



2026:AHC:171011

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4882 of 2025

Vegraj Singh And Another

.....Appellant(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Appellant(s)	:	Devashish Mitra, Sunil Kumar Tiwari
Counsel for Respondent(s)	:	Atul Kumar Srivastava, G.A.

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. As per office report dated 04.11.2025, notice has already been served upon O.P. No.2 personally.
2. Despite service of notice, none appeared on her behalf.
3. Heard Shri Devashish Mitra, learned counsel for the appellants and learned AGA for the State.
4. The present criminal appeal has been filed by the appellants to set aside summoning order dated 21.03.2025 passed by learned Special Judge (S.C./S.T. Act), Bareilly in Session Trial No.1452 of 2024 (State of U.P. vs. Himmat Singh) arising out of Case Crime No.0290 of 2024 under Sections 504 and 506 IPC and Sections 3(1)(r), 3(1)(s) of the SC/ST Act, P.S.- Izzatnagar, District- Bareilly.
5. The accused appellants, Vegraj and Daulat, are named in the FIR along with the main accused, Himmat Singh. The FIR was registered under Sections 376(2)(n), 504 and 506 IPC and Sections 3(2)(5A), 3(2)(r) and 3(2)(s) of the SC/ST Act. During investigation, the statements of the victim and other witnesses were recorded under Sections 161 and 164 CrPC. The Investigating Officer, however, submitted the charge-sheet only against the main accused, Himmat Singh, and exonerated the present appellants. The appellants were subsequently summoned under Section 358 BNSS (Section 319 CrPC).
6. Learned counsel for the appellants submits that the appellants, Vegraj

and Daulat, were named in the FIR along with the main accused, Himmat Singh, but after investigation the Investigating Officer, having found no material against them, submitted the charge-sheet only against Himmat Singh and exonerated the present appellants. Vegraj is the father and Daulat is the elder brother of the main accused. It is further submitted that in her statements under Sections 161 and 164 CrPC, the victim did not assign any specific or distinct role to the appellants, particularly with regard to the alleged casteist remarks, abuse or intimidation. The appellants were subsequently summoned under Section 358 BNSS (Section 319 CrPC) solely on the basis of the deposition of PW-1, wherein the victim stated that they had abused her and used the word “Chamar”. Mere use of the said word, in the absence of any specific allegation showing the requisite intention or knowledge to insult the victim on the ground of her caste, does not prima facie constitute an offence under the SC/ST Act. No specific role has otherwise been attributed to the appellants, whereas the principal allegations relating to the alleged rape and promise of marriage are against Himmat Singh. It is, therefore, submitted that the impugned summoning order is unsustainable and liable to be quashed.

7. Learned AGA, opposing the appeal, submits that the appellants were named in the FIR and the victim has consistently disclosed their involvement in the occurrence. The victim, in her statement before the trial court, specifically alleged that the appellants abused her by using the caste-related word “Chamar” and also threatened her. The trial court, after considering the material on record and the deposition of PW-1, found sufficient grounds to summon the appellants under Section 358 BNSS. At this stage, the evidence of the victim cannot be discarded merely because the Investigating Officer had earlier exonerated the appellants. The question whether the alleged utterances were made with the requisite intention and whether the ingredients of the offences under the IPC and SC/ST Act are ultimately established are matters to be adjudicated during trial. Hence, no interference with the impugned summoning order is warranted.

8. Admittedly, the Investigating Officer submitted charge-sheet only against the main accused, Himmat Singh, and exonerated the present

appellants. It is undisputed that Vegraj is the father and Daulat is the real brother of the main accused, Himmat Singh. In her statement under Section 161 CrPC, the victim alleged that the appellants had used casteist remarks against her, but no specific or distinct casteist word was attributed to either of them. Subsequently, during trial, the appellants were summoned on the basis of the statement of PW-1, wherein the victim stated in her examination-in-chief that the appellants had abused her and used the word "Chamar". Mere use of the word "Chamar", however, would not, by itself, establish that the appellants used the said word with the intention or knowledge of insulting or humiliating the victim on the ground of her belonging to an SC/ST community. Further, as regards the allegations of abuse and criminal intimidation, no specific or distinct role has been assigned to either Vegraj or Daulat. The principal allegations relating to rape and the other offences are directed against the main accused, Himmat Singh. Thus, the material on record does not disclose any specific, distinct or sufficient role attributable to the present appellants.

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 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).

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. For the purpose of Section 319 Cr.P.C., it requires cogent and reliable material against accused in the light of **Hardeep Singh v. State of Punjab & Ors. (2014) 3 SCC 92**, Hon'ble Apex Court held that :

"105. Power under Section 319 CrPC is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.

106. Thus, we hold that though only a prima facie case is to be

established from the evidence led before the court, not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 CrPC. In Section 319 CrPC the purpose of providing if "it appears from the evidence that any person not being the accused has committed any offence" is clear from the words "for which such person could be tried together with the accused". The words used are not "for which such person could be convicted". There is, therefore, no scope for the court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.

117.5. Though under Section 319(4)(b) CrPC the accused subsequently impleaded is to be treated as if he had been an accused when the court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 CrPC would be the same as for framing a charge". The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different."

13. 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) and 3(1)(s) of the SC/ST Act. As

regards the allegations of abuse and criminal intimidation, no specific or distinct role has been assigned to either Vegraj or Daulat. The principal allegations relating to rape and the other offences are directed against the main accused, Himmat Singh.

14. Furthermore, having regard to the settled legal position expounded by the Constitution Bench of the Hon'ble Supreme Court in **Hardeep Singh** (supra) wherein it was held that the extraordinary power under Section 319 of the Cr.P.C. is to be exercised sparingly and only where strong and cogent evidence, substantially higher than a mere prima facie case at the stage of framing charges, is available on record, the impugned summoning order fails to meet the requisite legal threshold. In the absence of any reliable, sterling material or evidence pointing unmistakably towards the complicity of the appellant, the trial court erred in law by summoning the appellant under Section 319 Cr.P.C. in a casual and cavalier manner.

15. Consequently, the summoning order dated 21.03.2025 passed by learned Special Judge (S.C./S.T. Act), Bareilly in Session Trial No.1452 of 2024 (State of U.P. vs. Himmat Singh) arising out of Case Crime No.0290 of 2024 under Sections 504 and 506 IPC and Sections 3(1)(r), 3(1)(s) of the SC/ST Act, P.S.- Izzatnagar, District- Bareilly, 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, Bareilly by e-mail/FAX within 48 hours.

(Santosh Rai,J.)

August 13, 2026

Ankit.