



2025:AHC:174627

Reserved on 1.8.2025

Delivered on 26.9.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 11944 of 2024

Chandrakesh Bhardwaj

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s) : R.P.S. Chauhan

Counsel for Respondent(s) : Deepak Upadhyay, G.A., Sarvesh Kumar Mishra

Court No. - 89

HON'BLE JITENDRA KUMAR SINHA, J.

(Judgement)

1. Heard Mr. R.P.S. Chauhan, learned counsel for the appellant, Mr. Deepak Upadhyaya, learned counsel for the opposite party no. 2 and Mr. Rahul Asthana, learned AGA appearing for the State respondents.

2. The appellant has preferred this appeal under Section 14A(1) of S.C./S.T. (Prevention of Atrocities) Act, 1989 challenging the order dated 23.7.2024 passed by the learned Special Judge (SC/ST Act), Meerut in Complaint No. 26 of 2023 (Smt. Amarwati vs. Chandrakesh Bhardwaj and another), under Sections 406, 420, 467, 468, 471, 120-B, 506 IPC and Section 3(2)5 SC/ST Act, Police Station Kankarkheda, District Meerut.

3. The appellant herein Chandrakesh Bhardwaj has been summoned to face trial under Section 204 of Criminal Procedure Code (hereinafter referred to as the 'CrPC') for the offences under the aforesaid sections. The appellant has

preferred this appeal on the grounds that the order impugned passed by the learned trial Court is arbitrary and against the provisions of law and the same is against the weight of evidence. The appellant has also taken the ground that there was no motive on the part of him to commit the alleged offence and there is no credible evidence against him for commission of the said offence. Further, the grounds have been taken that there are major discrepancies in the prosecution story and no caste insulting words were allegedly used by the appellant to the informant and the injured and there is a delay of six months and 27 days in lodging the complaint.

4. The facts in brief is that the an application under Section 156(3) was filed by the opposite party no. 2-Smt. Amarwati against the appellant and co-accused Bijendra, which was treated as a complaint case by the learned Special Judge (SC/ST Act), Meerut bearing Complaint No. 26 of 2023 (Smt. Amarwati vs. Chandrakesh Bhardwaj and another) alleging therein that the complainant i.e. opposite party no. 2 herein is a housewife and does labour work to support her and her family members. One Chandrakesh Bhardwaj (appellant herein) is a clever person who induced her husband Omveer to execute the sale deed of his plot, which was situated at Medical, Garh Road, Meerut through brokers and in its place some other plot was shown to her at Mansha Devi Road, Aurangshahpur Diggi, Garh Road, Meerut. It is further alleged that the appellant introduced the complainant to co-accused Bijendra and by making false promise persuaded her to purchase a plot from co-accused Bijendra. The appellant and the co-accused Bijendra shared the amount received from the complainant and out of Rs. 5,00,000/-, Rs. 1,50,000/- was taken by the appellant and the remaining Rs. 3,50,000/- was taken by co-accused Bijendra. It is also alleged that on 30.1.2021 the appellant and the co-accused Bijendra by committing forgery executed a forged document showing the same to be a

sale deed and deceived her by taking consideration money. When the complainant came to know that no sale deed has been executed, she asked the appellant and the co-accused to return the money received by them to her but they indulged in dilly-dallying and they took her to the forest where they committed rape on her after giving threats and they also used abusive language and caste name like '*Chamari Chamatti*'. It is further alleged that the complainant approached the police for registration of the first information report but the same was not registered and thereafter she filed instant complaint.

5. The learned Special Judge recorded the statement of the victim i.e. opposite party no. 2 under Section 200 CrPC and other witnesses i.e. Brahmpal and Syad Mohammad under Section 202 CrPC wherein they have supported the allegation and after hearing the argument of the complainant passed the order impugned and summoned the appellant and co-accused Bijendra to face trial under Sections 406, 420, 467, 468, 471, 120-B, 506 IPC and Section 3(2)5 SC/ST Act.

6. It is contended by the learned counsel for the appellant that the present prosecution is an abuse of process of the Court. It is further submitted that the complainant has earlier filed an application under Section 156(3) CrPC bearing No. 875 of 2022 against the appellant and the co-accused Bijendra for the allegation under Sections 376, 420, 467, 468, 471, 120B, 504, 506 IPC and Section 3(1)(10) SC/ST Act alleging the same facts as contained in the instant complaint, in which, by order of the learned Magistrate, a first information report under Sections 323, 504, 506 and Section 3(2)(va) SC/ST Act was registered. Learned counsel for the appellant submits that two FIRs cannot be lodged for the same offence and subsequent prosecution is barred

in view of the law laid down by Hon'ble Apex Court in **T.T. Antony vs. State of Kerala and others**, (2001) 6 SCC 181. It is further submitted that from bare reading of the allegation in the application under Section 156(3) CrPC, the matter relates to some civil dispute and it has been given the colour of criminality. It is further submitted that the delay of six months and 27 days in filing the complaint is itself a circumstance, which raises doubt on the veracity of the allegation. It is also submitted that the learned Special Judge has not found the allegation of rape to be true and has not summoned the appellant to face trial under Section 376 IPC. It is also submitted that the learned Special Judge erred in exercising the jurisdiction and no offence under SC/ST Act is made out as nowhere it is alleged in the complaint that the appellant committed the offence simply on the ground that the opposite party no. 2 was a member of SC/ST community. Learned counsel for the appellant has referred to the various provisions of SC/ST Act and submitted that simply the offence committed against a member of SC community does not amount to an offence under SC/ST Act but for bringing the offence under the purview of SC/ST Act it is the intention to commit the offence only because the victim is a member of SC/ST community. Learned counsel for the appellant has placed reliance on a judgement of Hon'ble Apex Court rendered in the case of **Inder Mohan Goswami and another vs. State of Uttaranchal and others**, (2007) 12 SCC 1. In view of the above, learned counsel for the appellant submits that learned Special Judge has failed to appreciate the facts in right perspective and has erred in summoning the appellant to face trial.

7. On the other hand, Sri Deepak Upadhyay, learned counsel for the opposite party no. 2 submits that from the averments of the complaint a cognizable offence is disclosed and the learned Special Judge has rightly passed the order impugned herein. It is submitted that the complaint discloses an offence

of criminal breach of trust and commission of forgery by the appellant and co-accused and also offences under the SC/ST Act are also disclosed. It is further submitted that the date of commission of offence in the first prosecution is not the same as the date of commission of the offence in the instant case, therefore, present prosecution cannot be a bar in view of the earlier case filed by the opposite party no. 2 against the appellant. It is also submitted that from bare reading of the complaint if there is element of criminality, the criminal law can be set in motion even if the facts disclose civil dispute. In support of his arguments, he has placed reliance on a judgement of Hon'ble Apex Court rendered in **Hon'ble Apex Court in Indian Oil Corpn. vs. NEPC India LTD. And others**, (2006) 6 SCC 736.

8. I have considered the rival submissions advanced by the learned counsel for the parties.

9. The opposite party no. 2 (complainant) earlier filed an application under Section 156(3) CrPC bearing Application No. 875 of 2022 stating therein that the applicant induced her to sell her plot at Medical, Garh Road, Meerut and in its place he had shown another plot of Mansha Devi Road, Aurangshahpur Diggi, Garh Road, Meerut. She has further stated that by giving false promise he induced her to enter into agreement with the owner of the second plot Bijendra. It is further submitted that the appellant Chandrakesh Bhardwaj herein and co-accused Bijendra got the consideration money, which was received by the complainant from the sale of first plot and the appellant retained Rs. 1,50,000/- with him and remaining Rs. 3,50,000/- was given to co-accused Bijendra. It is further submitted by her that when no sale deed was executed by the co-accused Bijendra, then the complainant asked for return of the amount, which was not given to her by the appellant and co-accused.

When she repeated her request for refund of the money, the appellant and the co-accused Bijendra used caste language and insulted her. On the basis of the above application under Section 156(3) CrPC, a case was registered on 12.7.2023 under Sections 320, 504, 506 IPC and Section 3(2)(va) SC/ST Act. After investigation, a chargesheet was submitted and cognizance of the said offence was taken by the Special Judge vide order dated 14.9.2023.

10. Present prosecution has been lodged by filing a complaint dated 6.2.2023 by the opposite party no. 2 (complainant) stating therein the identical facts with addition that she has stated that on 10.7.2022 the appellant and co-accused took the victim to the forest of Kankarkheda on the pretext of refunding her money and committed repeated rape on her and threatened her that if she disclosed any one about the incident, her son and she would be killed. The complainant has further stated that she made request for refund of money, but the same was not returned to her and she was abused by using caste name and was threatened by the appellant and co-accused Bijendra. The said application under Section 156(3) CrPC was dismissed vide order dated 14.3.2023 by the learned Special Judge, against which the opposite party no. 2 approached this Court and this Court vide order dated 21.8.2023 passed in Criminal Appeal No. 3552 of 2023 (Amarvati vs. State of UP and 2 others) remanded the matter back to the Special Judge to consider her application under Section 156(3) CrPC afresh.

11. On remand by this Court, learned Special Judge treated the application under Section 156(3) CrPC as a complaint case and after examining the complainant under Section 200 CrPC and the witnesses Brahmpal and Syad Mohammad under Section 202 CrPC, impugned order has been passed on 23.7.2024 whereby learned Special Judge has summoned the appellant

Chandrakesh Bhardwaj and co-accused Bijendra to face the trial under Sections 406, 420, 467, 468, 471, 120-B, 506 IPC and Section 3(2)5 SC/ST Act.

12. Present appeal has been filed under Section 14(A) of the SC/ST Act, which reads as under:

Section 14(A)

“14A. Appeals- (1) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.*

(2) *Notwithstanding, anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.*

(3) *Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgement, sentence or order appealed from:*

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) *Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.”*

13. From perusal of the above provisions, it is clear that any order passed under the SC/ST Act can be challenged before the High Court by filing an appeal both on facts and on law. The Hon'ble Apex Court in the case of **Mohd. Wajid and another vs. State of Uttar Pradesh and others**, (2023) 20 SCC 219 has held as under:

“33. *In the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a prima facie case to constitute the offence punishable under Section 506 IPC may probably*

could be said to have been disclosed but not under Section 504 IPC. The allegations with respect to the offence punishable under Section 504 IPC can also be looked at from a different perspective. In the FIR, all that the first informant has stated is that abusive language was used by the accused persons. What exactly was uttered in the form of abuses is not stated in the FIR.

34. *One of the essential elements, as discussed above, constituting an offence under Section 504 IPC is that there should have been an act or conduct amounting to intentional insult. Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult. In the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present.*

35. *However, as observed earlier, the entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] . The parameters are : (SCC pp. 378-79, para 102)*

“102. ... (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or

where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In our opinion, the present case falls within Parameters Nos. 1, 5 and 7, respectively, referred to above.

36. *At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.*

37. *We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.*

38. *In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.*

39. *In State of A.P. v. Golconda Linga Swamy [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held : (SCC pp. 526-27, paras 5-7)*

“5. ... Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any

proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

6. In *R.P. Kapur v. State of Punjab* [*R.P. Kapur v. State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] , this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC para 6)

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death."

14. On perusal of the principles laid down in the above judgement, it is amply clear that when an application is filed under Section 482 CrPC for quashing the criminal proceedings, the Court must look consciously and carefully to the allegations made in the first information report as well as the attending circumstances.

15. Similar view has been reiterated by the Hon'ble Apex Court in the latest judgement rendered in the case of **Pradeep Kumar Kesarwani vs. State of**

Uttar Pradesh and Another, 2025(4) RCR (Criminal) 119, paragraphs 16 to 20 and 23 whereof are quoted as under:

“16. It is by now well settled that summoning any person on the basis of a frivolous or vexatious complaint is something very serious. This would tarnish the image of the person against whom false, frivolous and vexatious allegations are levelled.

17. The duty of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance was delineated by this Court in Mohammad Wajid v. State of U.P., reported as 2023 SCC OnLine SC 951. We may refer to the following observations:

“34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.” (Emphasis supplied)

18. There is a clear distinction between rape and consensual sex and in a case where there is a promise of marriage, the Court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the latter falls in the ambit of cheating or deception.

19. In the aforesaid context, we may refer to and rely upon the decision of this

Court in the case of Deepak Gulati Vs. State of Haryana reported in 2013 Criminal Law Journal 2990. This Court made the following observations:

“18. Consent may be express or implied, coerced or misguided, obtained willingly or through deceit. Consent is an act of reason, accompanied by deliberation, the mind weighing, as in a balance, the good and evil on each side. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had mala fide motives, and had made a false promise to this effect only to satisfy his lust, as the latter falls within a ambit of cheating or deception. There is a distinction between the mere breach of a promise, and not fulfilling a false promise. Thus, the court must examine whether there was made, at an early stage a false promise of marriage by the accuse; and whether the consent involved was given after wholly, understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused, and not solely on account of misrepresentation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, of which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was male fide, and that he had clandestine motives.

21. Hence, it is evident that there must be adequate evidence to show that at the relevant time, i.e. at initial stage itself, the accused had no intention whatsoever, of keeping his promise to marry the victim. There may, of course, be circumstances, when a person having the best of intentions is unable to marry the victim owing to various unavoidable circumstances. The “failure to keep a promise made with respect to a future uncertain date, due to reasons that are not very clear from the evidence available, does not always amount to misconception of fact. In order to come within the meaning of the term misconception of fact, the fact, the fact must have an immediate relevance.” Section 90, IPC cannot be called into aid in such a situation, to pardon the act of a girl in entirety, and fasten criminal liability on the other, unless the court is assured of the fact that from the very beginning, the accused had never really intended to marry her.” (Emphasis supplied)

20. *The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-*

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been

refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar & Ors. v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013))]

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23. *In such circumstances, the High Court should have exercised its inherent powers under Section 482 of the Code for quashing of the criminal proceedings.”*

16. From perusal of the averments made in Misc. Application no. 875 of 2022 the application filed under Section 156(3) CrPC and present prosecution, the averments are almost identical except that in the present prosecution, additional allegation of rape has been levelled against the appellant, however, the learned Special Judge has not found the said allegation true and has not summoned the appellant to face trial for the offence of rape.

17. In view of the principles laid down by Hon'ble Apex Court in *Mohd Wazid* (supra) and *Pradeep Kumar Kesarwani* (supra), the Court is enjoined to look into the allegations carefully and also look into the attending circumstances.

18. On the above premise, crux of the allegation against the appellant is that the appellant and co-accused have not returned the earnest money received by them and the opposite party no. 2 (complainant) has filed earlier prosecution as well as the present prosecution to realize and recover the said amount from the appellant and the co-accused. Though the principles laid down by the Hon'ble Apex Court in the above two judgements relates to

Section 482 CrPC but so far as the offences under the SC/ST Act are concerned, the only provision which provides to challenge any order is by way of filing an appeal under Section 14(A) of SC/ST Act, therefore, the principles enunciated in the above judgements will apply to the proceedings under Section 14(A) of SC/ST Act.

19. Further, it is also pertinent to mention that present prosecution has been lodged after a delay of more than six months and as per prosecution version, the victim (opposite party no. 2) continued to make repeated request to the appellant and the co-accused Bijendra to return the earnest money even after the incident of rape and abuse by using the caste name was committed with her on 10.7.2022.

20. In view of the above, present prosecution is nothing but an abuse of process of the Court as it has been lodged with the intent and purpose of putting pressure on the appellant to return the earnest money received by him. The refund of earnest money is a civil dispute for which civil remedy lies.

21. The Hon'ble Supreme Court in the latest judgement of **S.N. Vijayalakshmi vs. State of Karnataka**, 2025 INSC 917 (2025 LiveLaw (SC) 758) has held that where the allegation purely reflects civil dispute, no criminal prosecution can be initiated on its basis. Similar view has been expressed by Hon'ble Supreme Court in **Paramjeet Batra vs. State of Uttarakhand**, (2013) 11 SCC 673 and in **C. Subbiah @ Kadambur Jayaraj and Ors. Vs. The Superintendent of Police and Ors.**, 2024 INSC 416. Already the appellant and the co-accused are facing a criminal case on identical facts filed by the opposite party no. 2. It is also wroth to note that the present prosecution has been lodged after a delay of more than six months, which raises question on the intent and purpose of filing the present prosecution.

22. In view of the principles laid down by Hon'ble Supreme Court in *Mohd Wazid* (supra) and *Pradeep Kumar Kesarwani* (supra) by carefully going through the allegation in the instant complaint and the attending facts and circumstances of the case, entire proceedings are liable to quashed against the appellant herein and the appeal is liable to be allowed.

23. Accordingly, present appeal stands **allowed**. The impugned order dated 23.7.2024 passed by the learned Special Judge (SC/ST Act), Meerut in Complaint No. 26 of 2023 (Smt. Amarwati vs. Chandrakesh Bhardwaj and another), under Sections 406, 420, 467, 468, 471, 120-B, 506 IPC and Section 3(2)5 SC/ST Act, Police Station Kankarkheda, District Meerut are hereby set aside against the appellant herein.

September 26, 2025

Abhishek

(Jitendra Kumar Sinha,J.)