2026:AHC:212316

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 6606 of 2026

Surendra Yadav

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Anil Kumar Pathak, Chandra Pratap Singh
Counsel for Respondent(s)	:	G.A., Prince Kumar

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant, learned counsel for opposite party no.2 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 to set-aside the cognizance and summoning order dated 19.02.2026 passed by Special Judge (SC/ST Act), Kanpur Nagar, Charge Sheet no. 83 of 2025 dated 30.03.2025 as well as entire proceedings of Session Trial No. 503 of 2026 (State of UP Vs Surendra Yadav) arising out of case crime no.38 of 2025, under Sections 115(2), 352, 351(3) of BNS and u/s 3(1)r, 3(1)s, 3(2)(v)a of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, P.S. Sen Paschim Para, District Kanpur Nagar.

3. Tersely, the informant, Renu Devi, lodged the First Information Report against accused persons Surendra Yadav, Jitendra Yadav, Sonu Yadav and eight unknown persons, alleging that accused Surendra Yadav executed a sale deed in her favour in respect of Araji No. 319, measuring 200 square yards, after receiving the sale consideration in cash. It is alleged that when the informant and her husband visited the disputed plot, the accused persons assaulted them and attempted to dispossess them from the land. The informant further alleged that the accused persons used caste-based abusive language and threatened her.

4. Briefly, the grounds of the appeal are that the impugned summoning order dated 19.02.2026 passed by Special Judge (SC/ST Act), Kanpur Nagar 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. Learned counsel for the appellant submitted that the allegations made in the First Information Report are vague and general in nature and do not disclose the commission of any offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. It was contended that no specific caste-based remark or derogatory expression has been attributed to the appellant with the intention of insulting or humiliating the informant solely on the ground of her caste. It is further submitted that the essential ingredients of the alleged offences under the SC/ST Act are not made out from the allegations contained in the FIR or the statement of the informant recorded under Section 180 of the BNSS. Learned counsel further submitted that the allegations of assault are not supported by any medical evidence. Admittedly, neither the informant nor her husband sustained any injury, and no medical examination was conducted. It is also contended that the dispute primarily relates to the ownership and possession of Araji No. 319 and is essentially civil in nature, as is evident from the pendency of Civil Suit No. 119 of 2026 between the parties concerning the disputed property.

6. Learned counsel for opposite party no.2 and learned A.G.A. for the State have vehemently opposed the submissions advanced on behalf of the appellant and supported the prosecution case as set out in the FIR and the statement of the informant recorded under Section 180 of the BNSS. It is submitted that the informant had purchased the disputed plot, bearing Araji No. 319, from the appellant after payment of the sale consideration and that, when she and her husband visited the property, the appellant and the other accused persons assaulted them and attempted to dispossess them from the land.

7. The First Information Report was lodged by the informant, Renu Devi, wife of Rakesh Kumar, against three named accused persons, namely Surendra Yadav, Jitendra Yadav and Sonu Yadav, along with eight unknown persons. It is alleged that accused-appellant Surendra Yadav executed a sale deed in favour of the informant, Renu Devi, after receiving the sale consideration in cash in respect of Araji No. 319, measuring 200 square yards. When the informant and her husband visited the disputed plot, the accused persons assaulted them and attempted to dispossess them from the land. Further more the accused persons, who are named in the first information report, have caused injury. Admittedly, during the course of arguments, learned counsel for opposite party no.2 conceded that neither the

victim/informant nor her husband sustained any injury. No medical report is available on record. In her statement recorded under Section 180 BNSS, the informant stated that she had purchased the disputed plot, bearing Araji No.319, from accused-appellant Surendra Yadav. She further alleged that when she and her husband reached the disputed plot, the accused-appellant and other accused persons assaulted them. However, she admitted that she had not undergone any medical examination.

8. Admittedly, Civil Suit No. 119 of 2026, instituted between Rachna Yadav on one side and Rakesh Kumar, Renu Devi, Raj Bahadur and Ram Naresh on the other, is pending adjudication. Rachna Yadav is the real sister of the accused appellant. A perusal of the plaint reveals that the dispute between the parties pertains to Araji No. 319, admeasuring 245 square yards. A perusal of the FIR, the informant's statement, and the averments contained in the case diary further indicates that the dispute between the parties essentially arises out of a civil confrontation.

9. Upon perusal of the First Information Report, it appears that no specific casteist slur has been attributed to the appellant with the intention of insulting or humiliating the victim solely on the ground that the victim belongs to the Scheduled Caste category. For the purpose of summoning the accused persons and initiate proceedings against them under the S.C. & S.T. Act, it requires primarily that "casteist slur" should be used with intention or knowledge in order to insult or humiliate on the 'sole basis' that the victim/the complainant belongs to S.C. & S.T. category. Residential address of the appellant and opposite party no.2 is quite different. Appellant's address is village Kharagpur, P.S. Sen Paschim Para, P.O. Kathogar, District Kanpur Nagar whereas address of opposite party no.2 is village Tharahra, P.O.Kadri Champatpur, District Kanpur Nagar.

10. 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.

11. 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).

12. 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."

13. 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 .

14. 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.

15. 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, 3(1)s, 3(2)(v)a 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 Sections 115(2), 352, 351(3) of BNS.

16. 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.**

17. The impugned cognizance and summoning order dated 19.02.2026 passed by Special Judge (SC/ST Act), Kanpur Nagar, Charge Sheet no. 83 of 2025 dated 30.03.2025 as well as entire proceedings of Session Trial No.

503 of 2026 (State of UP Vs Surendra Yadav) arising out of case crime no.38 of 2025, under Sections 115(2), 352, 351(3) of BNS and u/s 3(1)r, 3(1)s, 3(2)(v)a of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, P.S. Sen Paschim Para, District Kanpur Nagar is set aside. Consequently, the proceedings under Sections 115(2), 352, 351(3) of BNS and u/s 3(1)r, 3(1)s, 3(2)(v)a of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act against the appellant Surendra Yadav stand quashed.

18. Let a copy of this order be transmitted to court concerned through District & Sessions Judge within 48 hours.

October 9, 2026
Asha

(Santosh Rai,J.)

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