



2026:AHC:66356

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10868 of 2024

Abhimanyu @ Mannu

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Deepak Kumar Pal
Counsel for Respondent(s)	:	G.A.

Court No. - 53

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the appellant and the learned AGA for the State.

2. None is present for the opposite party no.2/complainant after service sufficient on her.

3.The present criminal appeal has been preferred against the order dated 29.7.2024, passed by the learned Special Judge SC/ST Act, Bareilly in Criminal Case No. 1485 of 2024 (State Vs. Abhimanyu and Mannu) in case crime No. 398 of 2023, under Section 452, 341, 323, 504 and Section 3(1)(dha) and 3(2)(Va) of SC/ST Act, P.S. Bithari Chainpur, District Bareilly.

4. Learned counsel for the appellant has submitted that the alleged incident as stated by the complainant/opposite party no.2 is dated 2.10.2023 around 8.00 am in the morning. The FIR has been lodged on 5.10.2023 with a delay of three days. The opposite party no.2/complainant herself has got registered the FIR against the appellant. She has narrated the incident that the incident took place twice. Firstly on 2.10.2023 around 8.00 am when her husband Bhagwan Das was going for labour then co-villager, appellant had obstructed his passage by putting his vehicle in front of him. He beaten my husband and hurled abuses. This is first part of the incident. She further stated that thereafter her husband came to my house. Thereafter, appellant also came to my house and again beaten my husband by legs and fists and he has also beaten myself by

slapping, legs and fists and also hurled abuses as well as threatened for beating next time.

5. Learned counsel for the appellant has submitted that the FIR has been got registered by the opposite party no.2/complainant herself which was registered after three days of the alleged incident. She had narrated the entire incident and defined that said offence has been committed in two parts. Whereas in none of them, she had mentioned any offence committed under SC/ST Act, 1989. Thereafter, statement of complainant/opposite party no.2, Maya Devi as well as her husband Bhagwan Dass had been recorded. Even in her statement under Section 161 Cr.P.C., she had not mentioned any allegation about SC/ST Act within public view. Whereas, according to her own averment, it was took place inside her house and on the first time in the statement of opposite party no.2/complainant, Maya Devi and her husband, Bhagwan Das mentioned about castiesm remarks.

6. As per statement of Bhagwan Dass, it is also came into existence that there was some dispute about election of Pradhani in the said village.

7. Learned counsel for the appellant has vehemently submitted that the FIR has been registered after three days delay. Even in the FIR, no allegation about any offence of SC/ST is made. Even in their statements under Section 161 Cr.P.C., which was alleged to be occurred in public view, there were no allegation about offence under SC/ST Act. Consequently, the second incident which alleged to be took place within the house of opposite party no.2/complainant, at the first time, the allegation of SC/ST came into existence.

8. Learned counsel for the appellant has relied on Section 3(1)(s) of SC/ST Act, 1989 which defines that abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

9. Learned counsel for the appellant has also relied on law laid down by the Hon'ble Supreme Court in **Sohanvir @ Sohanvir Dhama and others Vs. State of U.P. and another; 2025 INSC 1397**. In paragraph 13 of said judgment it is held as under:

"13. In our considered view, the High Court erred in concluding that the incident occurred in public view. A careful reading of the complaint makes it evident that the alleged caste-based abuses were uttered inside the premises, in the presence of the Appellants and Respondent No.2. Therefore, the essential requirement of the offence under Section 3(1)(s) of the SC/ST Act is not satisfied."

10. In the present case, the FIR has been lodged after three days of the incident by the complainant/opposite party no.2 herself. She has narrated the alleged incident in two parts, but in none of them, she had made any allegation for any offence under the provisions of SC/ST Act.

11. In the statement recorded under Section 161 Cr.P.C. even in the first phase of the incident, which was alleged to be in open place, there was no allegation about any casteism remarks which would cover ingredients of Section SC/ST Act. In the second phase of incident, in the statement of complainant/opposite party no.2 and her husband, it is admitted that this incident, if any, was committed, within the house of the complainant and at that time only complainant and her husband were present in the house. Said incident, if any, has not held within public view as is the basic requirement of Section 3(1)(s) of SC/ST Act, 1989.

12. In view thereof, the summoning and cognizance of appellant-Abhimanyu @ Mannu under Section 3(1)(dha) and 3(2)(Va) of SC/ST Act, 1989 is hereby quashed. The trial of the appellant under Sections 452, 341, 323, 504 IPC, would continue by the competent court of law in accordance with law.

13. The criminal appeal is partly **allowed**.

(Abdul Shahid,J.)

March 30, 2026

sfa/