HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10418 of 2026

Mukesh Yadav And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Dr. Akhilesh Kumar
Counsel for Respondent(s)	:	Prashant Kumar Singh, G.A.

Court No. - 91

HON'BLE SANTOSH RAI, J.

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

2. The present criminal appeal has been filed by the appellants with a prayer to set aside the impugned order dated 22.9.2026 passed by Special Judge, SC/ST (PA) Act, Etah in Sessions Case No.1370 of 2025 (State vs. Mukesh Yadav & Anr.), arising out of Case Crime No.217 of 2025, under Sections 115(2), 352, 351(3) B.N.S. and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, P.S.- Jalesar, District- Etah, whereby the discharge application of the appellants has been rejected.

3. Learned counsel for the appellants submits that one criminal appeal No.11131 of 2025 was previously filed by the appellants before this Court to quash the charge-sheet dated 8.6.2025, summoning/cognizance order dated 10.9.2025 as well as the entire proceeding of the aforesaid case, which was dismissed by this Court vide following order passed on 9.4.2026:-

"1. Heard learned counsel for the parties and perused the record.

2. The present appeal has been filed to quash the charge-sheet dated 08-06-2025, summoning/cognizance order dated 10-09-2025, as well as the entire proceedings of Sessions Case No. 1370 of 2025, under Sections 115(2), 352, 351(3) BNS and Section 3(2)(va) of the S.C./S.T. Act.

3. Learned counsel for the appellant submits that no offence is made out against the appellant and that the present prosecution has been instituted with a mala fide

intention to cause harassment.

4. In the absence of any of the grounds recognized by the Supreme Court which may justify the quashing of the complaint or the impugned proceedings, the prayer for quashing the same is refused, as no abuse of the process of the Court is made out. The summoning court is vested with sufficient powers to discharge the accused even before the stage of framing of charges, if, for reasons to be recorded, it considers the charge to be groundless.

5. As requested, the appellant is permitted to appear before the concerned court within 20 days from today through counsel and move an application seeking discharge.

6. No coercive measures shall be adopted against the appellant for a period of 20 days from today or till the filing of the discharge application, whichever is earlier.

7. If the concerned court, after hearing the counsel for the accused, is persuaded to take the view that the accused ought not to have been summoned and that the charge is groundless, it shall not abstain from discharging the accused merely on the ground that the material available at the time of summoning is the same as that available at the time of consideration of the discharge application.

8. On the other hand, if the court, after hearing the counsel for the accused, holds the view that the accused has been rightly summoned and that the material on record does not indicate the charges to be groundless, it shall pass an order to that effect and proceed further in the matter in accordance with law. It shall also be at liberty to adopt such measures as are permissible in law to secure the presence of the accused.

9. With the aforesaid observations, this appeal stands disposed of".

4. Learned counsel for the accused-appellants further submits that the accused appellants have moved a discharge application before the trial court, which, after considering the material available on record, rejected the same.

5. In the FIR, five accused persons, namely, Mukesh Yadav, Raj Kumar alias Raju, Lokesh, Sunny Yadav and Akshay Yadav, along with four unknown persons, have been named. The allegation in the FIR is that the accused persons, with the intention of grabbing the disputed land belonging to the informant, Smt. Asha Devi, caused injuries to the victim in connection with a civil dispute between the parties. On the basis of the evidence collected during the course of investigation, charge-sheet has been filed against Mukesh Yadav and Lokesh. It further appears that the

appellants had earlier preferred Criminal Appeal No.11131 of 2025 before this Court, which was disposed of with the liberty to the appellants to move a discharge application before the trial court within a period of 20 days and with a direction to appear before the trial court within the said period. Upon perusal of the material available on record, including the statements of the injured persons, the medical evidence relating to all five injured persons and the allegations made in the FIR, a prima facie case is made out against the accused appellants.

6. It is well settled that at the stage of framing of charge, even a strong suspicion is sufficient to proceed against the accused, and the correctness or sufficiency of the evidence is not to be meticulously examined. At the stage of consideration of discharge or framing of charge, the Court is required to evaluate the material placed on record by the prosecution, if the material available on record is strong regarding the commission of the offence by the accused, the charge is liable to be framed.

7. In **Sheoraj Singh Ahlawat and Others vs. State of Uttar Pradesh and Another, (2013) 11 SCC 476**, the Hon'ble Supreme Court held as under:-

> *"……. While framing charges, court is required to evaluate materials and documents on record to decide whether facts emerging therefrom taken at their face value would disclose existence of ingredients constituting the alleged offence. At this stage, the court is not required to go deep into the probative value of materials on record. It needs to evaluate whether there is a ground for presuming that accused had committed offence. But it should not evaluate sufficiency of evidence to convict accused. Even if there is a grave suspicion against the accused and it is not properly explained or court feels that accused might have committed offence, then framing of charges against the accused is justified. It is only for conviction of accused that materials must indicate that accused had committed offence but for framing of charges if materials indicate that accused might have committed offence, then framing of charge is proper. Materials brought on by prosecution must be believed to be true and their probative value cannot be decided at this stage. The accused entitled to urge his contentions only on materials*

submitted by prosecution. He is not entitled to produce any material at this stage and the court is not required to consider any such material, if submitted. Whether the prima facic case made out depends upon facts and circumstances of each case. If two views are possible and materials indicate mere suspicion, not being grave suspicion, against accused then he may be discharged. The court has to consider broad probabilities of case, total effect of evidence and documents produced before it. The court should not act as mouthpiece of prosecution and it is impermissible to have roving enquiry at the stage of framing of charge."

8. In **Rajbir Singh v. State of U.P. and Another, (2006) 4 SCC 51**, the Hon'ble Supreme Court held, by quoting the decision in **State of Bihar vs. Ramesh Singh, (1977) SCC (Cri) 533**, as under:-

"Reading [Ss. 227 and 228] together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. If the evidence which the prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will

be no sufficient ground for proceeding with the trial."

9. In **Ghulam Hassan Beigh v. Mohammad Maqbool Magrey and Others, (2022) 12 SCC 657**, the Apex Court held as under:-

"21. This Court in Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4, considered the scope of enquiry a Judge is required to make while considering the question of framing of charges. After an exhaustive survey of the case law on the point, this Court, in para 10 of the judgment, laid down the following principles:

"10. ... (1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry

into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

23. In Sajjan Kumar v. CBI, (2010) 9 SCC 368, this Court had an occasion to consider the scope of Sections 227 and 228 CrPC. The principles which emerged therefrom have been taken note of in para 21 as under:

"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

> *(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.*
>
> *(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."*

10. Thus, having considered the entire facts and circumstances of the case, the material and evidence available on record, the submissions advanced by the learned counsel for the parties and the law laid down by the Hon'ble Supreme Court as discussed herein above, I am of the considered opinion that the learned trial court has rightly dismissed the discharge application filed by the appellants/applicants. The impugned order is well reasoned and does not suffer from any illegality, perversity or infirmity warranting interference by this Court.

11. Accordingly, the present appeal stands **dismissed**.

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

13. 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.

14. 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.

15. 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