2026:AHC:211166

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5070 of 2026

Balwant Yadav And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Mahendra Pratap Yadav
Counsel for Respondent(s)	:	G.A., Vikas Chauhan

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. Supplementary affidavit filed today in court by learned counsel for the appellants is taken on record.

2. Heard Shri Mahendra Pratap Yadav, learned counsel for the appellants, Shri Vikas Chauhan, learned counsel for O.P. No.2 and learned AGA for the State.

3. The present criminal appeal has been filed by the appellants to set aside the cognizance order dated 22.03.2023 passed by learned Additional Special Judge (S.C./S.T. Act), Basti in Special Session Trial No.251 of 2023 (State vs. Balwant and others) arising out of Case Crime No.232 of 2022 under Sections 323, 504 and 427 IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act, P.S.- Nagar, District- Basti.

4. In the FIR, the accused persons, namely Balwant Yadav and Durga Prasad Yadav, have been named. As per the allegations contained in the FIR, the accused persons caused injuries to the complainant and her husband and also used derogatory words against them.

5. Learned counsel for the appellants submits that the impugned cognizance order dated 22.03.2023 is illegal and unsustainable. The FIR was lodged after an unexplained delay of about 19 days, and the medical examination of the complainant’s husband, conducted on 23.08.2022, did not disclose any external injury. It is further submitted that neither the FIR nor the statements of the witnesses specifically disclose the caste-related abusive words allegedly used by the appellants, and therefore the

essential ingredients of the offences under Sections 504, 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act are not made out. The appellants contend that they have been falsely implicated due to a land/boundary dispute and that the proceedings have been initiated with mala fide intention. It is, therefore, prayed that the impugned cognizance order and consequential proceedings be quashed.

6. Learned A.G.A. and learned counsel for opposite party no.2 submit that the FIR specifically names the appellants and contains clear allegations that they came to the complainant’s house, abused her, uprooted the tree, assaulted the complainant and her husband and used caste-related derogatory words. The statements recorded during investigation support the prosecution version, pursuant to which the Investigating Officer submitted the charge-sheet under Sections 323, 504, 427 IPC and the relevant provisions of the SC/ST Act. The mere delay in lodging the FIR or absence of visible injuries in the subsequent medical examination cannot, at the stage of cognizance, discredit the prosecution case or justify appreciation of evidence. Since there is sufficient prima facie material against the appellants, the learned court below rightly took cognizance, and the appeal is liable to be dismissed.

7. Admittedly, the incident occurred on 31.07.2022, whereas the FIR was registered after about 18 days, i.e., on 18.08.2022, and no plausible explanation for such delay has been furnished by the complainant. It is further alleged that the accused persons, who are real brothers, committed mischief, however, neither in the FIR nor in the statements of the injured persons has any specific amount of loss caused on account of such mischief been mentioned. Admittedly, the medical reports do not corroborate the allegations contained in the FIR or the statements of the injured persons. In the medical reports of the complainant and her husband, no visible fresh injury was found. Moreover, the medical examination was conducted after about 23 days of the alleged incident, and no satisfactory explanation for such inordinate delay has been furnished by the complainant. It is also evident from the record that there exists a land dispute between the parties concerning banjar land situated in front of the complainant's house. Thus, from a perusal of the FIR and the statements of the injured persons, the existence of a civil dispute

relating to the said land is apparent. Furthermore, neither in the FIR nor in the statements of the injured persons has any specific casteist word been mentioned so as to establish that the alleged derogatory words were used with the intention of insulting or humiliating the victims on the ground of their belonging to the Scheduled Caste/Scheduled Tribe category.

8. 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.

9. 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).

10. 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."*
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> *In Khuman Singh v. State of M.P., (2020) 18 SCC 763*
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> *"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."

11. 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

12. 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.

13. 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), 3(1)(s) and 3(2)(va) of the SC/ST Act. No visible fresh injury was noted in this case. Furthermore, land/civil dispute is admitted between the parties. 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 cognizance order cannot be sustained in the eyes of law.

14. Consequently, the cognizance order dated 22.03.2023 passed by learned Additional Special Judge (S.C./S.T. Act), Basti in Special Session Trial No.251 of 2023 (State vs. Balwant and others) arising out of Case Crime No.232 of 2022 under Sections 323, 504 and 427 IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act, P.S.- Nagar, District-Basti, is hereby set aside.

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

16. Registrar (Compliance) is directed to communicate the instant order to the court concerned through District and Sessions Judge, Basti by e-mail/FAX within 48 hours.

(Santosh Rai,J.)

October 8, 2026
Ankit.

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