

Court No. - 87

Case :- APPLICATION U/S 482 No. - 28290 of 2019

Applicant :- Kunal Shah And 3 Ors

Opposite Party :- State Of U.P. And Anr

Counsel for Applicant :- Rizwan Ahamad,Rajrshi Gupta

Counsel for Opposite Party :- G.A.,Awadhesh Kumar Pandey,Sanjay Mishra

Hon'ble Neeraj Tiwari,J.

Civil Misc. Amendment Application No. 7 of 2023

1. Heard learned counsel for the parties.
2. Learned counsel for the applicants submitted that during the pendency of application, trial Court has renumbered the Complaint Case No. 171 of 2017 (Jai Kumar Harijan vs. Kunal Shah and others) as Sessions Case No. 1506 of 2023 (State of U.P. vs. Kunal Shah and others), therefore, he may be permitted to carry out necessary amendment in the prayer clause and further requested that same may be allowed, for which Sri Awadhesh Kumar Pandey, learned counsel for the opposite party no.2 has no objection.
3. Amendment Application is allowed.
4. Learned counsel for the applicants is permitted to carry out necessary amendment during the course of day.

Order on the memo of application

1. Heard Sri Rajrshi Gupta, learned counsel for the applicants, learned AGA and Sri Awadesh Kumar Pandey, learned counsel for the opposite party no.2.
2. Present application has been filed for quashing of the summoning order dated 18.5.2019 as well as entire proceedings of Complaint Case No. 171 of 2017 (Jai Kumar Harijan vs. Kunal Shah and others) renumbered as Sessions Case No. 1506 of 2023 (State of U.P. vs. Kunal Shah and

others), under Sections 323, 504, 506, 427 IPC and Section 3(2) (va) of SC/ST Act, pending in the court of Special Judge SC/ST, Allahabad.

3. Brief facts of the case are that opposite party no.2 was tenant of applicant no.1 and there was tenancy dispute between the parties. Applicant no.1 has filed S.C.C. Suit No. 11 of 2014 for eviction of land on the ground of default in payment of rents and has also filed another Suit, which was registered as P.A. Case No. 2 of 2015 before Prescribed Authority for release of premises in dispute on account of bona-fide need. Thereafter, compromise has taken place between the parties and compromise decree dated 12.11.2016 has been passed in SCC Suit No. 11 of 2014 with the undertaking of opposite party no.2-tenant to vacate the said premises within three months. Similarly, P.A. Case No. 2 of 2015 has also been decided vide order dated 29.11.2016 on the basis of compromise with the similar undertaking to vacate the premises in three months. Even after completion of three months, complainant-tenant has not vacated the said premise, therefore, applicants have filed execution application, which was registered as M.P.A. Case No. 1 of 2017. Similarly, opposite party no.2 has filed application in P.A. Case No. 2 of 2015 for setting aside the compromise decree dated 29.11.2016 on the ground of fraud and also filed another application in SCC Suit no. 11 of 2014 for setting the compromise decree dated 12.11.2016 on the similar ground. Court has dismissed the application of complainant vide order dated 3.4.2017 for setting aside the compromise deed dated 12.11.2016 passed in P.A. Case No. 2 of 2015.

4. In Execution Case i.e M.P.A. Case No. 1 of 2017, Court has issued Parwana Bedhakli and directed the SHO, Civil Lines to get the premise vacated and ensure the possession of the said premise to applicants within 24 hours. The said order was complied with by the Police Authority on 7.4.2017 and possession was delivered to the applicant. This fact has also been recorded in the general diary of police. Thereafter, police filed compliance report on 22.4.2017 before the Execution Court about the compliance of order of the Execution Court. Opposite party no.2 has also

filed petition under Article 227 of the Constitution of India before this Court challenging the eviction in which this Court vide order dated 20.4.2017 rejected the stay application. Another application preferred by the opposite party no.2 for setting aside the compromise decree dated 12.11.2016 passed in S.C.C. Suit No. 11 of 2014, has also been dismissed by the Court vide order dated 30.7.2018. At this stage, opposite party no.2 has initiated criminal proceedings by filing complaint case after inordinate delay of three months and 20 days.

5. Sri Rajrshi Gupta, learned counsel for the applicants has assailed the summoning order on many grounds. Firstly, he submitted that complaint has been filed without proper explanation of delay. In support of his contention, he has placed reliance upon the judgment of the Apex Court in the case of ***Kishan Singh vs. Gurpal Singh reported in AIR 2010 SC 3624.***

6. He next submitted that it is pure civil dispute and to settle the same, criminal proceedings has been initiated by the complainant, which is totally abuse of process of law and is required to be set aside. In support of of this contention, he has placed reliance upon the judgment of this Court as well as Apex Court in the cases of ***Indian Oil Corporation Vs. NEPC India Ltd. reported in (2006) 6 SCC 736, Usha Chakraborty vs. State of West Bengal reported in 2023 SCC Online SC 90, Ramawatar vs. State of M.P. reported in (2022) 13 SCC 635 and B. Venkateshwaran and Ors. Vs. P. Bakthavatchalam reported in AIR 2023 SC 262.***

7. He further submitted that as per version of complaint all event took place on the date of eviction i.e. 7.4.2017 before the police authority, but in the complaint, there is no such facts mentioned about the presence of police personal. Not only this, eviction proceedings has also been maintained in the general diary of police and compliance report has also filed before the Execution Court. Same has never been challenged by the opposite party no.2, which clearly shows that no such incident has ever taken place and only to settle the civil dispute, he has initiated criminal

proceedings. After eviction proceedings, he has written letter dated 12.4.2017 to District Magistrate, Additional Commissioner, Deputy Chief Minister, Chief Minister and Prime Minister and same is having no reference of any incident as alleged in the complaint upon which summoning order has been issued.

8. He next submitted that not only this, summoning order has been issued under the provisions of SC/ST Act and he submitted that law is very well settled that in case any incident took place on the ground that opposite party no.2 belongs to SC/ST community only then summoning order may be issued under the provisions of SC/ST Act. In the present case, it is undisputed that bone of contention is tenancy dispute and it has nothing to do with the caste of opposite party no.2, therefore, proceedings under the SC/ST Act may not be initiated. In support of his contention, he has placed reliance upon the judgment of this Court as well as other High Courts in the cases of ***Hitesh Verma Vs. State of Uttarakhand reported in 2021 Cri. L.J.1, Ashrafi Vs. State of Uttar Pradesh (2018) 1 SCC 742 and Khuman Singh Vs. State of M.P. reported in AIR 2019 SC 4030.***

9. He lastly informed that now opposite party no.2 has filed withdrawal application on 9.11.2020 before the trial Court to withdraw the complaint earlier so filed with the clear cut assertion that due to tenancy dispute, he had lodged complaint, but presently, he does not want to press the same. Therefore, in light of aforesaid facts and circumstances, criminal proceedings is bad and liable to be set aside.

10. Sri Awadesh Kumar Pandey, learned counsel for the opposite party no.2 has not disputed the aforesaid facts and fairly accepted that now opposite party no.2 has filed withdrawal application before the trial Court to withdraw the complaint earlier so filed and further does not want to pursue the criminal proceedings any further against applicants.

11. I have considered the rival submissions advanced by the learned counsel for the parties and perused the record as well as summoning order.

12. It is undisputed that a civil dispute of tenancy as referred hereinabove was pending between the parties and ultimately decided by the disposal of SCC Suit No. 11 of 2014 and P.A. Case No. 2 of 2015. Further, criminal proceedings has only been initiated by filing complaint after eviction order has been passed having certain allegations upon the applicant. Before filing of complaint, application has also filed before the District Magistrate, Additional Chief Minister, Chief Minister & Prime Minister having no reference of the present incident, which is part of present complaint, which creates doubt over genuineness of complaint.

13. This complaint has been filed alongwith delay of more than three months without having any explanation. This fact has also been considered by the Apex Court in the matter of **Kishan Singh (Supra)**. Relevant paragraph of the said judgment are quoted hereinbelow:-

21. Prompt and early reporting of the occurrence by the informant with all its vivid details gives an assurance regarding truth of its version. In case, there is some delay in filing the FIR, the complainant must give explanation for the same. Undoubtedly, delay in lodging the FIR does not make the complainant's case improbable when such delay is properly explained. However, deliberate delay in lodging the complaint is always fatal. [vide: Sahib Singh Vs. State of Haryana, AIR 1997 SC 3247].

22. In cases where there is a delay in lodging a FIR, the Court has to look for a plausible explanation for such delay. In absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an after thought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the Civil Court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case. (vide : Chandrapal Singh & Ors. Vs. Maharaj Singh & Anr., AIR 1982 SC 1238; State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors., AIR 1992 SC 604; G. Sagar Suri & Anr. Vs. State of U.P. & Ors., AIR 2000 SC 754; and Gorige Pentaiah Vs. State of A.P. & Ors., (2008) 12 SCC 531).

14. From perusal of the facts of the case as well as law laid down by the Apex Court, it is required on the part of complainant to explain the delay, if any with cogent reasons, which is absolutely missing in this matter, therefore, criminal proceeding is bad and abuse the process of law.

15. Now coming to next issue as to whether in civil dispute, criminal proceedings may be initiated or not. This matter has very well considered and settled by this Court as well as Apex Court in the matter of ***Indian Oil Corporation vs. NEPC India Ltd. reported in (2006) 6 SCC 736., Usha Chakraborty vs. State of West Bengal reported in 2023 SCC Online SC 90, Ramawatar vs. State of M.P., reported in (2022) 13 SCC 635 and B. Venkateswaran and ors. Vs. P. Bakthavatchalam reported in AIR 2023 SC 262.***

16. I have perused the judgment of Apex Court in the case of ***Indian Oil Corporation (Supra)*** and relevant paragraph of the said judgment is quoted hereinbelow:-

"13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of U.P [2000 (2) SCC 636], this Court observed :

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

17. I have also perused the judgment of Apex Court in the case of ***Usha Chakarborty (Supra)*** and relevant paragraph of the said judgment is quoted hereinbelow:-

15. *The materials on record pertaining to the said pleadings instituted in the Civil Suit, produced in this proceeding would reveal that the respondent was in fact ousted from the membership of the trust. In the counter affidavit filed in this proceeding, the respondent has virtually admitted the pendency of the suit filed against his removal from the post of Secretary and the trusteeship and its pendency. The factum of passing of adverse orders in the interlocutory applications in the said Civil Suit as also the prima facie finding and conclusion arrived at by the Civil Court that the respondent stands removed from the post of Secretary and also from the trusteeship are also not disputed therein. Then, the question is why would the respondent conceal those relevant aspects? The indisputable and undisputed facts (admitted in the counter-affidavit by the respondent) would reveal the existence of the civil dispute on removal of the respondent from the post of Secretary of the school as also from the trusteeship. Obviously, it can only be taken that since the removal from the office of the Secretary and the trusteeship was the causative incident, he concealed the pendency of the civil suit to cover up the civil nature of the dispute.*

16. *By non-disclosure the respondent has, in truth, concealed the existence of a pending civil suit between him and the appellants herein before a competent civil court which obviously is the causative incident for the respondent's allegation of perpetration of the aforesaid offences against the appellants. We will deal with it further and also its impact a little later. There cannot be any doubt with respect to the position that in order to cause registration of an F.I.R. and consequential investigation based on the same the petition filed under Section 156(3), Cr.P.C., must satisfy the essential ingredients to attract the alleged offences. In other words, if such allegations in the petition are vague and are not specific with respect to the alleged offences it cannot lead to an order for registration of an F.I.R. and investigation on the accusation of commission of the offences alleged. As noticed hereinbefore, the respondent alleged commission of offences under Sections 323, 384, 406, 423, 467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said allegation and the ingredients to attract them, as adverted to hereinbefore would reveal that the allegations are vague and they did not carry the essential ingredients to constitute the alleged offences. There is absolutely no allegation in the complaint that the appellants herein had caused hurt on the respondent so also, they did not reveal a case that the appellants had intentionally put the respondent in fear of injury either to himself or another or by putting him under such fear or injury, dishonestly induced him to deliver any property or valuable security. The same is the position with respect to the alleged offences punishable under Sections 406, 423, 467, 468, 420 and 120 B, IPC. The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegation against the appellants herein in respect of the aforesaid offences.*

The factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature. The appellants and the respondents have given a cloak of criminal offence in the issue. In such circumstance when the respondent had already resorted to the available civil remedy and it is pending, going by the decision in Paramjit Batra (supra), the High Court would have quashed the criminal proceedings to prevent the abuse of the process of the Court but for the concealment.

17. In the aforesaid circumstances, coupled with the fact that in respect of the issue involved, which is of civil nature, the respondent had already approached the jurisdictional civil court by instituting a civil suit and it is pending, there can be no doubt with respect to the fact that the attempt on the part of the respondent is to use the criminal proceedings as weapon of harassment against the appellants. The indisputable facts that the respondent has filed the pending title suit in the year 2015, he got no case that he obtained an interim relief against his removal from the office of Secretary of the School Managing Committee as also the trusteeship, that he filed the stated application for an order for investigation only in April, 2017 together with absence of a case that despite such removal he got a right to get informed of the affairs of the school and also the trust, would only support the said conclusion. For all these reasons, we are of the considered view that this case invites invocation of the power under Section 482 Cr.P.C. to quash the FIR registered based on the direction of the Magistrate Court in the afore-stated application and all further proceeding in pursuance thereof. Also, we have no hesitation to hold that permitting continuance of the criminal proceedings against the appellants in the aforesaid circumstances would result in abuse of the process of Court and also in miscarriage of justice.

18. Similar matter was also come up before the Apex Court in the matter of **Ramawatar (Supra)**. Relevant Paragraph of the said judgment is quoted hereinbelow:-

“17. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.

19. This issue was again come before the Apex Court in the matter of **B. Venkateshwaran (Supra)** wherein Apex Court has also taken the same view. Relevant paragraph of the said judgments are quoted hereinbelow:-

“We have heard Shri Nagamuthu, learned senior counsel for the appellants – original accused and the respondent appearing in person. We have also gone through the complaint and considered the allegations in the complaint made against the accused. Having considered the allegations in the complaint and the material on record, it appears that initiation of the criminal proceedings by the respondent against the appellants – original accused for the offence under the provisions of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#) is nothing but an abuse of process of law and the court and also provision of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#). It appears that a private dispute was going on between the parties with respect to the illegal construction. As per the allegations in the complaint, the original complainant had purchased the vacant land and constructed the building. It is alleged that adjacent to his house and on the common pathway, the accused have unlawfully encroached upon the pathway and started constructing the temple and thereby have put up illegal construction on his water pipeline, sewage pipeline and EB Cable. In the entire complaint, there are no allegations that the complainant is obstructed and / or interfered with enjoyment of his right on his property deliberately and willfully knowing that complainant belongs to SC/ST. From the material on record, it appears that a civil dispute is converted into criminal dispute and that too for the offence under the provisions of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#). Prior to filing of the complaint, it appears that the temple was already in existence since many years. The complainant, who resides adjacent to the temple, filed WP No. 1272 of 2007 before the Madras High Court. Pursuant to the order passed by the High Court, the Commissioner of Corporation, Chennai conducted the inspection and found that there was absolutely no encroachment by the temple. It appears that thereafter the complainant filed another Writ Petition No. 30326 of 2013 before the Madras High Court. The High Court directed the official respondent to proceed with the inquiry against both the parties. At this stage, it is required to be noted that it was the case on behalf of the original accused that in fact complainant had violated all building norms and had constructed a building in blatant violation of the set-back rules and had also put-up unauthorized construction on the ground floor and first floor. That thereafter, the Temple filed writ petition being No.3322 of 2017 before the High Court. The Division Bench of the High Court vide order dated 10.2.2017 stayed the proceedings against temple. It appears that thereafter the complainant filed a private complaint for the aforesaid offences under the provisions of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#). From the aforesaid, it seems that the private civil dispute between the parties is converted into criminal proceedings. Initiation of the criminal proceedings for the offences under [Sections 3\(1\)\(v\)](#) and (va) of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#), therefore, is nothing but an abuse of process of law and Court. From the material on record, we are satisfied that no case for the offences under [Sections 3\(1\)\(v\)](#) and (va) of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#) is made out, even prima facie. None of the ingredients of [Sections 3\(1\)\(v\)](#) and (va) of the Scheduled Castes and the [Scheduled Tribes \(Prevention of Atrocities\) Act, 1989](#) are made out and/ or satisfied. Therefore, we are of the firm opinion and view that in the facts

and circumstances of the case, the High Court ought to have quashed the criminal proceedings in exercise of powers under [Section 482](#) of the Code of Criminal Procedure. The impugned judgment and order passed by the High Court, therefore, is unsustainable and the same deserves to be quashed and set aside and the criminal proceedings initiated against the appellants deserves to be quashed and set aside.”

20. Judgements are very much clear that in the matter of civil dispute, criminal proceedings cannot be initiated. In the present case, it is tenancy dispute, which is civil in nature, therefore, criminal proceedings is bad and gross misuse of process of law.

21. There is another issue as to whether any case is made out under the provisions of SC/ST Act or not. This matter has very well considered by the Apex Court in the case of **Hitesh Verma (Supra)** and relevant paragraph of the said judgment is quoted hereinbelow:

“16. There is a dispute about the possession of the land which is the subject matter of civil dispute between the parties as per respondent No.2 herself. Due to dispute, appellant and others were not permitting respondent No.2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

22. The appellant had sought quashing of the charge-sheet on the ground that the allegation does not make out an offence under the Act against the appellant merely because respondent No. 2 was a Scheduled Caste since the property dispute was not on account of the fact that respondent No. 2 was a Scheduled Caste. The property disputes between a vulnerable section of the society and a person of upper caste will not disclose any offence under the Act unless, the allegations are on account of the victim being a Scheduled Caste. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar, any person to protect his rights by way of a procedure established by law.”

22. Similar matter was also come before this Court in the matter of **Ashrafi (Supra)**. Relevant paragraph of the said judgments are quoted hereinbelow:-

“9. The evidence and materials on record do not show that the appellant had committed rape on the victim on the ground that she belonged to Scheduled Caste. Section 3(2)(v) of the SC/ST Prevention of Atrocities Act can be pressed into service only if it is proved that the rape has been committed on the ground that PW-3 Phoola Devi belonged to Scheduled Caste community. In the absence of evidence proving intention of the appellant in committing the offence upon PW-3-

Phoola Devi only because she belongs to Scheduled Caste community, the conviction of the appellant under Section 3(2)(v) of the SC/ST Prevention of Atrocities Act cannot be sustained.

23. The similar view is again taken by the Apex Court in the matter of **Khuman Singh (Supra)**. Relevant paragraph of the said judgment are quoted hereinbelow:-

“9. The evidence and materials on record do not show that the appellant had committed rape on the victim on the ground that she belonged to Scheduled Caste. Section 3(2)(v) of the SC/ST Prevention of Atrocities Act can be pressed into service only if it is proved that the rape has been committed on the ground that PW-3 Phoola Devi belonged to Scheduled Caste community. In the absence of evidence proving intention of the appellant in committing the offence upon PW-3-Phoola Devi only because she belongs to Scheduled Caste community, the conviction of the appellant under Section 3(2)(v) of the SC/ST Prevention of Atrocities Act cannot be sustained¹³. In Dinesh alias [Buddha v. State of Rajasthan](#) (2006) 3 SCC 771, the Supreme Court held as under:-

“15. Sine qua non for application of [Section 3\(2\)\(v\)](#) is that an offence must have been committed against a person on the ground that such person is a member of Scheduled Castes and Scheduled Tribes. In the instant case no evidence has been led to establish this requirement. It is not case of the prosecution that the rape was committed on the victim since she was a member of Scheduled Caste. In the absence of evidence to that effect, Section 3(2)(v) of the Atrocities Act been applicable then by operation of law, the sentence would have been imprisonment for life and fine.

As held by the Supreme Court, the offence must be such so as to attract the offence under [Section 3\(2\)\(v\)](#) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to “Khangar”-Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under [Section 3\(2\)\(v\)](#) of the Scheduled Castes and [Scheduled Tribes \(Prevention of Atrocities\) Act](#) is not sustainable.”

24. Even in the matter of **Ramawatar (Supra) and Venkateshwaran (Supra)** discussed hereinabove with regard to civil dispute, Court has also taken the same view that in case offence has not been committed on account of caste of victim, no case is made out under the provisions of SC/ST, Act.

25. From perusal of the judgments, it is apparently clear that Apex Court has taken consistent view that in case incident took place due to caste of victim then provisions of SC/ST Act would be attracted, but the in the present case, it was tenancy dispute having nothing to do with the caste of

opposite party no.2, therefore, proceedings under the SC/ST Act is bad and cannot not be permitted to continue.

26. Therefore, under such facts and circumstances of the case as well as settled provisions of law, criminal proceedings initiated against the applicants are bad and liable to be quashed.

27. Now at belated stage, it appears that good sense prevailed in the mind of opposite party no.2 and in turn, he decided to file withdrawal application before the trial Court to withdraw the complaint, but even otherwise on merits too, no case is made out against the applicants in light of observations made hereinabove.

28. Accordingly, summoning order dated 18.5.2019 as well as entire proceedings of Complaint Case No. 171 of 2017 (Jai Kumar Harijan vs. Kunal Shah and others) renumbered as Sessions Case No. 1506 of 2023 (State of U.P. vs. Kunal Shah and others), under Sections 323, 504, 506, 427 IPC and Section 3(2) (va) of SC/ST Act, pending in the court of Special Judge SC/ST, Allahabad are hereby quashed.

Application succeeds and **allowed**.

29. No order as to costs.

Order Date :- 31.10.2023

Junaid