HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 5785 of 2026

Dhirendra And 2 Others

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Ramesh Kumar
Counsel for Respondent(s)	:	G.A.

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. As per the instructions, learned A.G.A. informs the Court that notice has been served upon opposite party no. 2. However, no one has appeared on behalf of opposite party no. 2.

2. Heard learned counsel for the appellants and learned A.G.A. for the State and perused the record.

3. The present appeal has been filed under Section 14A(1) of S.C. & S.T. Act by the appellants to set aside the chagresheet no.80 of 2026 dated 31.03.2026 and summoning order dated 21.04.2026 passed by Additional District & Sessions Judge/Special Judge S.C.& S.T. Act, Budaun in Special Session Case No.932 of 2026, (State vs. Dhirendra & others) arising out of case crime no.84 of 2026, under Sections 115(2), 352 B.N.S and 3(1)da dha and 3(2)(va) S.C. & S.T. Act, P.S. Jarif Nagar, District Budaun.

4. Tersely, as per the First Information Report, the informant, Vipin Jatav, alleged that on 22.03.2026, at about 2:30 p.m., when he had gone to sell lahata at a shop in Village Dehgawan and after selling lahat he reached at the shop of Beej Bhandar for purchasing bazra seeds, the accused appellants Dhirendra and Amarpal @ Devendra son of Rishipal objected to his visit and demanded money in the name of the village head. They allegedly abused the informant using caste-related derogatory words. When the informant protested, the accused persons assaulted him, his brother and his sister-in-law with kicks, fists and sticks, causing injuries to them.

5. Briefly, the grounds of the appeal are that the impugned summoning order dated 21.04.2026 passed by Additional District & Sessions Judge/Special

Judge S.C.& S.T. Act, Budaun 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.

6. Learned counsel for the appellants submits that the appellants have been falsely implicated in this case. The alleged injured persons sustained only simple injuries, and the alleged eyewitnesses, namely Smt. Saroj and Baburam, did not support the prosecution version. It is further submitted that no offence under Sections 115(2) and 352 of the BNS or Sections 3(1)(da), 3(1)(dha) and 3(2)(va) of the SC/ST Act is made out against the appellants. The impugned summoning order has been passed without proper application of judicial mind and is liable to be set aside.

7. Learned A.G.A. opposes the prayer made by the appellants and submits that the charge-sheet was submitted after investigation on the basis of the material collected by the Investigating Officer. The learned Special Judge, SC/ST Act, Budaun, upon considering the material available on record, has rightly taken cognizance and summoned the appellants. Therefore, no interference with the impugned summoning order is warranted.

8. The accused appellants Dhirendra, Amarpal @ Devendra are named in the First Information Report, wherein it is alleged that on 22.03.2026, at about 2:30 p.m., they caused injuries to the informant and abused him using caste related derogatory language at Khad Beej Bhandar shop. During investigation, the statements of the complainant and injured persons were recorded, wherein they alleged that the accused persons had assaulted them with kicks, fists and sticks. However, the injury reports reveal no visible external injuries, and the injuries were limited to complaints of pain. From perusal of the record, it appears that only two accused persons were named in the FIR and the name of accused appellant no.3 Rishipal was subsequently introduced during investigation. His involvement was not disclosed in the FIR, and his alleged role surfaced only in the statements of the informant and injured recorded under Section 180 of the B.N.S.S., rendering the prosecution version doubtful. So far as the offences under the S.C. & S.T. Act are concerned, no specific caste-based derogatory words have been disclosed to establish that the informant was intentionally insulted or humiliated on the ground of his caste. The residential addresses of the informant and the accused appellants are also different, and no reliable material establishes that the accused appellants had specific knowledge of

the informant's caste identity. Accordingly, the essential ingredients for summoning the appellants under the relevant provisions of the SC/ST Act are not prima facie established. With regard to the offences under the BNS, the allegations of assault with lathis on the legs are not corroborated by the medical evidence, which discloses no visible external injuries. In view of the absence of medical corroboration, the subsequent introduction of Rishipal's name, and the inconsistencies in the prosecution version, the material on record does not appear sufficient to justify summoning the appellants.

9. In the case of ***Swaran singh Vs State (2008)8SCC 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 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 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."*
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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.*
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> *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. No reliable material in this regard is available on record to prima facie establish the requisite ingredients of the offence under Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. On a careful consideration of the material placed on record, this Court finds that the essential foundational ingredients of the said provision are not prima facie established. Section 3(2)(va) is attracted where a person, not being a member of a Scheduled Caste or Scheduled Tribe, commits an offence specified in the Schedule to the Act against a person or property belonging to a member of a Scheduled Caste or Scheduled Tribe, while knowing such status. Thus, the mere fact that the alleged victim belongs to a Scheduled Caste or Scheduled Tribe does not, by itself, attract Section 3(2)(va). Thus, there is no prima facie material demonstrating that the alleged offence falls within the Scheduled offence contemplated by Section 3(2)(va), nor is there sufficient material at this stage to establish the requisite knowledge on the part of the appellant regarding the Scheduled Caste/Scheduled Tribe status of the alleged victim in the manner contemplated by the provision. The statutory presumption under Section 8(c) cannot be invoked in the absence of the foundational factual circumstances necessary for its application.

13. 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)da dha of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, 1989. The material collected during inquiry does not indicate that the alleged words or conduct were actuated by the caste or were intended to intentionally insult or humiliate any person on the ground that he belonged to a Scheduled Caste or Scheduled Tribe. Equally absent is any material to establish that the alleged occurrence took place in a place within "public view", 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*** further reaffirmed in ***Hitesh Verma*** and ***Shajan Skaria*** (supra). Likewise, the allegations are wholly insufficient to satisfy the essential ingredients of Section 115(2), 352 B.N.S.

14. In view of the settled legal position and the absence of foundational facts constituting the alleged offences, the impugned order passed by the learned Special Judge cannot be sustained in law. The appeal under Section 14-A of the SC/ST Act deserves to be allowed and is hereby **allowed** with regard to appellants namely Dhirendra, Amarpal @ Devendra and Rishipal.

14. The impugned chagresheet no.80 of 2026 dated 31.03.2026 and summoning order dated 21.04.2026 passed by Additional District & Sessions Judge/Special Judge S.C.& S.T. Act, Budaun in Special Session Case No.932 of 2026, (State vs. Dhirendra & others) arising out of case crime no.84 of 2026, under Sections 115(2), 352 B.N.S and 3(1)da dha and 3(2)(va) S.C. & S.T. Act, P.S. Jarif Nagar, District Budaunare set aside. Consequently, the proceedings under Sections 115(2), 352 B.N.S and 3(1)da dha and 3(2)(va) S.C. & S.T. Act against the appellants stand quashed.

October 27, 2026
Asha

(Santosh Rai,J.)

Digitally signed by :-
ASHA
High Court of Judicature at Allahabad