



2026:AHC:186906

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3935 of 2026

Lata Dohare

.....Appellant(s)

Versus

State Of U.P. And 11 Others

.....Respondent(s)

Counsel for Appellant(s)	: Rahul Chaudhary
Counsel for Respondent(s)	: Atul Pal, G.A., Pankaj Kumar Ojha, Vivek Singh

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard Sri Rahul Chaudhary, learned counsel for the appellant, Sri Pankaj Kumar Ojha, learned counsel for opposite party Nos. 2 to 8, 11 and 12, Ms. Monika Pal, advocate holding brief of Sri Atul Pal, learned counsel for opposite party Nos.9 and 10, and learned A.G.A. for the State and perused the record.
2. The present appeal has been filed under Section 14A(1) of S.C. & S.T. Act by the appellant challenging the impugned judgment and order dated 19.01.2026 passed by the learned Special Judge, SC/ST (P.A.) Act, Auraiya in Misc. Case No. 50 of 2025 (Lata Dohare Vs. Vipin & Others) under Section 173(4) of the B.N.S.S. whereby the complaint has been rejected.
3. Tersely, the prosecution case, as set out in the application under Section 173(4) BNSS, is that the appellant's son Nitin and Sapna Yadav were in a love relationship and had left their respective homes with mutual consent, due to which the opposite parties bore enmity towards the applicant and her family. It is alleged that on 21.10.2024 at about 8:30 a.m., the opposite parties, namely Vipin and others, along with some unknown persons, forcibly entered the appellant's house, abused and assaulted her and attempted to commit rape. It is further alleged that some of the accused forcibly took away the appellant's ornaments and cash amounting to Rs.5 lakh and Rs.10 lakh, while other accused unknown persons allegedly looted six buffaloes, twenty goats and two cows after assaulting the applicant.
4. Briefly, the grounds of the appeal are that the impugned judgment and order dated 19.01.2026 passed by the learned Special Judge, SC/ST (P.A.)

Act, Auraiya is wholly illegal and not sustainable in the eyes of law. The impugned order is based on surmises and conjunctures as such same is liable to be quashed.

5. The learned counsel for the appellant-complainant submits that the Special Court erred in rejecting the complaint under Section 226 BNSS, as the allegations disclosed commission of cognizable and serious offences, including forcible entry into the house, causing injuries, attempt to commit rape, theft/robbery of cash and ornaments. At the stage of consideration of the complaint, the court was required to examine whether there was sufficient ground for proceeding, and it was not expected to conduct a meticulous appreciation of the evidence as would be done at the stage of trial. The statements of the complainant and witnesses recorded during the inquiry constituted material requiring consideration, and merely because there were certain discrepancies or omissions, the complaint ought not to have been rejected at the threshold. It is further submitted that the contradiction concerning the date of occurrence dated 21.10.2024 in the application under Section 173(4) BNSS and 21.10.2023 in the appellant/complainant's statement was at best a discrepancy which could have been clarified during trial and was not sufficient by itself to discard the entire prosecution version. It is next submitted that the absence of a medical or injury report, particularly where the complainant stated that no such report had been prepared, cannot by itself demolish her allegation of assault or injuries. The occurrence may be proved through oral testimony and other surrounding circumstances.

6. Learned counsel for the opposite parties and learned A.G.A. for the State vehemently opposed the submission of learned counsel for the appellant and submitted that the allegations in the complaint were not corroborated by the statements recorded during inquiry or by any independent documentary or material evidence. Although the appellant-complainant alleged forcible entry, assault, attempted rape, theft of substantial amounts of cash and ornaments, and removal of numerous livestock, there was no reliable material produced in support of these allegations. The complainant alleged that she had suffered injuries, but in her statement recorded under Section 200 Cr.P.C./Section 223 BNSS she stated that no medical or injury report had been prepared. This materially weakened the allegation of assault and injuries. It is further submitted that the application under Section 173(4) BNSS specifically stated that the incident occurred on 21.10.2024 at about

8:30 a.m., whereas the appellant- complainant subsequently stated that the occurrence took place on 21.10.2023. The parties were admittedly involved in criminal litigation, and a case under Section 376 IPC read with the POCSO Act had already been registered against the appellant's son. This provided a strong background for false implication. The opposite parties may submit that the present complaint was instituted to exert pressure upon them and to create a counter-case in retaliation for the criminal proceedings pending against the appellant's son. It is further argued that the impugned order dated 19.01.2026 is based on proper consideration of the complaint, statements and surrounding circumstances and does not suffer from perversity or illegality warranting appellate interference.

7. The appellant-complainant, Lata Dohare, moved an application under Section 173(4) BNSS against Vipin, Sher Singh, Ganesh Singh, Sunil Kumar, Saurabh Singh, Prahlad Singh, Sugendra Singh, Santosh, Sudheesh, Ashok Kumar, Bharat Singh and four unknown persons. The application was treated as a complaint after recording the statements of the complainant and witnesses. The Special Court rejected the complaint under Section 226 BNSS vide impugned order dated 19.01.2026. The court found that although allegations were made regarding forcible entry into the house, causing injuries, an attempt to commit rape, removal of Rs.5 lakh and Rs.10 lakh and ornaments, and looting of six buffaloes, twenty goats and two cows but the allegations were not supported by the statements recorded during the inquiry or by any material evidence. The complainant's assertion regarding sustaining injuries was also found contradictory, as she stated in her statement recorded under Section 200 Cr.P.C./223 B.N.S.S. that no medical or injury report had been prepared. There was also a material contradiction regarding the date of occurrence. The application under Section 173(4) BNSS mentioned the incident as having occurred on 21.10.2024 at 8:30 a.m., whereas in her statement the appellant-complainant stated that the incident occurred on 21.10.2023. The parties admittedly had criminal rivalry, and a criminal case under Section 376 IPC read with the POCSO Act had been registered against the son of the appellant. In these circumstances, the court found substance in the view that the present complaint had been instituted as a counterblast to exert pressure in the earlier criminal case and with an ulterior motive.

8. Accordingly, in view of the material contradictions in the appellant-complainant's version, the absence of supporting medical or other material

evidence, the discrepancy regarding the date of occurrence, and the admitted criminal rivalry between the parties, the finding of the learned Special Court that the complaint was instituted as a counterblast to the earlier criminal proceedings and with an ulterior motive cannot be said to be perverse or contrary to the material on record. No ground is made out for interference with the impugned order dated 19.01.2026.

9. Consequently, the criminal appeal is **dismissed**. The impugned order dated 19.01.2026 passed by the learned Special Court rejecting the complaint under Section 226 of the BNSS is hereby affirmed.

September 8, 2026
Asha

(Santosh Rai,J.)