



2026:AHC:124342

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1323 of 2026

Yatendra @ Yatendra Singh Pundir And 2 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s) : Anil Kumar

Counsel for Respondent(s) : G.A., Harsh Bardhan Choubey, Manoj Kumar Srivastava

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. Heard learned counsel for the parties and perused the record.
2. This Criminal Appeal under Section 14-A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred for quashing the summoning order dated 09.12.2025 as well as the entire proceedings of Complaint Case No. 1388 of 2024, under Section 352 of the Bharatiya Nyaya Sanhita, 2023 and Section 3(2)(va) of the SC/ST Act, Police Station Sikandrara, District Hathras.
3. Learned counsel for the appellants submitted that the alleged incident is said to have occurred on 16.10.2023, whereas the FIR was lodged after an inordinate and unexplained delay on 23.11.2023. During investigation, all the named eye-witnesses as well as the independent witnesses categorically denied the occurrence and stated that no such incident had taken place. The Investigating Officer, after considering the statements of the witnesses, the medical evidence and other materials collected during investigation, found the allegations to be false and consequently submitted a final report on 16.01.2024. Learned counsel further submitted that after submission of the final report, the complainant filed a protest petition, which was treated as a complaint by the court below. Thereafter, the complainant and her witnesses were examined under Sections 223 and 225 of the BNSS. Although the trial court itself

recorded a finding that the medical evidence did not support the allegation of assault and that the injuries found on the person of the complainant's husband could not be connected with the alleged occurrence dated 16.10.2023, it nevertheless summoned the appellants under Section 352 BNS and Section 3(2)(va) of the SC/ST Act solely on the basis of the statements recorded during the complaint proceedings, ignoring the final report, the statements of independent witnesses recorded during investigation and the material contradictions appearing on record. It was further contended that there exists a long-standing civil dispute between the parties regarding the land in question and, owing to the said dispute, the opposite party no.2 has falsely implicated the appellants with mala fide intention. Reliance was also placed upon the proceedings of Original Suit No. 11 of 2016 to contend that appellant no.1 was present before the Civil Court on the date of the alleged occurrence and that the complaint has been instituted as a counterblast to the civil litigation.

4. Learned counsel further submitted that for attracting the provisions of Section 3(2)(va) of the SC/ST Act, the predicate offence must be one of the offences specified in the Schedule appended to the Act. Since the corresponding offence under Section 504 IPC (now Section 352 BNS) does not find place in the Schedule, the provisions of Section 3(2)(va) of the SC/ST Act are not attracted.
5. Per contra, learned counsel for the opposite party no.2 vehemently opposed the appeal and submitted that the appellants assaulted the complainant and her husband when they objected to the running of a JCB machine over the disputed land. He fairly conceded that there is no medical report showing injuries sustained on the date of the alleged incident, i.e., 16.10.2023. He further submitted that the witnesses examined in support of the complaint have supported the prosecution case and that at the stage of summoning only a prima facie case is required to be seen and a meticulous appreciation of evidence is not permissible.
6. I have considered the submissions advanced by learned counsel for

the parties and have carefully perused the entire record.

7. From the submissions advanced by learned counsel for the appellants and upon perusal of the impugned summoning order, it appears that the appellants have been summoned under Section 352 BNS and Section 3(2)(va) of the SC/ST Act.
8. Section 3(2)(va) of the SC/ST Act provides that whoever 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, shall be punishable in the manner provided therein.
9. Admittedly, the corresponding offence under Section 504 IPC, now punishable under Section 352 BNS, is not included in the Schedule appended to the SC/ST Act. Therefore, the essential requirement for attracting Section 3(2)(va) of the SC/ST Act is absent in the present case. Consequently, no prima facie offence under Section 3(2)(va) of the SC/ST Act is made out against the appellants.
10. So far as the offence under Section 352 BNS is concerned, the statements recorded under Section 225 BNSS indicate that the witnesses have specifically stated that when the complainant and her husband objected to the operation of the JCB machine over the disputed land, the appellants abused them. At the stage of summoning, the Court is only required to examine whether a prima facie case is made out on the basis of the material available on record and not whether the evidence is sufficient for conviction. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in **Chandra Deo Singh vs. Prokash Chandra Bose, AIR 1963 SC 1430**, wherein it has been held that at the initial stage the Court is only required to ascertain whether there is sufficient ground for proceeding.
11. In view of the aforesaid discussion, this Court finds that no prima facie offence under Section 3(2)(va) of the SC/ST Act is disclosed against the appellants. The continuation of criminal proceedings against the appellants under the said provision would, therefore, amount to abuse of the process of law.

12. Accordingly, the summoning order dated 09.12.2025, insofar as it relates to the offence under Section 3(2)(va) of the SC/ST Act, is hereby quashed.
13. However, since a prima facie case under Section 352 BNS is disclosed from the statements recorded during the complaint proceedings, the summoning order and proceedings shall continue against the appellants for the said offence in accordance with law.
14. In view of the aforesaid, the present criminal appeal is ***partly allowed.***

(Madan Pal Singh,J.)

June 1, 2026

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