2026:AHC:210205

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5724 of 2021

Anantu And 3 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Raj Kumar Kesari
Counsel for Respondent(s)	:	Anamika Srivastava, Dhirendra Kumar Srivastava, G.A., Shaloo Singh

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. Despite last opportunity granted to learned counsel for opposite party no.2, none appears on behalf of opposite party no.2.

2. Heard learned counsel for the appellants and learned AGA for the State.

3. The present criminal appeal has been filed by the appellants with a prayer to set aside the impugned cognizance/summoning order dated 16.11.2021 passed by Special Judge, SC/ST Act, Mirzapur in Complaint Case No.42 of 2021 (Heera Lal vs. Anantu & Ors.), P.S.- Hallia, District- Mirzapur, whereby the appellants/applicants have been summoned under Sections 323, 504 IPC and Section 3(1)(r), 3(1)(s) of SC/ST Act.

4. Learned counsel for the appellants submits that the allegations made in the application under Section 156(3) Cr.P.C./complaint are false, exaggerated and arise out of a prior dispute between the parties. It is submitted that an NCR had already been lodged by co-accused Rajnish Kumar against the complainant Hiralal and Chhote Lal in respect of the same incident, which clearly indicates that the present complaint is a counterblast. It is further submitted that there is no specific allegation of any casteist remark or utterance against the appellants so as to attract the provisions of the SC/ST Act. The alleged injuries are also not corroborated by any independent medical evidence, particularly in respect of the wife of the complainant, who was not examined before the court. It is, therefore, submitted that the learned trial court erred in summoning the

appellants and the impugned order deserves to be set aside.

5. Learned AGA opposes the appeal and submits that the complainant, in his statement recorded under Section 200 Cr.P.C., has fully supported the allegations made in the complaint. The statements of PW-1 and PW-2 also corroborate the prosecution version regarding the incident and the injuries caused to the complainant. The injury report on record discloses two injuries sustained by the complainant. It is further submitted that at the stage of summoning, only a prima facie case is required to be seen and the evidence is not to be meticulously appreciated. The existence of an NCR lodged by one of the accused against the complainant is a matter of defence and cannot, at this stage, discredit the material available in support of the complaint. Accordingly, the appeal is liable to be dismissed.

6. An application under Section 156(3) Cr.P.C. was moved by the informant, Hiralal, against the accused persons, namely, Anantu, Santu, Rajnish and Rajender. The said application was subsequently treated as a complaint. The allegation made therein is that the complainant was that the informant Hiralal was talking with one Chhote Lal regarding the forthcoming village election. It is alleged that accused Rajender informed accused Anantu that Hiralal and Chhote Lal were abusing him while sitting on the roof. On receiving the aforesaid information, the accused persons allegedly reached the house of the complainant, abused him and used vulgar language. It is further alleged that they caused injuries to the complainant and entered into his house. During the course of inquiry, the statement of the complainant under Section 200 Cr.P.C. was recorded, wherein he supported the allegations made in the application under Section 156(3) Cr.P.C. He also stated that the accused persons entered into his house and that a part of the incident took place at the door of the house, while the remaining part occurred inside the house. Two witnesses, namely, PW-1 and PW-2, were also examined during the inquiry and they supported the allegation that the accused persons had caused injuries to the complainant.

7. However, it is an admitted fact that NCR No.247 of 2020 under Section 504 IPC was registered at Police Station Hallia, District Mirzapur, by

appellant no.3 Rajnish Kumar against Hiralal and Chhote Lal in respect of the incident of the same day, i.e. 09.08.2022, at about 10:00 p.m. The said fact indicates the existence of a dispute between the parties and is also a relevant circumstance while appreciating the allegations made in the complaint. So far as the allegation under the provisions of the SC/ST Act is concerned, neither the complaint nor the statements of the complainant and the witnesses disclose any specific and distinct casteist utterance or allegation showing that the accused persons committed the alleged offence with an intention to insult or humiliate the complainant on the ground that he belongs to SC/ST category. Thus, the essential ingredients of the offence under the SC/ST Act are not prima facie made out from the material available on record.

8. Admittedly, the injury report of the informant Hiralal is available on record, which discloses two injuries in the form of contusions. However, although the wife of the complainant is also stated to have sustained injuries, she was not examined before the court and no medical report relating to her injuries has been brought on record. Consequently, the allegation regarding the injuries allegedly caused to the wife of the complainant does not receive corroboration from any medical evidence. Nevertheless, so far as the allegations under the relevant provisions of the IPC, including Section 504 IPC, are concerned, the statements of the complainant and the witnesses, coupled with the medical evidence available on record, disclose sufficient prima facie material warranting consideration of the allegations against the accused persons. At the stage of summoning, a meticulous appreciation of evidence is not warranted and the material is only required to be examined from the standpoint of existence of a prima facie case.

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 & Anr., 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. 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

Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The material collected during investigation/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 belongs to SC/ST category.

13. For the reasons recorded hereinabove, this Court is of the considered opinion that the essential ingredients constituting the offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act are conspicuously absent from the material collected during 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 is **partly allowed**.

14. The order dated 16.11.2021 passed by Special Judge, SC/ST Act, Mirzapur in Complaint Case No.42 of 2021 (Heera Lal vs. Anantu & Ors.), P.S.- Hallia, District- Mirzapur, whereby the appellants/applicants have been summoned under Sections 323, 504 IPC and Section 3(1)(r), 3(1)(s) of SC/ST Act, is modified to the extent that the appellants stand discharged of the offences punishable under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act.

15. Nevertheless, since a prima facie case is made out for the offences punishable under Sections 323, 504 IPC, the prosecution in respect thereof shall continue and be concluded expeditiously, in accordance with law. The trial court shall proceed uninfluenced by any observation made herein on the merits of the case.

16. The appellants are directed to appear before the court concerned and move bail application, within two weeks from today. It is also made clear that no time extension application shall be moved before this Court by the appellants.

17. In case, the appellants move 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.

18. In case, the appellants fail 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.

19. Registrar (Compliance) is directed to serve a copy of this order by FAX/e-mail to the court concerned through District & Sessions Judge concerned within 48 hours.

(Santosh Rai,J.)

October 7, 2026
RA

Digitally signed by :-
RAZIQ ALI
High Court of Judicature at Allahabad