HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10875 of 2026

Shyamu Yadav And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Saurabh Kumar Gond, Sujit Kumar Yadav
Counsel for Respondent(s)	:	G.A., Ravindra Bind, Vinod Kumar Bind

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Court No. - 91

HON'BLE SANTOSH RAI, J.

1. Heard Shri Sujit Kumar Yadav, learned counsel for the appellants, Shri Vinod Kumar Bind, learned counsel for O.P. No.2 and learned AGA for the State.

2. The present criminal appeal has been filed by the appellants to set aside the summoning/cognizance order dated 20.01.2026 passed by learned Special Judge (S.C./S.T. Act), Mirzapur in Special Session Trial No.92 of 2026 (State vs. Shyamu Yadav and others) arising out of Case Crime No. 386 of 2025 under Sections 352 and 351(3) BNS and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act, P.S.- Lalganj, District- Mirzapur.

3. In the FIR, Swamu Yadav and Jitendra Yadav are named as accused. The allegation against the accused-appellants is that they were raising illegal construction over the disputed land and, when the complainant objected, they used caste-based abusive language against her, her uncle and her aunt.

4. Learned counsel for the appellants submits that the dispute between the parties is essentially civil in nature and relates to ownership and possession of land bearing Khata No. 266. The complainant is not the tenure-holder of the disputed land, and a revenue inquiry report dated 15.06.2026 indicates that the appellants' father is in possession of the land on the basis of a registered sale deed. It is further submitted that the FIR was lodged after a delay of about eight days, without any plausible

explanation, and does not disclose the specific caste-based words allegedly used by the appellants. The investigating officer filed the charge sheet without proper investigation, and the learned court below passed the impugned cognizance/summoning order without considering these material aspects. Hence, the impugned order and the consequential proceedings are liable to be quashed.

5. Learned AGA and learned counsel for opposite party no.2 oppose the appeal and submit that the appellants were raising construction over the disputed land, and when the complainant and her relatives objected, the appellants abused them using caste-indicative words and threatened them. It is submitted that, after investigation, a charge sheet was filed and the learned court below rightly took cognizance and summoned the appellants. The allegations disclose offences under the relevant provisions of the B.N.S. and the SC/ST Act, and the disputed questions relating to the land cannot, by themselves, justify quashing the criminal proceedings at this stage. Learned counsel for O.P. No.2 relied upon the judgement of Apex Court in **Accamma Sam Jacob vs. State of Karnataka and another, 2026 SCC OnLine SC 585** stating that mere existence of a civil dispute does not preclude criminal proceedings if the allegations prima facie disclose a cognizable offence. Hence, the appeal is liable to be dismissed.

6. The incident is alleged to have occurred on 28.09.2025, whereas the FIR was registered on 06.10.2025, after a delay of about eight days. It is stated in the FIR that complainant Radhika Beldar is the tenure-holder of Gata No. 266, however, learned counsel for opposite party no. 2 admits that the tenure-holder of the disputed land is her uncle, Panchraj Beldar, and not the complainant herself. The FIR further states that no demarcation (*fatbandi*) of the disputed gata had been carried out. The accused-appellants are also stated to be co-sharers in the disputed land on the basis of sale deeds executed in their favour, though they are alleged to have raised illegal construction thereon. In connection with the civil dispute between the parties, Panchraj Beldar, the complainant's uncle, moved an application before the SDM/Tehsildar, Madihan, Mirzapur pursuant to which the concerned revenue authority conducted an inquiry. Admittedly, no civil or revenue suit has been instituted in this regard

before the competent civil/revenue court. A perusal of the FIR reveals that no specific caste-based slur has been attributed to the accused-appellants to prima facie establish an intention to insult or humiliate the complainant on the ground of her caste. Likewise, no specific words constituting an offence under Section 504 IPC have been mentioned in the FIR. Learned counsel for O.P. No.2 has placed reliance upon the judgment of the Apex Court in **Accamma Sam Jacob** *(supra)*, however, the factual circumstances of the present case are distinguishable from those of the cited judgment, and the same is not applicable to the facts of the present case. This is a no injury case. Thus, considering the facts and circumstances of the case in their entirety, the dispute appears to be primarily civil in nature, and the criminal proceedings seem to have been initiated to give a criminal colour to the existing civil controversy.

7. So far as the offence under Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned, 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). There must be prima facie material connecting the alleged substantive offence with the requirements of the said provision, including the commission of an offence specified in the Schedule and the requisite knowledge contemplated by the statute. In the present case, the material relied upon by the prosecution, even if taken at its face value, does not disclose such foundational facts.

8. 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 appellants regarding the Scheduled Caste/Scheduled Tribe status of the alleged victim/injured 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.

9. 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.

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 of 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."

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."*

12. 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

13. 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.

14. 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. This is a no injury case and civil controversy between the parties is an admitted fact. 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 impugned cognizance/summoning order cannot be sustained in the eyes of law.

15. Consequently, the summoning/cognizance order dated 20.01.2026 passed by learned Special Judge (S.C./S.T. Act), Mirzapur in Special Session Trial No.92 of 2026 (State vs. Shyamu Yadav and others) arising out of Case Crime No. 386 of 2025 under Sections 352 and 351(3) BNS and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act, P.S.- Lalganj, District- Mirzapur, is hereby set aside.

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

17. Registrar (Compliance) is directed to communicate the instant order to the court concerned through District and Sessions Judge, Mirzapur by e-mail/FAX within three days.

(Santosh Rai,J.)

October 24, 2026
Ankit.

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