARTI, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard learned counsel for the applicants, learned A.G.A. appearing for the State, learned counsel for opposite party no.2 and perused the material brought on record.
3. The present application has been filed for quashing the impugned charge sheet dated 07.07.2016, bearing charge sheet no.15/16 in Special Criminal Case No.96 of 2016 (State Vs. Faujdar and others), arising out of Case Crime No.317 of 2016, under Sections 323, 504 I.P.C. & 3(1)Da, Dha & 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "SC/ST Act"), Police Station - Saidpur, District- Ghazipur, pending in the Court of Special Judge SC/ST Act, Ghazipur.
4. Brief facts of the case are that on 17.03.2016 an N.C.R. No.63 of 2016 was lodged at Police Station- Saidpur, District- Ghazipur under Sections 323, 504 I.P.C. against the applicants by the opposite party no.2 stating therein that on 17.03.2016, the applicants were constructing drain in the field of opposite party no.2 forcefully and when the same being

opposed by opposite party no.2, the applicants abused him by using caste related words and also assaulted his son with lathi and danda.

5. Learned counsel for the applicant submits that the invocation of the provisions of SC/ST Act is wholly misconceived inasmuch as the essential statutory ingredients of the alleged offence having been committed "in any place within public view" is completely absent. It is contended that, as per the prosecution case itself, the alleged incident was only witnessed by the informant Shyam Dev Gaud and his son Vinod Gaud, who are admittedly interested and related witnesses and no independent member of the public was present at the place of occurrence.

6. It is further argued that neither the FIR nor the charge sheet specifies the exact caste-related words allegedly used, nor does it disclose whether the alleged caste-related words, if any, were made with intention to humiliate the informant on account of his caste and in a place within the public view, which is mandatory statutory requirement for attracting offences under SC/ST Act "in any place within public view".

7. Learned counsel for the applicant in support of his argument has placed reliance upon the judgment of Hon'ble Supreme Court in **Ramesh Chandra Vaishya Vs. State of U.P. & Another, Criminal Appeal No.1617, (2023) 0 SC 550, decided on 19.05.2023**, wherein it has been held that every insult or intimidation does not constitute an offence under SC/ST Act and that in the absence of any independent public witness and public view, continuance of proceedings under SC/ST Act would amount of abuse of process of law.

8. The Hon'ble Supreme Court has consistently held in the case of **Swaran Singh vs. State**, reported in **(2008) 8 SCC 435**, that the expression "in any place within the public view" does not mean merely a place accessible to the public, but requires the presence of independent members and interested witness does not specify this requirement.

Similarly in **Hitesh Verma Vs. The State of Uttarakhand & Another** reported in (2020) 10 SCC 710, the Hon'ble Supreme Court has held that the dispute occurring in a private place or where any member of the public is present does not attract offence under Section 3(1) Da, Dha of SC/ST Act.

9. In support of his contention, learned counsel for the applicant has also placed reliance upon in the case of **State of Haryana and Ors. vs. Bhajan Lal & Ors., reported in 1992 Supp (1) SCC 335**, that if the contents of the FIR, taken on its face value, does not make out any case against the appellant, such an FIR registered with ulterior motive deserves to be quashed.

10. For a ready reference Sections 3(1)Da, Dha and 3(2)(v) of SC/ST Act are reproduced hereunder:-

Provision in Hindi Bare Act of the SC/ST Act.	Provision in English Bare Act of SC/ST Act.
(द) अनुसूचित जाति या अनुसूचित जनजाति के किसी सदस्य को अवमानित करने के आशय से लोक दृष्टि में आने वाले किसी स्थान पर अपमानित या अभिन्नस्त करेगा;	Section 3(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
(घ) लोक दृष्टि में आने वाले किसी स्थान पर जाति के नाम से अनुसूचित जाति या अनुसूचित जनजाति के किसी सदस्य को गाली गलौज करेगा;	Section 3(1) (s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;
3(2) (va) अनुसूची में विनिर्दिष्ट कोई अपराध किसी व्यक्ति या संपत्ति के विरुद्ध, यह जानते हुए करेगा कि ऐसा व्यक्ति अनुसूचित जाति या अनुसूचित जनजाति का सदस्य है या वह संपत्ति ऐसे सदस्य की है, वह ऐसे अपराधों के लिए भारतीय दंड संहिता के अधीन यथा विनिर्दिष्ट दंड से दंडनीय होगा और जुर्माने से भी दंडनीय होगा ।	Section 3(2) (va) commits any offence specified in the Schedule, 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 such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;

11. From a perusal of FIR and the charge sheet, this Court finds that specific caste-based utterances are not disclosed; the alleged occurrence is supported only by the statement of the informant and his son, who are

interested witnesses, and no independent public witness is shown to have been present at the time of alleged incident and the mandatory ingredients of intent to humiliate in public view are conspicuously absent.

12. In view of the above facts and settled position of law, this Court is of the considered opinion that the continuation of criminal proceedings under Section 3(1)Da, Dha and 3(2)(va) of SC/ST Act against the applicant would be an abuse of process of the Court and cannot be sustainable in law.

13. Accordingly, the present application is partly **allowed**.

14. The proceedings of Special Criminal Case No.96 of 2016 (State Vs. Faujdar and others), arising out of Case Crime No.317 of 2016, under Sections 3(1)Da, Dha & 3(2)(va) of SC/ST Act, Police Station - Saidpur, District- Ghazipur, pending in the Court of Special Judge SC/ST Act, Ghazipur, are hereby quashed.

15. It is clarified that the proceeding with respect to the other sections related to Indian Penal Code, if otherwise made out, may continue in accordance with law.

(Rajeev Bharti)

January 12, 2026

Anand