2026:AHC:187228

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3166 of 2026

Smt Nirmala Singh And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Mamta Sen, Sr. Advocate
Counsel for Respondent(s)	:	Aditya Mishra, Awaneesha Kumar, G.A., Rajesh Kumar

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Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant, learned counsel for O.P. No.2 and learned AGA for the State.

2. The present criminal appeal has been filed by the appellants to set aside the summoning order dated 01.06.2022 passed by learned Special Judge (S.C./S.T. Act), Allahabad in Special Session Trial No.274 of 2022 (State of U.P. vs. Smt. Nirmala Singh and another) arising out of Case Crime No.263 of 2021 under Sections 323, 504 and 506 IPC and Sections 3(1)(r) and 3(1)(s) of the SC/ST Act, P.S.- Industrial Area, District- Prayagraj. He further prays to stay the proceedings in the present case.

3. In the First Information Report, the accused-appellants, namely Nirmala Singh and Rajkumar Singh, are named. The allegation against the appellants is that appellant no.1, Nirmala Singh, was working as the Warden of Kasturba Gandhi Awasiya Balika Vidyalaya, while the informant/victim, Phool Chand, was serving as a Chowkidar in the aforesaid school. It is alleged that the victim, who generally worked as a labourer and occasionally supplied milk to the appellant Nirmala Singh, had some confrontation with the appellants, whereafter the accused-appellants, who are husband and wife, allegedly caused injuries to him.

4. Learned counsel for the appellants submits that the FIR dated 29.12.2021, regarding the alleged incident of 26.12.2021, is a false and belated counterblast. Though caste-based abuse and assault are alleged, the medical report shows no injury, and the statements of witnesses

Ritanjali and Seema do not support the allegation of caste-related words. The informant had earlier faced complaints regarding dereliction of duty, including a complaint by appellant No.1, providing motive for false implication. The charge-sheet was submitted on 04.02.2022 and the appellants were summoned on 01.06.2022 without proper application of judicial mind. The appellants had no knowledge of the proceedings or service of summons and learnt of the case only upon issuance of warrants. Hence, the delay in filing the appeal deserves to be condoned and the proceedings set aside.

5. Per contra, learned AGA and learned counsel for O.P. No.2 submit that the FIR specifically names both appellants and contains clear allegations of assault and caste-based abuse. The investigating officer, after investigation, found sufficient material and submitted the charge-sheet dated 04.02.2022. The alleged misconduct of the informant and previous complaints are matters of defence and cannot be adjudicated at the summoning stage. The absence of injury in the medical report does not by itself negate the prosecution case. Since sufficient material existed against the appellants, the summoning order calls for no interference, and the appeal, including the delay, deserves dismissal.

6. Admittedly, the injury report of the injured/victim Phool Chand, which was prepared after a delay of three days on 29.12.2021, does not disclose any specific or visible injury and merely records a complaint of pain. It has further been stated that victim Phool Chand was appointed in the aforesaid school as a Class-IV employee/Gatekeeper and that, owing to alleged negligence in the discharge of her duties, the matter was brought to the notice of the Basic Shiksha Adhikari, Prayagraj, and a notice was consequently issued to her by the District Basic Shiksha Adhikari, Allahabad. Learned counsel for the opposite party fairly admits that subsequent to the incident, proceedings were also initiated against the informant/victim Phool Chand, pursuant to which he was removed from service and was thereafter engaged in the school as a Chowkidar on fixed wages. Significantly, neither the First Information Report nor the statement of the victim contains any specific or distinct allegation that the accused-appellants used any casteist slur with the intention of insulting or humiliating the victim on the ground of his belonging to the Scheduled

Caste/Scheduled Tribe community. Further, the alleged incident is stated to have taken place inside the house of appellant Nirmala Singh, which admittedly does not constitute a place within public view. Thus, the essential ingredients necessary to attract the offence under the SC/ST Act are not prima facie disclosed from the allegations contained in the FIR and the statement of the victim.

7. In the case of **Swaran singh Vs State (2008) 8 SCC 435,** the Hon'ble Apex Court drew a clear distinction between the expressions "public place" and "any place within public view." A private place may still be a place within public view if the incident is visible to members of the public. Conversely, merely because an incident occurs in a public building does not automatically satisfy the requirement if it is not within public view. The Supreme Court held that words such as "Chamar", though originally denoting a caste, may amount to an offence if used as a casteist abuse with intent to humiliate a member of the Scheduled Castes. The Court emphasized that words should be understood in their popular and social meaning, not merely their etymological meaning. For attracting Section 3(1)(x) (now Sections 3(1)(r) and 3(1)(s)), there must be intentional insult or intimidation, and intent to humiliate the victim because he or she belongs to a Scheduled Caste or Scheduled Tribe. Mere abuse or quarrel, without the requisite intention contemplated by the Act, is insufficient. The Court reiterated that criminal proceedings should continue only where the allegations disclose a prima facie offence against the particular accused. Proceedings may be quashed where the FIR does not disclose the essential ingredients against an accused.

8. In **Gorige Pentaiah Vs state of AP & Ors 2009 Cri.L.J. 350,** Honble Apex court held "when the basic ingredients of the offence are missing in the complaint, then permitting such complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law." In the case of Hitesh Verma vs. State of Uttarakhand (2020) 10 SCC 710, the Hon'ble Suprme Court held that 'a dispute that arose inside the private house of a complainant over the possession of the land without the presence of independent public witnesses, does not satisfy the statutory threshold of Section 3(1)(r).

9. Having considered the rival submissions, the material brought on record, and the law laid down by the Hon'ble Supreme Court in the aforesaid decisions, this Court finds that the allegations contained in the First Information Report and the material collected during investigation do not prima facie disclose the essential ingredients of the offences punishable under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act. The dispute between the parties is primarily related to supply of milk and the injury report of the injured/victim Phool Chand, which was prepared after a delay of three days on 29.12.2021, does not disclose any specific or visible injury and merely records a complaint of pain. In the absence of any specific allegation of intentional caste-based insult or humiliation attracting the provisions of the SC/ST Act, permitting the criminal proceedings to continue would amount to an abuse of the process of law. Consequently, the impugned charge-sheet and the summoning order cannot be sustained in the eyes of law.

10. Consequently, the summoning order dated 01.06.2022 passed by learned Special Judge (S.C./S.T. Act), Allahabad in Special Session Trial No.274 of 2022 (State of U.P. vs. Smt. Nirmala Singh and another) arising out of Case Crime No.263 of 2021 under Sections 323, 504 and 506 IPC and Sections 3(1)(r) and 3(1)(s) of the SC/ST Act, P.S.- Industrial Area, District- Prayagraj, is hereby set aside.

11. The appeal is, accordingly, **allowed**.

12. Registrar (Compliance) is directed to communicate the instant order to the court concerned through District and Sessions Judge, Prayagraj by e-mail/FAX within three days.

(Santosh Rai,J.)

September 8, 2026
Ankit.

Digitally signed by :-
ANKIT VISHWAKARMA
High Court of Judicature at Allahabad