



2026:AHC:128764

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2812 of 2025

Smt. Kusum Devi

.....Appellant(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	: Chandra Kumar, Shailesh Kumar Yadav, Suraj Kumar Chaudhary
Counsel for Respondent(s)	: G.A., Manoj Kumar Pandey, Vipin Kumar Tiwari

Court No. - 67

HON'BLE SAMEER JAIN, J.

1. None is present on behalf of opposite party nos.2 to 5 even in the revised call.
2. Heard Sri Vivek Kumar Srivastava, advocate holding brief of Sri Chandra Kumar, learned counsel for the appellant and Dr. S.B. Maurya, learned AGA-I for the State.
3. The instant criminal appeal has been filed against the impugned order dated 07.12.2024 passed by the Special Judge (SC/ST Act), Kaushambi in Criminal Misc. Case No.431 of 2024 (Smt. Kusum Devi Vs. Krishna Mohan and others), under Sections 115, 352, 351(3), 324(2), 319(2), 318(4) BNS and under the SC/ST Act, Police Station Kokhraj, District Kaushambi.
4. Learned counsel for the appellant submits, appellant is a member of scheduled caste community and she challenged the impugned order dated 07.12.2024 passed by the court concerned in the instant appeal by which her application under Section 173(4) BNSS has been dismissed.
5. He next submits, on 24.09.2024 appellant moved an application under Section 173(4) BNSS against opposite party no.2 that he duped her and on 23.08.2024 also damaged her property but in spite of that her application was dismissed by the court concerned by impugned order dated 07.12.2024. He next submits, from the application moved under

Section 173(4) BNSS prima facie cognizable offence against opposite party nos.2 to 5 is made out and therefore impugned order dated 07.12.2024 is illegal.

6. He next submits, therefore the impugned order dated 07.12.2024 may be set aside and a direction may be given to register the FIR against opposite party nos.2 to 5.

7. Per contra, learned AGA opposed the prayer and submits, it reflects, there was dispute with regard to a property between appellant and opposite party no.2 and due to this reason appellant moved an application under Section 173(4) BNSS against him and others.

8. He next submits, however as per appellant, opposite party no.2 alongwith others also damaged her property but this fact also prima faice appears to be false as application under Section 173(4) BNSS was moved by appellant after more than a month. He further submits, from the application under Section 173(4) BNSS prima facie no cognizable offence is made out against opposite party nos.2 to 5 and there is no illegality in the impugned order dated 07.12.2024.

9. He next submits, therefore the instant appeal is devoid of merit and it should be dismissed.

10. I have heard both the parties and perused the record of the case.

11. By way of instant appeal appellant challenged the order dated 07.12.2024 passed by the court concerned by which her application under Section 173(4) BNSS has been dismissed.

12. From the application moved under Section 173(4) BNSS it reflects, appellant made allegation against opposite party no.2 and others that on 23.08.2024 they damaged her property and she also made allegation that opposite party no.2 duped her but it reflects, on the basis of general and casual allegation appellant moved an application under Section 173(4) BNSS.

13. Further, even it reflects, as per the appellant herself opposite party no.2 and other accused damaged her property on 23.08.2024 but in spite

of that she moved application under Section 173(4) BNSS on 24.09.2024 i.e. after one month.

14. Further, it also reflects, dispute between opposite party no.2 and appellant was pending with regard to a property and therefore considering the overall facts and circumstances of the case, in view of this Court prima facie no cognizable offence is made out against opposite party nos.2 to 5 and the court concerned rightly dismissed the application moved by appellant under Section 173(4) BNSS and there is no illegality in the impugned order dated 07.12.2024.

15. Accordingly, the instant appeal is devoid of merit and is hereby dismissed.

(Sameer Jain,J.)

June 23, 2026

Shahroz