HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10233 of 2025

Amarnath Chaudhary

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Raj Kiran Chaudhary
Counsel for Respondent(s)	:	G.A.

Court No. - 91

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant/applicant, learned counsel for opposite party no.2 and learned AGA for the State.

2. The present criminal appeal has been filed by the appellant with a prayer to set aside the charge-sheet dated 1.10.2023 as well as the impugned cognizance/summoning order dated 21.7.2025 passed by Additional District & Sessions Judge/Special Judge, SC/ST (PA) Act, Siddharth Nagar in Special Criminal Case No.473 of 2024 (State vs. Amarnath Chaudhary), arising out of Case Crime No.70 of 2023, under Sections 323, 504, 506 IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S.- Itwa, District- Siddharth Nagar.

3. Learned counsel for the accused appellant submits that the present criminal case has been instituted due to previous criminal enmity between the parties. It is further submitted that the informant had earlier filed a complaint case against five accused persons, including the accused appellant, in which the appellant was summoned and the proceedings were subsequently stayed by this Court in Application under Section 528 BNSS No.5601 of 2025. It is also submitted that no visible injury was sustained by the informant and no medical or injury report was prepared in the present case. Furthermore, no specific caste-based remark or derogatory language has been attributed to the accused appellant to establish that the informant was insulted or humiliated on the ground of his caste. Therefore, the criminal proceedings against the accused

appellant are liable to be quashed.

4. Learned AGA opposes the submissions made by learned counsel for the accused appellant and submits that the allegations in the FIR are corroborated by the statement of the informant recorded under Section 161 Cr.P.C., wherein he has reiterated the allegations of assault against the accused appellant. Accordingly, the appeal is liable to be dismissed.

5. In the FIR, two accused persons, namely Vivekanand and Amarnath Choudhary, have been named. The allegation against the accused appellant is that he prepared a forged Scheduled Caste (Tharu) certificate. When the opposite party no.2 made a complaint against the appellant regarding the alleged forgery of the caste certificate, the accused appellant became annoyed and allegedly caused injuries to the complainant on 10.3.2023.nAdmittedly, no visible injury is stated to have been sustained by the complainant, nor is any injury report or other medical document available on record. However, the absence of an injury report is not, in every case, a condition precedent for establishing an offence under Section 323 IPC. The informant, in his statement recorded under Section 161 Cr.P.C., reiterated the allegations regarding the assault as stated in the FIR. Learned counsel for the accused appellant submits that the present criminal case has been instituted on account of previous criminal enmity. It is submitted that the informant had earlier filed a complaint case against five accused persons, namely Deorat, Amarnath, Vivekanand Choudhary alias Pinto, Bablu Choudhary and Kuldeep Choudhary, in which the accused persons were summoned. The proceedings in the aforesaid complaint case was subsequently stayed by this Court in Application under Section 528 BNSS No.5601 of 2025. Upon consideration of the facts and circumstances of the case and a perusal of the FIR, it appears that no specific caste-based remark or derogatory language has been attributed to the accused appellant so as to indicate that the informant was insulted or humiliated on the ground that he belongs to a Scheduled Caste or Scheduled Tribe.

6. 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.

7. 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).

8. 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."

9. 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)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The material collected during inquiry/investigation 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.

10. For the reasons recorded hereinabove, this Court is of the considered opinion that the essential ingredients constituting the offences under Sections 3(1)(r), 3(1)(s), 3(2)(va) 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** .

11. The impugned cognizance/summoning order dated 21.7.2025 passed by Additional District & Sessions Judge/Special Judge, SC/ST (PA) Act, Siddharth Nagar in Special Criminal Case No.473 of 2024 (State vs. Amarnath Chaudhary), arising out of Case Crime No.70 of 2023, under Sections 323, 504, 506 IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S.- Itwa, District- Siddharth Nagar, is modified to the extent that the appellant stands discharged of the offences punishable under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST Act.

12. Nevertheless, since a prima facie case is made out for the offences punishable under Sections 323, 504, 506 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.

13. If the appellant has not been enlarged on bail, he is 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 appellant.

14. 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.

15. 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 appellant.

16. 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 24, 2026
RA

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