



2026:AHC:186831

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4488 of 2026

Raju Kuraishi @ Umardaraj

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	: Mohd. Samiuzzaman Khan, Sonmati Kumari
Counsel for Respondent(s)	: Ashish Pandey, G.A., Nikil Pathak

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard Mohd. Samiuzzaman Khan, learned counsel for the appellant, Shri Nikil Pathak, learned counsel for O.P. No.2 and learned AGA for the State.

2. The present criminal appeal has been filed by the appellant with a prayer to quash the chargesheet dated 19.02.2025 and to set aside the summoning/cognizance order dated 21.04.2025 passed by Special Judge, SC/ST Act, Ghaziabad in Special Sessions Case No.1228 of 2025 (State vs. Mehraj and others) arising out of Case Crime No.38 of 2025 under Sections 420, 406, 120B, 504 and 506 IPC and Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, P.S.- Loni, District- Ghaziabad.

3. In the First Information Report, the accused-appellant Raju Kuraishi @ Umardaraj, along with co-accused Mehraj and three other persons, has been named. The allegation against the accused-appellant is that he took a substantial amount from the victim towards execution of a sale deed in his favour in respect of Khasra No. 1245, situated at Village Banthla, Chirodi Road, in front of Mokshdham Mandir. An agreement to sell was also executed between the parties where the accused-appellant and other named accused persons, who, in connivance with one another, committed forgery and cheating upon the victim.

4. Learned counsel for the appellant submits that the FIR arises out of a purely civil dispute relating to a property/sale transaction, which has been

given a criminal colour to harass the appellant. The alleged incident is dated 10.03.2024, whereas the FIR was lodged on 17.01.2025, after an unexplained delay of about ten months. It is further submitted that the allegations regarding payment of Rs.2,41,000/- and non-execution of the sale deed do not constitute the ingredients of Sections 420, 406, 120-B, 504 and 506 IPC against the appellant. It is argued that there is no allegation of the alleged casteist utterance having been made within public view, an essential requirement for the relevant provisions of the SC/ST Act. Despite this, the Investigating Officer submitted the charge-sheet dated 19.02.2025 mechanically, followed by cognizance and summoning order dated 21.04.2025. Reliance is placed upon the judgments cited in the application to submit that a civil dispute cannot be given a criminal colour. Hence, the impugned proceedings are liable to be quashed. It is further contended that, in view of the law laid down by the Apex Court in **Delhi Race Club (1940) Ltd. and others vs. State of Uttar Pradesh and Another, (2024) 10 SCC 690**, the offences under Sections 420 and 406 IPC cannot be invoked simultaneously.

5. Per contra, learned AGA and learned counsel for the opposite party no.2 submit that the appellant is specifically named in the FIR and is alleged to have received Rs.2,41,000/- as advance for executing the sale deed, but neither executed the sale deed nor returned the amount. The informant's statement recorded under Section 180 BNSS reiterates the FIR allegations. It is submitted that after investigation, sufficient material was found against the appellant and the charge-sheet was duly submitted. Mere pendency of a civil dispute does not absolve the accused where the allegations disclose cognizable offences. The disputed facts, including the alleged casteist remarks and the appellant's role, are matters for trial and cannot be adjudicated in proceedings for quashing. Accordingly, the application deserves dismissal. Learned counsel for opposite party no.2 submits that charges have not yet been framed and, therefore, the learned trial court may examine, at the stage of framing of charge, whether offences under Sections 420 and 406 IPC can be framed simultaneously in light of the judgment of the Apex Court in Delhi Race Club (supra).

6. In the case of **Delhi Race Club (1940) Ltd. and others vs. State of Uttar Pradesh and Another, (2024) 10 SCC 690**, the Apex Court held

as under:

"Sections 406 and 420 IPC are distinct offences with different essential ingredients and ordinarily cannot be invoked together on the same set of facts. The Court explained that Section 420 IPC requires dishonest or fraudulent intention from the very inception of the transaction, whereas Section 406 IPC requires entrustment of property followed by dishonest misappropriation or conversion of the entrusted property. A mere breach of contract or failure to fulfil a promise does not constitute cheating, and in the absence of entrustment, the offence of criminal breach of trust is not made out. The Court deprecated the mechanical practice of invoking both provisions together without examining whether their essential ingredients are satisfied."

7. So far as the offence under the SC/ST Act is concerned, there is no material in the FIR or the case diary to indicate that the accused-appellant used any caste-based words or abused, insulted or humiliated the victim on the ground of his belonging to a Scheduled Caste or Scheduled Tribe. Admittedly, the dispute between the parties essentially arises from a transaction concerning the sale of the disputed property and the alleged payment of consideration, followed by non-execution of the sale deed in favour of the victim. Thus, the allegations, even if taken at their face value, essentially disclose a dispute arising out of a transaction relating to the disputed property. In the absence of any specific and reliable material demonstrating the requisite caste-based intent or conduct, the invocation of the provisions of the SC/ST Act against the accused-appellant does not appear to be justified.

8. Accordingly, the impugned summoning order is liable to be set aside only to the extent it summons the accused-appellant for the offences punishable under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act. The summoning of the accused-appellant for the offences punishable under Sections 420, 406, 120B, 504 and 506 IPC is affirmed, and the trial shall proceed in accordance with law in respect of the said offences. The prosecution has not pointed out any evidence of 'public view' and intentional insult/humiliation solely on the ground that victim belongs to SC/ST category.

9. 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.

10. 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 Supreme 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).

11. In the case of **Shajan Skraria vs. State of Kerala and another, 2024 SCC Online SC 2249**, the Hon'ble Apex Court by quoting the cases of **Hitesh Verma (Supra)** has held as under:

"13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to

humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste."

In Khuman Singh v. State of M.P., (2020) 18 SCC 763

"15. 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. Thus, the dictum as laid aforesaid is that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. I say so because the object behind the enactment of the Act, 1989 was to provide

stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status."

12. In **Inder Mohan Goswami & Another v. State of Uttaranchal & Others, AIR 2008 SC 251**, the Hon'ble Supreme Court held that criminal prosecution should not be permitted to be used as an instrument of harassment, oppression or private vendetta. Where criminal proceedings are initiated with an ulterior motive to exert pressure or to settle personal scores arising out of a dispute predominantly civil in nature, the High Court is justified in exercising its inherent jurisdiction to quash such proceedings

13. In **Ganga Dhar Kalita v. State of Assam, (2015) 9 SCC 647**, the Hon'ble Supreme Court reiterated that criminal proceedings should not be allowed to continue where they are instituted merely to harass the accused or to exert pressure in a civil dispute relating to property. The Court held that giving a criminal colour to a dispute which is essentially civil in nature amounts to an abuse of the process of law. At the same time, the Court clarified that the existence of a civil dispute by itself is not a ground for quashing criminal proceedings if the complaint *prima facie* discloses the commission of a cognizable offence.

14. Accordingly, having bestowed anxious consideration to the rival submissions and upon a careful scrutiny of the entire material available on record, this Court is of the considered opinion that the prosecution has failed to disclose even a *prima facie* case attracting the provisions of Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. The material collected during inquiry does not indicate that the alleged words or conduct were actuated by the caste of the informant or were intended to intentionally insult or humiliate the informant on the ground that he belonged to a Scheduled Caste or Scheduled Tribe, which is a *sine qua non* for constituting the offence under the aforesaid provisions, as explained by the Hon'ble Supreme Court in *Swaran Singh (supra)* further reaffirmed in *Hitesh Verma & Shajan Skaria (supra)*.

15. For the reasons recorded hereinabove, this Court is of the considered opinion that the essential ingredients constituting the offence under Section 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act are conspicuously absent from the material collected during inquiry/investigation, and the continuance of proceedings for the said offences would amount to an abuse of the process of law. Consequently, the appeal under Section 14-A of the SC/ST Act succeeds in part.

16. Thus, the chargesheet dated 19.02.2025 and the summoning/cognizance order dated 21.04.2025 passed by Special Judge, SC/ST Act, Ghaziabad in Special Sessions Case No.1228 of 2025 (State vs. Mehraj and others) arising out of Case Crime No.38 of 2025 under Sections 420, 406, 120B, 504 and 506 IPC and Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, P.S.- Loni, District- Ghaziabad, is modified to the extent that the appellant stands discharged of the offences punishable under Section 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act.

17. Since, prima facie case is made out against the appellant to initiate proceedings under Sections 420, 406, 120B, 504 and 506 IPC, therefore, the trial under IPC shall continued and be concluded expeditiously, in accordance with law. If charge has not been framed in this case yet, the learned trial court may examine and consider, at the stage of framing of charge, whether offences under Sections 420 and 406 IPC (both) be made out and charges may be framed simultaneously in light of *Delhi Race Club (supra)*. The trial court shall proceed uninfluenced by any observation made herein on the merits of the case.

18. With the above observation, the appeal is **partly allowed**.

19. The appellant is directed to appear before the court concerned and move bail application, within two weeks from today. It is made clear that no application seeking extension of the aforesaid period shall be entertained by this court.

20. In case, the appellant moves bail application before the court concerned, the same shall be considered and decided by the trial court expeditiously and preferably on the same day, in light of principles laid

down by the Supreme Court as well as this Court regarding surrender and bail.

21. In case, the appellant fails to appear before the court concerned within the stipulated period, the trial court will be at liberty to adopt appropriate coercive proceedings, in accordance with law, for securing the presence of the appellants.

22. Registrar (Compliance) is directed to serve a copy of this order by FAX/e-mail to the court concerned through District & Sessions Judge, Ghaziabad within three days.

(Santosh Rai,J.)

September 8, 2026

Ankit.