



2026:AHC:124338

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1326 of 2026

Gauri Shankar Pasi

.....Appellant(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Appellant(s)	: G.A., Madhukar Bharti, Prince Kumar Srivastava
Counsel for Respondent(s)	: Ashish Singh

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Prince Kumar Srivastava, learned counsel for the appellant, Sri Ashish Singh, learned counsel for opposite party no. 2, and the learned A.G.A. for the State, and perused the record.
2. By means of the present Criminal Appeal under Section 14A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant seeks to set aside the order dated 02.12.2025 passed by the Additional Sessions Judge/Special Judge, SC/ST Act, Bhadohi-Gyanpur in Criminal Misc. Case No. 278 of 2025, under Sections 115(2), 352, 351(3), and 191(2) of the BNS and Section 3(1)(da)(dha) of the SC/ST Act, whereby the application filed by the appellant under Section 173(4) of the BNSS has been rejected.
3. From a perusal of the impugned judgment, it appears that the applicant had moved an application seeking a direction for registration and investigation of a case alleging that, on 28.10.2025, the accused persons assaulted his son, abused him by using caste-indicative words, and committed offences punishable under the provisions of the BNS and the SC/ST Act. The court examined the application, affidavit, and accompanying documents, including the copy of the complaint allegedly sent to the Superintendent of Police, postal receipts, medical prescription, and caste certificate. The court also called for and considered a report from Police Station Chauri.

As per the police report, an FIR had already been registered as Case Crime No. 174 of 2025 against the applicant and his sons in connection with the same occurrence on the basis of a complaint lodged by the opposite side, and the investigation thereof was pending. The police further reported that the present application had been filed with the intention of creating pressure upon the complainant side and the witnesses of the said case by setting up a false and exaggerated version as a cross-case. Upon consideration of the material on record and the police report, the court found that the allegations made by the applicant appeared to be a concocted and embellished story advanced for achieving ulterior purposes and that the application lacked substance. In ***Sukhwasi vs. State of Uttar Pradesh, 2007 (59) ACC 739 (All-DB)***, it was observed that a Magistrate is not bound to direct registration of an FIR in every case and that the power under Section 156(3) Cr.P.C. is required to be exercised judiciously and sparingly. Accordingly, the court held that no ground existed for directing investigation under Section 156(3) Cr.P.C. and dismissed the application as being devoid of merit.

4. Relying upon the judgment of the Three-Judge Bench of the Hon'ble Supreme Court in ***Aleque Padamsee v. Union of India, AIR 2007 SC 684, the Full Bench of this Court in Father Thomas v. State of Uttar Pradesh, 2011 (1) ADJ 333 (FB)***, held that where an application under Section 156(3) Cr.P.C. (now Section 173(4) of the BNSS) has been rejected, the remedy available to the applicant is to file a complaint case before the competent court under Section 190(1)(a) read with Section 200 Cr.P.C. (now Section 210(1)(a) read with Section 223 of the BNSS).
5. In view of the settled position of law, the proper remedy available to the appellant is to institute a complaint case under Section 210(1)(a) read with Section 223 of the BNSS.
6. Having regard to the facts and circumstances of the case and the allegations made by the appellant, this Court finds that the order passed by the trial court is legally sound and does not suffer from any infirmity warranting interference.

7. Accordingly, the present Criminal Appeal is **dismissed**.

(Madan Pal Singh,J.)

June 1, 2026
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