



Filed on:	14/09/2016
Registered on:	14/09/2016
Decided on:	18/06/2026
Duration:	Y M D 09 09 04

GJBH010019532016

IN THE COURT OF 2nd ADDITIONAL DISTRICT AND
SESSIONS JUDGE, AT BHARUCH



SPECIAL ATRO CASE NO. 19/2016

Exh. _____

Complainant...

The State of Gujarat.

VERSUS

Accused...

1. Azaharuddin Iqbal Adam Bhut.

Age: 30, Occu: Farmer,

R/o: Ikhar (ઈખર) Mohamadi Noor Colony,

Taluka: Amod, Dist: Bharuch.

2. Pravinbhai Shanubhai Rathod.

Age: 22, Occu: Farmer,

R/o: Danda (દાંડા) School Lane (ફાળિયુ),

Taluka: Amod, Dist: Bharuch.

Appearance:

Ld. Advocate for the State: M.G.Rathod

Ld. Advocate for the accused persons: S.I.Dola

JUDGEMENT

(1) As no action was taken by the concerned Officer of Amod Police Station regarding the complaint filed by the complainant, a private complaint was filed in the Court of Ld. Magistrate, wherein the Ld. Magistrate ordered for enquiry as per Section 156(3) of CrPC, which was registered as Enquiry No.5/2016 and accordingly M-Case was registered at Amod Police Station for the offence under Sections 365, 323, 504, 114, 506(2) and for the offences under Section 3(1)(r)(s) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Facts of the case:

(2) The brief facts of the case is that the complainant's son- Sanjay had been working as a labourer for the accused- Azaharuddin for the past years. Since, Azaharuddin did not pay the outstanding wages dues, the complainant's son had filed an application at the Labour Office and keeping its grudge the accused went to the complainant's house and asked, as to why his son filed an application against him and by saying this he had beaten the complainant with fist blows and punches and when the witness- Sanjay came, the accused had also beaten and insulted him by using derogatory words against his caste by saying "ငါ့မဲ့

ભીલડાઓ બહુ ચડી ગયા છે” and threatened to kill him. The accused then forcibly made Sanjay sit in a vehicle and abducted him, the accused Pravinbhai Shanabhai Rathod also assisted in committing this crime.

(3) During the course of investigation, the Investigating Officer recorded the statements of witnesses, panchnama was drawn and at the end of the investigation the concerned Investigating Officer filed charge-sheet against the accused for the offence punishable under Sections 365, 323, 504, 114, 506(2) and for the offences under Section 3(1)(r)(s) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The case was registered as Criminal Case No.511/2016 in the Ld. Magistrate Court, thereafter, the case was committed to this Special Court by passing order on 03/09/2016 and the case was registered as Special Case(Atrocity) No.19/2016.

(4) Vide Exh.04 charges were framed against the accused for the offences punishable under Sections 365, 323, 504, 114, 506(2) and for the offences under Section 3(1)(r)(s) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Vide **Exhs.05 & 06** statements of the accused persons before this Court were recorded, the accused pleaded not guilty and claimed to be tried and therefore this trial is rested for recording evidence.

(5) This Court has heard both the side and considered the evidence and as well as the record.

ORAL EVIDENCES:

Sr. No.	Oral Evidence	Exhs.
PW1	Maheshbhai Bachubhai Vasava	09
PW2	Bachubhai Dipabhai Vasava	11
PW3	Maganbhai Shanabhai Solanki	20
PW4	Pravinbhai Amarsang Vasava	24
PW5	Satishbhai Rayajibhai Vasava	26
PW6	Mukeshbhai Dolubhai Rathod	27
PW7	Savitaben Ghanshyambhai Rathod	28
PW8	Bachubhai Kesurbhai Vasava	37
PW9	Budhabhai Bhikhabhai Vasava	38
PW10	Amita Ketan Vanani (IO)	50

DOCUMENTARY EVIDENCE:

Sr. No.	Documentary Evidence	Exhs.
1	Copy of the complaint filed in the Court of Ld. Magistrate- Amod	Mark 7/1
2	Caste certificate of the complainant	25
3	Panchnama of site of offence	10
4	Panchnama of arrest of accused persons	08
5	Yadi dated 24/06/2016 to get CDR information	51
6	Yadi dated 22/07/2016 to get CDR information	52
7	Call details of Mobile No. 9714186843	53
8	Call details of Mobile No. 9925496383	54
9	Call details of Mobile No. 9979216600	55
10	Call details of Mobile No. 9723024031	56

(6) SUBMISSION:

(6.1) Submission on behalf of State:

The Ld. APP has mainly submitted that the complainant had supported the case of the prosecution and his deposition is as per his complaint. It is submitted that reasons best known to the other witnesses they have not supported the case of the prosecution and are declared hostile but it is submitted that the evidence of police witness and of the complainant be considered and the accused be convicted as per law as the prosecution has proved their case.

(6.2) Submission on behalf of accused:

The Ld. advocate on behalf of accused, by referring the evidence has mainly submitted that none of the witnesses had supported the case of the prosecution including the persons named in the complaint by the complainant. It is also submitted that the panch witnesses are declared hostile. Further, the Ld. advocate has pointed out that the whole issue was regarding the outstanding amount of wages of Sanjay- the son of the complainant. It is submitted that the son of the complainant is not examined by the prosecution, it is not stated that out of the accused, who actually uttered the derogatory words regarding the caste of the complainant. It is submitted that no such derogatory words were used by any of the accused, but falsely it has been stated by the complainant and it is further submitted that the name of the witnesses given in the complaint had also not supported the case of the prosecution and the ingredients of the offence are not proved by the prosecution and merely, relying on the evidence of the complainant, which is also contradictory, it can not be said

that the prosecution has proved their case beyond reasonable doubt and the accused are required to be acquitted.

(7) This Court has heard the submission of both the side and considered the evidence oral as well as documentary on record and following points has emerged for the determination of this Court.

1. Whether the prosecution proves that the accused persons had beaten and abused the complainant and his son and used derogatory words against their caste, threatened them to cause their death and committed the offence under Sections 365, 323, 504, 114, 506(2) and for the offences under Section 3(1)(r)(s) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act?
2. What order?

(8) The findings of this Court on the above points are as under:

1. In Negative.
2. As per final order.

Reasons

(9) This Court has heard both the side, considered the evidence. What appears from the evidence is that, the entire case of the prosecution rests upon the evidence of complainant-Pravinbhai Amarsang Vasava who is examined by the

prosecution vide Exh.24 and it also appears that, the dispute appears to be regarding the outstanding dues of the labour work of complainant's son- Sanjay, this Court has also taken note that in the complaint as well as during the evidence it has been stated by the complainant that the son of the complainant-Sanjay was going for labour work with Satishbhai, Mukesh Rathod and Ashok since last one year. The above named witnesses i.e., Satishbhai, Mukesh Rathod and Ashok are examined by the prosecution and they have not supported the case of the prosecution, the evidence of the above named witnesses will be discussed later on.

(9.1) This Court has also taken note that as per the complaint and the evidence before the Court, it has deposed by the complainant that the incident happened at the house of the complainant, hence, it can be said that the incident has not happened in a public view.

(9.2) Considering the evidence of the complainant, at this juncture, the judgement, CRIMINAL APPEAL NO.2446 OF 2026 (Arising out of SLP(Crl.) No.9198 of 2025) GUNJAN @ GIRIJA KUMARI AND OTHERS VERSUS STATE (NCT OF DELHI) AND ANOTHER is required to be referred, the relevant paragraphs No. 5.1, 5.1.1, 5.2, 5.7 and 5.7.1 are reiterated below...

5.1 Sections 3(1)(r) and 3(1)(s) of the SC/ST Act read as under,

“3. Punishments for offences atrocities.—

3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) to (q)

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;”

5.1.1 The offence under Section 3(1)(r) of the SC/ST Act can be said to have been committed when a person not belonging to Scheduled Caste or Scheduled Tribe intentionally insults or intimidates with an intent to humiliate a person belonging to Scheduled Caste or Scheduled Tribe in any place within public view. Offence under Section 3(1)(s) of the SC/ST Act is made out when any member of the Scheduled Caste or Scheduled Tribe is abused by caste name in any place within public view.

5.2 The ingredients of the offences are that there has to be an intentional insult or intimidation which has to be with an intent to humiliate a member of Scheduled Caste or Scheduled Tribe or that such member of Scheduled Caste or Scheduled Tribe is abused by caste name by a person who does not belong to Scheduled Caste or Scheduled Tribe. The common essential for constituting the offence under both the Sections is that the insult or intimidation under sub- clause (r) or

hurling of abuses under sub-clause (s) have taken place “in any place within public view”.

5.7 In a more recent decision in *Karuppudayar vs. State* represented by the Deputy Superintendent of Police, Lalgudi Trichy and Others , this Court considered its own decisions in *Swaran Singh* (supra) as well as *Hitesh Verma* (supra), and elucidated an ironed-out proposition of law as under, “It could thus be seen that, to be a place ‘within public view’, the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.”

5.7.1 The Court observed that even by taking the allegations in the FIR at their face value, what was alleged was that when the complainant was in the office, the accused came there, made inquiries from the complainant and upon not being satisfied, started abusing the complainant in the name of his caste and insulted him.

Thereafter, three colleagues of the complainant came later to pacify the accused and took him away. The Court thus noticed that the incident had taken place within the four corners of the chambers of the complainant, which was not “a place within public view”.

(9.3) Moreover, from the entire evidence though the dispute at centre is regarding the complainant’s son- Sanjay, who has neither been shown in the charge-sheet as the witness nor he has

been examined in the Court during the trial, which an admitted fact on the record, further, this Court has also taken note that during the cross-examination on behalf of the complainant, it has been admitted that advance money was given by the accused to his son and as the son of the accused was not coming for work at accused farm the accused has requested to send the son of the complainant- Sanjay for work, it is also admitted that no separate complaint was given regarding his son being not traceable. It is also admitted that his son was not available since two years before filing of the complaint. It is stated that the police handed over his son prior to two months. This Court has taken note that though the complainant's son was traced and returned to the complainant, he is not examined during the entire trial, the son of the complainant has also not come forward and stated that he was either abducted by the accused persons or any threat of death was given to him by any of the accused or the allegations made by the complainant are true, the allegations of the complainant were not confirmed by the son of the complainant by appearing in Court. It is admitted by the complainant that his son left the house because he was scolded by someone.

(10) Hence as per the evidence on record, the dispute appears to be personal, regarding the outstanding dues of the labour work of complainant's son- Sanjay, who is not examined by the prosecution. Considering the facts and the evidence on record, the judgement of **Konde Nageshwar Rao vs. A Srirama Chandra Murty**, 2025 INSC 886 (Criminal Appeal No. 555 of 2018), is to be referred, wherein the Honourable Supreme Court has held that.....

..... in the present scenario, if a person with an oblique motive to settle the personal scores or to harass individuals, then such act cannot be allowed to be perpetuated and need to be stopped at the very outset, so that there is no miscarriage of justice. It has also been observed that in order to protect self-respect of SC/ST community, the offence alleged must be committed solely on the basis of victim's caste status. Merely because the complainant/victim belongs to the SC/ST community, cannot be the sole ground for conviction of accused under the SC/ST Act. Misuse of the statute to settle personal scores or to harass individuals cannot be permitted if it is apparent. The Court in such a situation, be not hesitant to step in and stop the said misuse.

(11) Vide Exh.26 Satishbhai Rayajibhai Vasava has been examined, he is the witness who according to the complainant was a person with whom his son used to go for labour work at accused farm. The above witness during his testimony has deposed that he is not aware on which date the incident occurred, what happened in the incident is also not known to him, he has denied that the accused used bad words and derogatory words regarding the caste of the complainant and had injured the complainant. The above witness has also stated that he is unaware if the son of the complainant- Sanjay was missing. He has admitted that police took his statement, he has identified the accused present in the Court.

(11.1) The witness at Exh.27 Mukeshbhai Dolubhai Rathod has also stated that he is unaware when the incident had happened and there was a simple altercation as the accused- Azaharuddin was not giving the outstanding labour wages, except this nothing had happened, police recorded his statement, the accused present in the Court is identified by the witness, the above witness has denied that the accused uttered bad words regarding the caste of the complainant, according to the said witness where Sanjay had gone at the time of incident is not known to him.

(11.2) Vide Exh.28 Savitaben Ghanshyambhai Rathod has been examined, she has also stated that she is not aware of the incident, who took away the son of the complainant and how, is not known to her, where is Sanjay is also not known to her, she is also not aware regarding whether the accused persons used bad words and derogatory words regarding the caste of the complainant and whether Sanjay was beaten and was taken away by the accused. The above witness has identified the accused present in the Court.

(11.3) As all the above witnesses at Exhs.26, 27 & 28 had not supported the case of the prosecution, all the above witnesses are declared hostile by the Ld. APP and though with the permission of this Court all the above witnesses were cross-examined, but none of the witnesses has supported the case of the prosecution. No cross-examination has been done on behalf of accused.

Evidence of Panch Witnesses...

(12) Vide Exh.37 Bachubhai Kesurbhai Vasava and vide Exh.38 Budhabhai Bhikhabhai Vasava are examined, both the above witnesses had stated that on 09/06/2016 the Police Officer called them and their signatures were obtained in a written paper, what was written in it was not read by them and they have only signed the paper, except this they are not knowing anything about the incident.

(13) As both the above witnesses had not supported the case of the prosecution both the witnesses at Exhs.37 & 38 are declared hostile by the prosecution and though with the permission of this Court both are cross-examined by the Ld. APP, but even during the cross-examination none of the above witnesses had supported the case of the prosecution. No cross-examination of the above witnesses is done on behalf of accused.

Evidence of Police witness...

(14) Vide Exh.50 Amita Ketan Vanani- the Investigating Officer has been examined by the prosecution, during her deposition she has stated that she recorded further statements of the complainant, panchnama of the site of offence was drawn in presence of two panch witnesses, the caste certificate of the complainant was obtained and as there was sufficient evidence against the accused persons the accused persons were arrested, panchnama was drawn in presence of two panch witnesses regarding their arrest, as sufficient evidence was found against

the accused persons charge-sheet was filed against them. During the deposition of the above witnesses the documents at Exhs. 51, 52, 53, 54, 55 & 56 were referred which are regarding the CDR yadi, police yadi, the copy of the court details.

(14.1) During the cross-examination on behalf of accused persons the above Investigating Officer had admitted that she has not investigated about the son of the complainant- Sanjay. She has admitted that the allegations against the accused was that it was the accused who have taken away Sanjay, she has also admitted that she has no meeting with Sanjay and after investigation she has not contacted Amod Police Station regarding this incident. Rest of the questions are denied by the above Investigating Officer.

Conclusion...

(15) Though, the above Investigating Officer has stated that the said panchnama regarding the site of the offence was drawn in presence of panch witnesses but the panch witnesses at Exh. 9- Maheshbhai Bachubhai Vasava and at Exh. 11- Bachubhai Dipabhai Vasava had not supported the panchnama at Exh. 10 regarding the site of offence and they have merely stated that police have taken their signatures on a ready panchnama, both the above witnesses are declared hostile and even after the cross-examination on behalf of Ld. APP none of the panch witnesses have supported the case of the prosecution or the panchnama at Exh. 10.

(16) Hence, the entire case is based on the evidence of the complainant whose evidence is not supported by any of the witnesses, even his son-Sanjay, after being traced-out by police is not examined by the prosecution, he himself has not come before the Court to give any evidence against the accused persons, no role of accused no. 2 appears during the entire evidence of the complainant.

(17) Now, so far the offence U/s. 504, 506(2) of Indian Penal Code is concerned, the complainant during his deposition has not stated that what exact bad words or filthy language was used by which accused, it is not stated that any threat was given, no medical evidence of treatment is on record.

(17.1) Considering the above evidence on record, at this juncture, the judgment of the Hon'ble High Court of Gujarat I.e Pravinbhai Becherbhai Vankar And 2 Ors. vs State Of Gujarat 2007 CRI. L. J. (NOC) is required to be referred, para 23 of the said judgement is reiterated below.....

23. The learned advocate for the appellants relied upon a decision of this Court in the matter of Patel Narottam Tulsidas v. State of Gujarat reported in 1973 GLR 522. He submitted that the Hon'ble Court was pleased to hold that mere abuse not sufficient to prove the act within the meaning of Section 504 Intention to provoke any person to break peace essential. He submitted that it will be appropriate to refer to paragraph 2 of the said judgment, the only paragraph reported, it reads as under:

2. In order to enable the court to decide whether, particular words used by the accused were likely to give provocation to Murlidhar so as to cause him to break the public peace or to commit any other offence as contemplated by section 504 of the Indian Penal Code, it was necessary for the prosecution to point out the actual words used by the accused. In the present case, however, as stated by the learned Additional Sessions Judge, the prosecution did not disclose the actual words used by the accused. It appears that there was exchange of abuses between Murlidhar and the accused and there is no material on the record from which the court can decide that, the abuses given by the accused were in fact, filthy or indecent as alleged by the prosecution. It is true that, in order to constitute intentional insult with intent to provoke breach of the peace or with requisite knowledge, as contemplated by section 504 of the Indian Penal Code, it is not necessary, that abuse should be filthy or indecent. But, in the present case, as pointed out by the learned Additional Sessions Judge, there is no satisfactory evidence on the record to show that, the accused had abused Murlidhar with the intention of insulting him in order to give him provocation to break the public peace. Mere abuse in the absence of any intention to provoke any person to break

the public peace or to commit any other offence or, of knowledge that, a breach of the peace was likely, does not fall within section 504 of the Indian Penal Code.

24 *The learned advocate for the appellants submitted that so far as the offence under Section 506(2) is concerned, so far as the present appellants, i.e. accused Nos. 4,5 and 6 are concerned, they are falsely implicated for the same. He submitted that, in view of the finding recorded by the learned Fast Track Court Judge in paragraph 40 that, 'all the accused were not present at the same place at the same time', earlier finding that, 'all the accused had threatened the witnesses for life' is dislodged. In this regard, he invited attention of the Court to a decision of this Court in the matter of Munsafkhan Yasinkhan Pathan and Ors. v. (The) State of Gujarat, which is unreported judgment mentioned in 2002(1) G.L.H. (U.J.) 4, head-note of which is as under:*

*Indian Penal Code, 1860 - Sections 506(2) & 503
Criminal intimidation-Threat to cause death or
grievous hurt- Necessary ingredients-
Complainant should have been alarmed by the
threat administered to him- Evidence indicates a
clear absence of any apprehension and/or fear so
as to cause alarm to the complainant- No
evidence that because of threat, complainant was
unable to attend to his duties of any point of time
after he lodged the complaint- Words uttered by*

the accused did not cause any alarm to the complainant- Offence not proved.

25. In view of the aforesaid discussions, this Court finds that the present appellants- accused Nos. 4 to 6 convicted for the offence under Sections 504, 506(2) read with Section 114 of the Indian Penal Code, deserve to be acquitted of the charge levelled against them. The conviction recorded against them is quashed and set aside. The judgment and order of the learned Presiding Officer, Fast Track Court, Palanpur so far as it relates to the present appellants- original accused Nos. 4 to 6 is hereby quashed and set aside. As the present appellants- original accused Nos. 4 to 6 are acquitted of the charge, fine paid by them be refunded to them.

(18) In the judgement of the Honourable High of Gujarat, referred I.e STATE OF GUJARAT Versus LAXMANJI SADAJI THAKOR & ANR.(R/CRIMINAL APPEAL NO. 979 of 2010), para-14 of the said judgement is to be considered wherein it is held that....

14. So far as offences punishable under the [IPC](#) are concerned, there cannot be an intentional insult with an intent to provoke breach of peace. These essential ingredients are totally lacking on reading the FIR as well as all the evidence on record. At no point of time, it comes on record that because of intentional insult by the accused, the complainant was provoked to break

public peace or to commit any other offence. In the present case, first of all, the complainant himself admitted that he has not been beaten or has received any type of injury and secondly, the entire evidence discussed herein above failed to bring the case within four corners of "with an intent to cause alarm to the complainant". In view of above, according to this Court, the learned trial Court has not committed any error in acquitting the accused.

(18.1) It is an undisputed fact that as per Exh. 25 the complainant belongs to ST Caste, but at the same time nothing appears that the derogatory words were used by any of the accused, or any threat was given and what exact derogatory words, if any were used by which accused. No phone was seized by the Investigating Officer.

(19) Hence, nothing is on record indicating that the accused had committed the said offence and derogatory words against the cast of the complainant were used by any of the accused mentioned in the complaint. No evidence is on record regarding the alleged offences against any of the accused persons. In short, this is not a case where merely relying on the evidence of the complainant, the accused persons can be convicted. The witnesses named in the FIR has not supported the case of prosecution and are declared hostile, the prosecution has failed to prove the panchnama on record.

It is a duty of the prosecution to prove their case beyond reasonable doubt but as discussed in detail and considering the evidence on record it can not be said that the prosecution has succeeded to prove their case beyond reasonable doubt, the prosecution has failed to prove their case, hence, this Court answers issue no. 1 in negative and at the same time issue no. 2 is answered accordingly. Hence, following order...

ORDER

1. The accused Nos. 1.Azaharuddin Iqbal Adam Bhut
2.Pravinbhai Shanubhai Rathod, are acquitted as per Section 235(1) of CrPC for the offence under Section 365, 323, 504, 114, 506(2) and for the offences under Section 3(1)(r)(s) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. The bail bond and surety bond of the accused, stands cancelled.
3. Accused are directed to furnish the bail of Rs.10,000/- each under Section 437A of CrPC.

Signed and pronounced in the open Court today i.e., 18th June 2026.

Date :18/06/2026 Place:Bharuch (KKC)	Ejaz Mohsinali Shaikh 2 nd Additional District & Sessions Judge Bharuch(GJ00627)
--	--