



2026:AHC:65387

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10490 of 2024

Ganesh Prasad Sharma And 2 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s) : Akhilesh Kumar Tripathi

Counsel for Respondent(s) : G.A., Santosh Tripathi, Umesh Maurya

Court No. - 53

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellants, learned counsel for opposite party no.2 and the learned AGA for the State.

2. The present criminal appeal has been preferred against the order dated 4.1.2024, passed by the Special Judge SC/ST Act/Additional District and Sessions Judge, Ghaziabad in S.S.T. No. 17 of 2024 (State Vs. Ganesh Prasad Sharma and others), arising out of Case Crime No. 567 of 2023, under Section 323, 504, 506 IPC and 3(2) (va) of SC/ST Act, P.S. Muradnagar, District Ghaziabad.

3. Brief facts of the case is that an FIR was registered on 17.10.2023 at the police station Muradnagar, Gramin Commissionerate Ghaziabad as case crime No. 567 of 2023, under Section 506, 504, 354(D), 354, 323 IPC and Section 3(2)(5A) of SC/ST Act. There is no date, time and place of incident mentioned in the column of occurrence of the offence. It is stated by the complainant/opposite party no.2 that she is resident of Ganga Vihar Colony, Muradnagar, Ghaziabad. There are several persons of different castes reside in the same lane. There were some local issues, hence a government hand-pump had been established in the said lane in the quota of Hon'ble Rajnath Singh. After few days, Ganesh Prasad son of Sri Hoti Lal had stopped the persons belonging to scheduled caste community to fill the water from the said hand-pump, which was objected by the complainant, then Ganesh Prasad has removed the said hand pump and put a submersible in it. When we inquired about this, then his son became seriously annoyed and attacked on me with bricks. I am a lady of

five months pregnancy. The bricks hit on my stomach, thereafter I have to face serious consequences due to that act. This incident I had told to my elder sister Rekha, at that time no one was present at home. They have also attacked my elder sister by pulling her from home and I have some video of it. Said video of beating had been deleted by the Inspector from my phone. He has refused to see the video of the camera which is fixed at the outside. They have stopped us to take water and whenever we go outside for any work, then his son follows us and threatened us to delete the video and he also threatened for acid attack. He threatened to take back the complaint, otherwise we would not leave you "chamaro". At the time of bathing on the public tap, Mukul Sharma is making obscene act after seeing to both sisters. They have also beaten to myself and my sister. A known of Mukul Sharma, namely Jyoti Katariya had also threatened to us for lodging a fabricated FIR against me.

4. Learned counsel for the appellants has submitted that there was neither any intention of humiliation or any remarks had ever been made by the appellants. No offence has been made out against the appellants. There are contradiction in the statement of complainant under Section 161 Cr.P.C. and the statement of witnesses as well as statement of complainant under Section 164 Cr.P.C.

5. Learned counsel for the complainant has relied on report of Executive Engineer, U.P. Jal Nigam, Ghaziabad dated 21.6.2018 that he had enquired regarding complaint that Sri Indra and Sri Ganesh Pandit had put submersible in government pump. As per report, no government hand pump has been found to be established there. There was private hand pump found on the spot in which submersible is there. There is no report about hand pump in the record. Sri Ganesh Pandit has informed that said hand pump has been established himself on private basis. The persons resides nearby had also stated that they have seen hand pump in the same condition. There is no proceedings required to be initiated from this office to remove the submersible from the said hand pump. However, this is also informed that any hand pump established in Gram Panchayat Sahbiswa that is to be maintained by Gram Panchayat Sahbiswa and if record of Gram Panchayat states that hand pump is mentioned as government hand pump then removal of submersible from that hand pump may be

conducted by Gram Panchayat Sahbiswa and Zila Panchayat Raj Adhikari. This report did not deny that hand pump is exist there. However, they have denied that they have no concerned with the office of Executive Engineer, whereas it has been reported that there is no hand pump and submersible has been put in it and it may be established by Gram Panchayat Sahbiswa and proceedings if any that has to be initiated by Gram Panchayat Sahbiswa and Zila Panchayat Raj Adhikari.

6. The statement of Smt. Rekha as well as statement of complainant Neetu had been recorded. Both have reiterated the averments made in the complaint and there are specific allegation against Ganesh Prasad Sharma and his sons Mukul Sharma and Indra Sharma that they have stopped them to take water and also stated that none of 'Chamar' will be permitted to take water from it. In place of hand pump, a submersible has been put by the appellants.

7. The statement of opposite party no.2/complainant has also supported the contents of the complaint. In her statement under Section 164 Cr.P.C. she has specifically stated that on 19.9.2023, when she has gone to fetch water from the government hand pump around 7.00 p.m, then Mukul Sharma and his family member, Mangesh Sharma, Sachin Sharma stopped myself to fetch the water and stated that facility of water is not available to 'chamar chudhe'. You should arrange himself for your water.

8. Prima facie, it is appeared that there had been hand pump in the lane which is common place. In place of hand pump, a submersible has been put and it is presumed that there was government hand pump situated and that it is established for public lane. The report of Executive Engineer dated 21.6.2018 had not denied that submersible has been put into the said hand pump. Regarding maintenance and establishment, it has been stated that it has been situated in Gram Panchayat Sahbiswa, hence proceeding for removal has to be initiated only by Gram Panchayat Sahbiswa and Zila Panchayat Raj Adhikari.

9. After a detail investigation, charge sheet has been filed against the appellants, under Section 323, 504, 506 IPC and Section 3(2)(5a) of SC/ST Act.

10. After consideration of all these facts and circumstances and the evidences collected during investigation, prima facie case is made out against the appellants, hence cognizance had been taken and summons have been issued against the appellants.

11. In view thereof, there is neither any illegality nor irregularity or perversity in the impugned order dated 4.1.2024. The impugned order is hereby confirmed and the criminal appeal is hereby **dismissed**, accordingly.

(Abdul Shahid,J.)

March 28, 2026

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