



2026:AHC:124749

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 12055 of 2024

Devendra Gupta And 5 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Hanuman Deen Verma, Hemant Kumar Rai
Counsel for Respondent(s)	:	G.A., Keshawa Prasad Pandey, Krishna Chandra Pandey

Court No. - 1

HON'BLE MADAN PAL SINGH, J.

1. Heard Sri Hanuman Deen Verma, learned counsel for the appellants, Sri Krishna Chandra Pandey, learned counsel for opposite party no. 2, and learned A.G.A. for the State, and perused the entire record.

2. The present Criminal Appeal under Section 14-A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been filed seeking quashing of the entire proceedings of Complaint Case No. 25 of 2024 (Kalpnath vs. Devendra Gupta and others) under Sections 323, 504, 506 I.P.C. and Sections 3(1)(da) and 3(1)(dha) of the SC/ST Act, Police Station Mehdawal, District Sant Kabir Nagar, as well as the summoning order dated 22.10.2024 passed by the Special Judge (SC/ST Act), Sant Kabir Nagar.

3. Learned counsel for the appellants mainly submits that the present case is a counterblast. Earlier, an FIR was lodged by appellant no. 1, Devendra Gupta, against opposite party no. 2, Kalpnath. It is further submitted that another FIR was also lodged by appellant no. 2, Shailesh Gupta, against P.W. 2, who has also been examined under Section 202 Cr.P.C. It is, therefore, submitted that as FIRs had already been lodged by the appellants against opposite party no. 2 and others, the present complaint has been filed only to falsely implicate the appellants and to exert pressure upon them. It is further submitted that there is no injury report of the alleged incident of assault by six persons. However, the statements of the complainant and witnesses recorded under Sections 200 and 202 Cr.P.C. show that the incident allegedly took place inside the house and that caste-related words were also used by the appellants. Therefore, according to learned counsel,

offences under Sections 3(1)(da) and 3(1)(dha) of the SC/ST Act are made out.

4. On the other hand, learned counsel for opposite party no. 2 as well as learned A.G.A. have opposed the submissions and submitted that at this stage, only a prima facie case is to be seen and a deeper appreciation of evidence is not required. It is further submitted that the trial court has rightly summoned the appellants. They also submit that there was a dispute regarding illegal construction of a drainage over Gata No. 237 belonging to opposite party no. 2, and a complaint was made before the Sub-Divisional Magistrate. Since appellant no. 1 is the Gram Pradhan and an influential person of the village, he got an FIR registered against opposite party no. 2. However, no FIR was registered on behalf of opposite party no. 2, and therefore, an application under Section 156(3) Cr.P.C. was filed which was later treated as a complaint.

5. I have considered the submissions of learned counsel for the parties and carefully perused the entire record, including the complaint and statements of the complainant and witnesses.

6. From the FIR lodged by the appellants against opposite party no. 2 and from the complaint filed by opposite party no. 2 against the appellants, it appears that there was a scuffle between the parties on 12.11.2023 at about 8-9 a.m. due to a dispute over construction of a drainage. As regards the injury report, it is stated in the complaint and in the statements under Sections 200 and 202 Cr.P.C. that all the appellants assaulted the complainant by fists and kicks, due to which injuries could not be found on the body of the complainant. From the statements recorded under Section 202 Cr.P.C., it further appears that the entire incident took place inside the house and premises, and that caste-related remarks and abusive language were allegedly used.

7. It is well settled that for attracting Sections 3(1)(da) and 3(1)(dha) of the SC/ST Act, it must be shown at least prima facie that the accused intentionally insulted or intimidated the victim on the basis of his caste, and that such act took place in a place within public view.

8. In **Daya Bhatnagar vs. State of Delhi, 2004 (109) DLT 915**, it has been held that "within public view" means a place where members of the public can see or hear the incident, and not a place where only close or interested

persons are present.

9. The expression "any place within public view" has been interpreted by the **Hon'ble Supreme Court in Hitesh Verma vs. State of Uttarakhand, (2020) 10 SCC 710**, and reiterated in subsequent decisions including **Karuppudayar vs. State represented by the Deputy Superintendent of Police, Lalgudi, Trichy and Others, 2025 INSC 132**, wherein it has been held that:

"...It could thus be seen that, to be a place 'within public view', the place should be open where members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place where members of the public are not present, then it cannot be said that it has taken place at a place within public view."

10. Applying the above principles to the present case, it appears that the essential ingredients of the offences under the SC/ST Act are not made out. The case, at best, appears to be a dispute arising out of construction over drainage, which has been given a criminal colour under the special statute.

11. So far as Sections 323, 504 and 506 I.P.C. are concerned, at this stage the truthfulness of the statements cannot be examined in detail. At the stage of summoning, the court is only required to see whether a prima facie case is made out on the basis of the material on record and not to evaluate the evidence in detail. In this regard, reliance may be placed on **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.

12. Continuation of proceedings against the appellants under the SC/ST Act would therefore amount to abuse of the process of law. Accordingly, the summoning order dated 22.10.2024, insofar as it relates to Sections 3(1)(da) and 3(1)(dha) of the SC/ST Act, is hereby quashed. The proceedings under the IPC shall continue in accordance with law.

13. The criminal appeal is partly allowed.

June 2, 2026
Akbar

(Madan Pal Singh,J.)