



UPBJ010010852019

**In the Court of Sunil Kumar Singh-III, Special Judge, S.C./S.T.  
(P.A.) Act, Bijnor.**

**Special Sessions Trial - 40/2019**

U.P. Govt. ....**Prosecution.**

**Versus**

1- Rishipal Singh S/O Ram Singh.

2- Rinku S/O Ram Singh.

3- Raghuveer Singh S/O Ram Singh.

4- Khem Singh S/O Ram Singh all R/O Village Jassu Jot, Police Station  
Rehar, District Bijnor. ....**Accused Persons.**

Crime No.-123/2018

U/S-323/34,452,504,506,427 IPC

& 3(1)(r)(s) S.C./S.T.(PA) Act

P.S.-Rehar, District Bijnor.

**JUDGMENT**

1- Accused persons namely Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh have been put to trial in Case Crime No. 123/2018 under Section 323/34,427,452,504,506 IPC and 3(1)(r)(s) S.C./S.T. Act on the basis of the charge sheet filed by the Police Station Rehar.

**Brief Facts**

2- The facts of the case, in nutshell, are that-  
An FIR got registered on dated 20-11-2018 at Police Station Rehar by the complainant Nain Singh in Case Crime No. 123/2018 under Section 323/34,427,452,504,506 IPC and 3(2)5 S.C./S.T. Act against the accused persons namely Rishipal Singh S/O Ram Singh, Rinku, Raghuveer Singh and Khem Singh alleging therein that on dated 19-11-2018 at about 06:00 p.m., while he was ploughing his field, a bundle of sticks fell into the field of the accused persons. Owing to this, the accused persons namely Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh entered his house and started abusing with caste based slurs, causing damage to the

household articles, assaulted his wife Chandro, daughter Sanjeeta and son Rishipal with sticks and abused them with filthy language. The accused persons fled from the spot abusing caste based slurs and extending threats to kill. The incident witnessed by Pranshu & Baltej and rescued them. He further alleged that they sustained injuries during the incident and were treated in government hospital.

### **Investigation**

3- During the investigation, police recorded the statement of the witnesses, accused persons, prepared Site Plan and after having sufficient evidence, police filed the charge sheet **Exhibit Ka-5** against all the accused persons before this Special Court having the jurisdiction of S.C./S.T. Act under Section 323, 452, 504, 506, 427 IPC & 3(1)(r)(s) S.C./S.T.(PA) Act, while Section 3(2)5 S.C./S.T.(PA) Act got deleted.

### **Prosecution's Documentary and Oral Evidence**

4- The following documentary evidence got produced and proved by the prosecution during the trial-

| Sr. No. | Proved as Exhibit | Nature/description of document      | Proved by PW/DW/CW           |
|---------|-------------------|-------------------------------------|------------------------------|
| 1.      | Exhibit Ka-1      | Tehreer                             | PW-1 Nain Singh              |
| 2.      | Exhibit Ka-2      | Chik FIR                            | PW-6 Sub Inspector Anwar Ali |
| 3.      | Exhibit Ka-3      | GD related to FIR                   | PW-6 Sub Inspector Anwar Ali |
| 4.      | Exhibit Ka-4      | Site Plan                           | PW-7 Kripa Shankar Kannaujia |
| 5.      | Exhibit Ka-5      | Charge Sheet                        | PW-7 Kripa Shankar Kannaujia |
| 6.      | Exhibit Ka-6      | Injury Report (Rishipal)            | PW-8 Dr. Ramkumar Singh      |
| 7.      | Exhibit Ka-7      | Injury Report (Sanjeeta)            | PW-8 Dr. Ramkumar Singh      |
| 8.      | Exhibit Ka-8      | Injury Report (Chandro Devi)        | PW-8 Dr. Ramkumar Singh      |
| 9.      | Exhibit Ka-9      | Supplementary Report (Chandro Devi) | PW-8 Dr. Ramkumar Singh      |

5- In order to prove its case, the prosecution, in all, examined 08 witnesses, the details of them and statements are as under-

**6- PW-1, Nain Singh**, the informant, deposed on dated 19-02-2020, in his chief examination, that he belongs to SC Category. The incident took place on date 19-11-2018 at about 06:30 p.m. while he was ploughing his field, a bundle of sticks fell into the field of the accused persons. Thereafter, the accused Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh entered his house and started abusing with caste based slurs, causing damage to the household articles, assaulted his wife Chandro, daughter Sanjeeta and son Rishipal with sticks and abused them with filthy language. The accused persons fled from the spot abusing caste based slurs and extending threats to kill. The incident was witnessed by Pranshu & Baltej and rescued them. He further alleged that they sustained injuries during the incident and got examined medically in PHC, Kasampur Gari and X-Ray got conducted in Government Hospital, Bijnor. He further deposed that he got the FIR written by the husband of Village Pradhan and submitted it to the police station next day. This witness identified his signature upon the Tehreer and proved it as **Exhibit Ka-1**. This witness further deposed that since the medical examination got conducted in the night, he reported the matter to the police station next day.

**7- PW-2, Rishipal**, deposed on dated 23-12-2021, in his chief examination that he belongs to SC Category while the accused persons belong to Saini Community. He further deposed that an altercation took place on account of boundaries dispute with the accused persons and on the same day, i.e., 19-11-2018, while his sister Sanjeeta and his mother Chando Devi were present at home, the accused persons entered his house with sticks and Tabal (sharp edged weapon) and started abusing with caste based slurs. He further deposed that the accused persons while assaulting, damaged the household articles and upon intervention, the accused persons assaulted them. Having heard hue and cry, his father reached there, who got also assaulted by the accused persons. While nearby villagers reached there, the accused persons fled from the spot, extending the threats to kill. He further deposed that the accused persons while fleeing, abused with caste related slurs out of the house and before the people. He further deposed that during the incident, he, his father Nain Singh, his mother and sister sustained injuries. His mother sustained severe injuries on her head who got treated in Meerut. He further deposed that since he sustained contusions only, he was not medically examined by the police. The police recorded his statement with regard to the incident.

**8- PW-3, Sanjeeta**, deposed, on dated 17-03-2023, in her chief examination that the accused persons are the resident of the same village

as she belongs. On dated 19-11-2018 at about 06:00 p.m., while she, her brother Rishipal and mother Chandro Devi were present at home, the accused persons entered her house and started abusing, damaged house articles and abused with caste based slurs. While they intervened, the accused persons assaulted with sticks and Tabal. She further deposed that having heard the hue and cry, her father and other villagers namely Baltej and Priyanshu reached there. The accused persons fled from the spot. She further deposed that during the incident, she, her brother Rishipal, mother Chandro Devi sustained injuries and the matter got reported to the police by her father. She further deposed that they were medically examined in Dhampur and Bijnor hospital as well as private hospital and the statement got recorded by the Circle Officer.

**9- PW-4, Chando Devi,** deposed, on dated 04-08-2023, in her chief examination that the accused persons used to dump garbage on the land of Gram Samaj and had a grudge on objection. Owing to this, near about five years back, while she, her son, daughter were present at home at about 06:00-07:00 p.m., the accused persons forcibly entered her house, assaulted them, damaged the household articles, abused with filthy language and caste related slurs. She further deposed that during the incident she, Rishipal and Sanjeeta sustained injuries. She sustained injuries on her head, after having heard hue and cry, the nearby villagers reached there. She further deposed that she got medically examined in Kasampur Gari and Bijnor. Further, she got referred to the Meerut for treatment and Circle Officer recorded her statement.

**10- PW-5, Baltej,** deposed on dated 25-10-2023, in his chief examination that he knows the informant Nain Singh and the accused persons Rishipal, Khem Singh, Raghuveer Singh and Rinku very well. Nain Singh belongs to SC Community, while the accused persons belong to Saini Community. He further deposed that on dated 19-11-2018 at about 06:00 p.m., he witnessed that the accused persons, entering the house of the informant, abused, extended threats to kill and abused with caste based slurs. During the incident, the wife of the informant, daughter Sanjeeta and son Rishipal sustained injuries. He further deposed that his statement got recorded by the police.

**11- PW-6, Anwar Ali,** Sub Inspector, presently posted at Police Station Bilari, District Moradabad, deposed in his chief examination that on dated 20-11-2018, he was posted at Police Station Rehar as Constable Clerk and registered the FIR of Case Crime No. 123/2018, under Section 323/34, 427, 452, 504, 506 IPC and 3(2)5 S.C./S.T. Act and made the entry

in GD at Serial No. 24 at 15:42 o’Clock on the same day. This witness proved the Chik FIR and GD as **Exhibit Ka-2** and **Exhibit Ka-3** respectively.

**12- PW-7, Kripa Shankar Kannaujia**, presently posted at 26<sup>th</sup> Batallion, PAC, Gorakhpur, deposed through Video Conferencing that on dated 20-11-2018, he was posted at Bijnor as Circle Officer, Afzalgarh and obtained the investigation of Case Crime No. 123/2018 under Section 323/34, 427,452,504,506 IPC and 3(2)5 S.C./S.T. Act. He further deposed that during the investigation, he deleted the Section 3(2)5 S.C./S.T. Act and added Section 3(1)(r)(s) of S.C./S.T. Act and recorded the statement of witnesses, accused persons and collected the medical reports. He further deposed that after having sufficient evidence, he submitted the charge sheet under Section 323/34,427,452,504,506 IPC and 3(1)(r)(s) S.C./S.T. Act against the accused persons Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh. This witness having seen the Site Plan, proved it as **Exhibit Ka-4** and charge sheet as **Exhibit Ka-5** respectively.

**13- PW-8, Dr. Ramkumar Singh**, presently posted at CHC, Badaun, as Medical Superintendent, deposed that on dated 19-11-2018, he was posted at PHC, Kasampur Gari as Medical Officer and he medically examined the injured Rishipal, Sanjeeta and Chandro Devi and found the following injuries on the person of Rishipal-

- 1) Incised wound of size 1x0.5cm x muscled deep at dorsum of right forearm.  
Nature – Simple  
Duration – Fresh  
Object Used – Hard & Blunt

**14- PW-8** proved the medical report of Rishipal as **Exhibit Ka-6**. PW-8 further found the following injuries on person of Sanjeeta and Chandro-

Injuries sustained by Sanjeeta-

- 1) Contusion swelling of size 6x4cm at left parietal region.
- 2) Contusion of size 10x4 cm at right V. arm.  
Nature – Simple  
Duration – Fresh  
Object Used – Hard & Blunt  
Advised – X-Ray skull

Injuries sustained by Chandro Devi-

- 1) Lacerated wound of size 4x0.5cm at right occipital region.

Nature – Simple

Duration – Fresh

Object Used – Hard & Blunt

Advised – X-Ray skull

**15-** PW-8 further deposed that both the injured Sanjeeta & Chandro Devi were advised to get the X-Ray conducted. He further deposed that he prepared the supplementary report. PW-8 proved medical report as **Exhibit Ka-7** and **Exhibit Ka-8** respectively. PW-8 further proved Supplementary Report as **Exhibit Ka-9**.

**Statement under section 313 of the Cr.P.C. & defence evidence**

**16-** After the prosecution evidence, the statements of the accused persons got recorded under Section 313 of the Cr.P.C, (Now 351 BNSS), wherein they denied all the allegations leveled against them as false and claimed themselves innocent and stated false implication of them in the case and led the defence evidence. The accused persons, in support of their defence, examined DW-1 Priyank Chauhan. DW-1 deposed that on dated 19-11-2018, while he was getting back to his house and as he reached near the house of the accused Khem Singh at about 06:00 p.m., he had seen that the complainant Nain Singh, his son Rishipal, Raju, Chando Devi, Kallo, Bhuri, Sanjeeta were assaulting Sangeeta (sister-in-law of accused Rishipal) and abusing her. He further deposed that the accused persons had not assaulted Rishipal S/O Nain Singh, Chando Devi, Sanjeeta with sticks and Tabal. He further deposed that neither accused persons abused them in filthy language nor with caste based slurs. He further deposed that an altercation took place between the informant Nain Singh and the accused persons, in front of the house of the accused Khem Singh and no incident took place in the house of the informant Nain Singh.

**Arguments heard and perused the record**

**17-** I have heard Shri Samar Singh, Shri Satyaveer Singh learned counsel for the accused persons, learned SPP, Shri Shalabh Kumar Sharma for the state, learned private counsel Shri Manjoj Dhaka and perused the record.

**18-** Learned SPP appearing for the State, learned private counsel for the complainant has argued that the prosecution has succeeded in proving its case beyond reasonable doubt through reliable ocular as well as medical evidence. It has been submitted that PW-1 Nain Singh, the informant, and the injured witnesses namely PW-2 Rishipal, PW-3 Sanjeeta and PW-4 Chandro Devi have consistently supported the

prosecution case and their testimonies stand duly corroborated by the medical evidence proved by PW-8 Dr. Ramkumar Singh. It has further been argued that the presence of the injured witnesses at the place of occurrence is natural and undisputed and no material contradiction or inconsistency could be elicited during their cross-examination so as to discredit their testimony. It has further been argued that PW-5 Baltej, belongs to jatt sikh community, an independent witness, has substantially supported the prosecution case. Nothing has been brought on record to indicate that PW-5 had any animosity against the accused persons or any reason to falsely implicate them. His testimony corroborates the version of PW-1 Nain Singh and the injured witnesses regarding the occurrence and the participation of the accused persons therein. Learned SPP has, therefore, contended that the prosecution has successfully established the charges against the accused persons and they are liable to be convicted in accordance with law.

**19-** On the other hand, learned counsel for the accused persons has vehemently argued that the prosecution has failed to prove its case beyond reasonable doubt. It is submitted that there are material contradictions and inconsistencies in the testimonies of the prosecution witnesses, both in their examination-in-chief and cross-examination, rendering their evidence unreliable. It is further contended that PW-1 Nain Singh has stated the time of the occurrence in the field as 06:30 p.m. and has also stated that the occurrence at the house took place at about 06:30 p.m., which creates a serious doubt regarding the manner and sequence of the alleged incident. Learned counsel has further argued that the FIR was lodged with a delay of one day and no satisfactory explanation for such delay has been furnished by the prosecution. It has also been submitted that PW-2 Rishipal is named in the FIR registered under section 376 of the IPC by the sister in law of the accused Rinku, therefore, the present case has been instituted out of vengeance and with a motive to falsely implicate the accused persons. Learned counsels for the accused persons have argued that the prosecution witnesses have alleged the use of a Tabal, which is a sharp-edged weapon, whereas PW-8 Dr. Ramkumar Singh has opined that the injuries were caused by a hard and blunt object, thereby falsifying the prosecution version. Learned counsels have also pointed out that PW-3 Sanjeeta, in her examination-in-chief, stated that her hand had been fractured during the incident, whereas neither any fracture injury has been proved nor has any offence punishable under Section 325 IPC been found to have been committed. On the basis of the aforesaid submissions, it has been argued that the prosecution story is doubtful and the accused

persons are entitled to the benefit of doubt and consequently be acquitted.

**Points for determination.**

**(as envisaged under section 354(1) (b) of the Cr.P.C, Now393(1)(b) BNSS)**

**20-** Following points are to be discussed---

1. Whether the accused persons committed the offence punishable under Section 323 IPC read with section 34 IPC?
2. Whether the accused persons committed the offence punishable under Section 504 and 506 IPC?
3. Whether the accused persons committed the offence punishable under Section 427 IPC?
4. Whether the accused persons committed the offence punishable under Section 3(1) (R) and (S) of the SC/ST Act?

**Discussion and Findings.**

**21-** It is noteworthy that the prosecution case itself discloses that two separate incidents took place on the date of occurrence. The first incident occurred in the agricultural field, whereas the second incident took place at the house of the informant shortly thereafter. At the outset, it is pertinent to note that the present case relates to the second incident which allegedly took place at the house of the informant. The prosecution evidence reveals that an earlier altercation had taken place in the agricultural field between the parties. However, the charges in the present case primarily arise out of the subsequent occurrence at the house of the informant, wherein the accused persons are alleged to have trespassed into the house, assaulted the injured witnesses and extended abuses and threats.

**22-** Now, this Court proceeds to examine the evidence and discuss the charges levelled against the accused persons in order to determine whether the prosecution has succeeded in proving the same beyond reasonable doubt.

**(Charge under Section 323 read with section 34 of the IPC)**

**23-** PW-1 Nain Singh, the informant, has fully supported the prosecution case as narrated in the First Information Report. PW-2 Rishipal, PW-3 Sanjeeta and PW-4 Chandro Devi, who are themselves injured witnesses, have also corroborated the prosecution version regarding the assault committed by the accused persons. Their testimonies

consistently establish that the accused persons caused injuries to the injured witnesses during the incident. The medical evidence lends substantial corroboration to the ocular testimony. As per the injury report of PW-2 Rishipal, one incised wound was found on his person, which was opined to be simple in nature and caused by a hard and blunt object. On the person of PW-3 Sanjeeta, one contused swelling and one contusion were found. Similarly, a lacerated wound was found on the person of PW-4 Chandro Devi. PW-8 Dr. Ramkumar Singh, who medically examined the injured persons, has duly proved the injury reports and supported the nature, duration and cause of the injuries. Nothing material could be elicited in the cross-examination of the aforesaid witnesses so as to discredit their testimony regarding the assault or to render their evidence unreliable. The evidence of the injured witnesses carries great evidentiary value and there is no reason to discard the same. The prosecution has thus successfully proved that the accused persons voluntarily caused simple hurt to PW-2 Rishipal, PW-3 Sanjeeta and PW-4 Chandro Devi in furtherance of their common intention. Accordingly, this Court holds that the prosecution has proved the charge under Section 323 read with Section 34 IPC against all the accused persons beyond reasonable doubt. Even if, for the sake of argument, it is assumed that the injury found on the person of PW-2 Rishipal is an incised wound and that the medical opinion describing it as caused by a hard and blunt object creates some doubt regarding the exact nature of the weapon used, and the evidence relating to the said injury is excluded from consideration, the prosecution case would still not fail. The evidence on record clearly establishes that PW-3 Sanjeeta and PW-4 Chandro Devi also sustained injuries during the occurrence. Their injuries have been duly proved by the medical evidence of PW-8 Dr. Ramkumar Singh and there is no material on record to doubt the genuineness of those injuries. The testimony of PW-3 and PW-4 regarding the assault committed by the accused persons has been found reliable and trustworthy. Therefore, independent of the injury sustained by PW-2 Rishipal, the injuries suffered by PW-3 Sanjeeta and PW-4 Chandro Devi are sufficient to establish the commission of the offence punishable under Section 323 IPC by the accused persons. Accordingly, the aforesaid contention of the defence does not affect the prosecution case in any manner.

**(Charges under Sections 452, 504 and 506 IPC)**

**24-** PW-1 Nain Singh, PW-2 Rishipal, PW-3 Sanjeeta, PW-4 Chandro Devi and PW-5 Baltej have consistently deposed that the accused persons entered the house of the informant, abused the inmates, assaulted

them and extended threats. Their testimonies are natural, cogent and consistent on material particulars. The prosecution witnesses have categorically stated that the accused persons trespassed into the house of the informant after making preparation for assault and thereafter caused injuries to the inmates. The evidence further establishes that the accused persons intentionally abused the victims with the intention of provoking breach of peace and also extended threats to kill them. The testimony of the aforesaid witnesses has been found trustworthy and reliable. No material contradiction, omission or improvement of such nature has been brought on record during cross-examination so as to shake their credibility. Their evidence inspires confidence and is duly corroborated by the circumstances of the case and the medical evidence regarding the assault. Therefore, this Court is satisfied that the prosecution has successfully proved beyond reasonable doubt that the accused persons committed house-trespass after preparation for causing hurt, intentionally insulted the victims and criminally intimidated them. Accordingly, all the accused persons are held guilty for offences punishable under Sections 452, 504 and 506 IPC.

**25-** The submissions advanced by the learned counsel for the accused persons have been carefully considered. However, the same do not merit acceptance for the following reasons:

1. Although, certain minor discrepancies and inconsistencies have been pointed out in the statements of the prosecution witnesses, the same relate to trivial and peripheral aspects of the occurrence. It is a settled principle of law that minor contradictions, normal discrepancies and variations attributable to lapse of memory do not affect the core of the prosecution case. In case of **Rajendra @ Rajappa & Ors vs. State of Karnataka**, Criminal appeal No 1438 of 2011, decided on 26.3.2021, Hon'ble the Supreme Court observed that only contradictions in material and not minor contradictions can be a ground to discredit the testimony of the witnesses. In the present case, the prosecution witnesses have consistently deposed regarding the presence of the accused persons, their entry into the house of the informant, the assault committed by them and the injuries sustained by the injured witnesses. Therefore, the alleged contradictions do not go to the root of the matter.

2. The submission that PW-1 has stated the time of the occurrence in the field as well as the occurrence at the house to be 06:30 p.m. is not sufficient to discard the entire prosecution case. The evidence on record shows that both incidents formed part of the same transaction and occurred in close proximity of time. Minor variation regarding the exact

time of occurrence is natural and does not affect the substratum of the prosecution case, particularly when the occurrence itself stands duly established by the injured witnesses and the medical evidence.

3. So far as the delay of one day in lodging the FIR is concerned, PW-1 has specifically stated that the injured persons were medically examined during the night and, therefore, the report was lodged on the following day. The explanation furnished by the prosecution appears natural and reasonable. Mere delay in lodging the FIR is not fatal when the delay stands satisfactorily explained and no prejudice is shown to have been caused to the accused persons.

4. The contention regarding previous enmity arising out of a criminal case lodged against PW-2 Rishipal cannot by itself be a ground to discard the prosecution evidence. It is well settled that enmity is a double-edged weapon. While it may furnish a motive for false implication, it equally provides a motive for the commission of the offence. In the present case, the testimony of the injured witnesses is corroborated by the medical evidence and, therefore, cannot be rejected merely on account of prior animity. In addition, none of the documents have been brought on record to establish that PW-2 Rishipal was named as an accused in the FIR allegedly lodged by the sister-in-law of accused Rinku in respect of a rape offence. In the absence of any documentary evidence substantiating the said plea, the contention of the defence remains a mere assertion and cannot be accepted.

5. The contention of the learned counsel for the accused that no injury attributable to a sharp-edged weapon has been found and, therefore, the prosecution version regarding the use of Tabal is false, does not merit acceptance. A perusal of the injury report of PW-2 Rishipal reveals that an incised wound measuring 1 cm × 0.5 cm was found on the dorsum of his right forearm. Although PW-8 Dr. Ramkumar Singh has opined that the said injury was caused by a hard and blunt object, the prosecution witnesses have consistently deposed that a Tabal was used during the occurrence. It is well settled that where the ocular testimony is reliable and trustworthy, minor inconsistency between the medical opinion and the eyewitness account cannot override the direct evidence. In the facts and circumstances of the present case, the nature of the injury found on the person of PW-2 Rishipal substantially supports the prosecution version regarding the use of Tabal during the occurrence. Therefore, the medical evidence cannot be said to be inconsistent with the prosecution case so as to create any reasonable doubt regarding the occurrence or the participation of the accused persons. Accordingly, the aforesaid

submission advanced on behalf of the accused persons is liable to be rejected.

6. The argument that PW-3 Sanjeeta stated that her hand was fractured during the incident does not render the entire prosecution case false. No medical evidence has been adduced to prove fracture and, therefore, the Court has not found the offence punishable under Section 325 IPC to be made out. However, the medical report does establish that PW-3 sustained injuries during the occurrence. Overstatement of facts by a witness regarding the extent of injury does not justify rejection of the entire testimony when the factum of assault and injury otherwise stands proved by reliable evidence.

**(Charge under Section 427 IPC)**

26- PW-1 Nain Singh, in the First Information Report, alleged that the accused persons committed damage to household articles. PW-1, PW-2 Rishipal and PW-3 Sanjeeta have also stated about the alleged act. However, PW-4 Chandro Devi and PW-5 Baltej have not made any specific allegation regarding the alleged damage to the household articles. Moreover, PW-1, PW-2 and PW-3 have failed to specify as to which particular household articles were damaged, the nature of such damage and the monetary loss caused thereby. No independent evidence has been adduced to establish the extent of loss or damage. The prosecution has not proved that the damage caused amounted to fifty rupees or more, which is an essential ingredient of the offence punishable under Section 427 IPC. In the absence of cogent and reliable evidence regarding the specific property damaged and the quantum of loss suffered, the essential ingredients of Section 427 IPC remain unproved. Accordingly, the prosecution has failed to prove the charge under Section 427 IPC beyond reasonable doubt and the accused persons are entitled to **acquittal** of the said charge.

**(Charge under Sections 3(1)(r) and 3(1)(s) of the SC/ST (P.A) Act**

27- The prosecution witnesses have alleged that caste-related abusive words were used by the accused persons during the occurrence. However, from the entire prosecution evidence, it is apparent that the alleged utterances were made inside the house of the informant during the course of the incident. For attracting the provisions of Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities) Act, it is necessary that the insult or intimidation by caste name is committed in any place within public view. The evidence adduced by the prosecution does not establish

that the alleged caste-based abuses were uttered at a place within public view. The prosecution has failed to prove the essential ingredient of "public view" required under the aforesaid provisions. It is pertinent to note that PW-2 Rishipal, in his deposition before the Court, stated that while fleeing from the spot, the accused persons uttered caste-related abuses outside the house in the presence of all the persons assembled there. However, a careful perusal of the First Information Report as well as the statements of the other prosecution witnesses reveals that no such fact was disclosed therein. The allegation that the accused persons uttered caste-related abuses outside the house in the presence of the public has surfaced for the first time during the testimony of PW-2 before the Court. This constitutes a material improvement over the earlier version and adversely affects the credibility of this part of his testimony. It appears that the said statement has been introduced subsequently with a view to attract the provisions of the SC/ST Act. Therefore, it would not be safe to place reliance upon such improved version, particularly when it does not find corroboration from the earlier version of the prosecution case or from other reliable evidence on record. Consequently, this Court is of the considered opinion that the offences punishable under Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities) Act are not made out against the accused persons. Reliance may be placed upon the judgment of the Hon'ble Supreme Court in **Swaran Singh & Ors. v. State through Standing Counsel & Anr., (2008) 8 SCC 435**, wherein it was held that there is a distinction between a "public place" and a "place within public view" and that an offence under the relevant provisions of the SC/ST Act would be made out only when the alleged caste-based insult or intimidation takes place in a place within public view. The Hon'ble Supreme Court further held that where the alleged incident occurs inside a house or within four walls and no member of the public is present, the essential ingredient of "public view" is not satisfied. In the present case, the evidence of the prosecution witnesses itself indicates that the alleged caste-related abuses were uttered inside the house of the informant. Therefore, the essential ingredient of "public view" being absent, the offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act are not made out

**28-** Accordingly, all the accused persons are acquitted of the charges under Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities) Act.

**29-** In view of the foregoing discussion, the prosecution has failed to prove the charges under Section 427 IPC and Section 3(1)(r),

3(1)(s) of the SC/ST (Prevention of Atrocities) Act beyond reasonable doubt. Therefore, accused Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh are acquitted by extending them the benefit of doubt. However, the prosecution has successfully proved the charge under Section 323 read with section 34, 452, 504 and 506(2) IPC beyond reasonable doubt against accused Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh. Accordingly, Rishipal Singh, Rinku, Raghuveer Singh and Khem Singh are convicted under Section 323 read with section 34, 452, 504 and 506 IPC. The accused are on bail. Their bail bonds are cancelled and sureties are discharged. The accused persons are present before the court. Let the accused are taken into custody to be heard on the question of sentence. Put up at 12:00 P.M.

**Date- 07.07.2026**

**(Sunil Kumar Singh-III)  
Special Judge, S.C.,S.T.(P.A.) Act,  
Bijnor.  
J.O. Code- U.P.6076**

**12:00 P.M.**

**ORDER ON SENTENCE**

1- Learned counsel Shri Samar Singh, Shri Satyaveer Singh submit that the convict namely Rishipal aged around 47 years having three children (2 girls & 1 boy), convict Rinku aged around 37 years having two children, convict Raghuveer aged around 35 years having three children (2 girls & 1 boy), convict Khem Singh aged around 29 years having two children, are siblings and having also old and ailed parents. The convicts are sole bread earners of their family and they have to look after them. Learned counsels, therefore, prayed that the convicts be extended the benefit of the Probation of Offenders Act, 1958 and be released on probation of good conduct instead of being sentenced to imprisonment. Learned counsels for the convicts further prayed that if the benefit of probation is not granted, a lenient view be taken in the matter of sentence considering the facts and circumstances of the case, the prolonged pendency of the trial and the absence of any allegation of misuse of bail by the convicts.

2- On the contrary, learned SPP for the state Shri Shalabh Sharam and private counsel for the complainant submit that the convicts have been found guilty for the offence of Section 323 read with section 34, 452 504 and 506 IPC. Strict and maximum punishment as provided be awarded to the convicts, so that strong message goes to the society.

3- I have heard learned counsel Shri Samar Singh, Shri Satyaveer Singh for convicts and learned SPP for the state, learned private counsel Shri Manoj Kumar Dhaka for the complainant on the question of sentence and perused the record.

4- Before proceeding to determine the quantum of sentence, this Court has considered whether the benefit of the Probation of Offenders Act, 1958 should be extended to the convicts. The convicts have been found guilty of offences punishable under Sections 323/34, 452, 504 and 506 IPC. The evidence on record establishes that the convicts, acting in furtherance of their common intention, unlawfully entered the house of the informant, assaulted the inmates and extended threats. The offence under Section 452 IPC relates to house-trespass after preparation for causing hurt, which is an offence affecting the sense of security of citizens within their dwelling houses. Considering the nature of the offences committed, the manner of their commission and the overall facts and circumstances of the case, this Court is of the opinion that extending the benefit of probation would not meet the ends of justice and may send a wrong signal to society. Accordingly, the convicts are not found entitled to the benefit of the Probation of Offenders Act, 1958.

#### **What should be quantum of sentence ?**

5- **In Ravada Sasikala vs. State of A.P. AIR 2017 SC1166**, Hon'ble the Apex Court held that it is the duty of every court to award proper sentence having regard to nature of offence and manner of its commission.

6- Proper Sentence was explained in **Deo Narain Mandal Vs. State of UP [(2004) 7 SCC 257]** by observing that Sentence should not be either excessively harsh or ridiculously low. While determining the quantum of sentence, the court should bear in mind the 'principle of proportionality'. Sentence should be based on facts of a given case. Gravity of offence, manner of commission of crime, age and sex of accused should be taken into account. Discretion of Court in awarding sentence cannot be exercised arbitrarily or whimsical.

7- Keeping in view of the this facts and circumstance that convicts have been found guilty for the offence punishable under Section 323 read with 34,452,504,506(2) IPC and also keeping in view of the case law (Supra), I deem it fit that ends of justice would be met if the convicts are punished and sentenced as under:-

| <b>Name of the Convicts</b>                                              | <b>Under section</b>                                    | <b>Punishment</b>                                           | <b>Fine</b>    | <b>In default</b>                           |
|--------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------|----------------|---------------------------------------------|
| 1                                                                        | 2                                                       | 3                                                           | 4              | 5                                           |
| 1. Rishipal Singh,<br>2. Rinku,<br>3. Raghuveer Singh &<br>4. Khem Singh | <b>323 IPC</b><br>read with<br>section<br><b>34 IPC</b> | 6 months (RI)<br>imprisonment to<br>be suffered by<br>each. | 500/-<br>each  | 15 days (SI)<br>to be suffered by<br>each.  |
|                                                                          | <b>452 IPC</b>                                          | 3 Years (RI)<br>imprisonment to<br>be suffered by<br>each   | 3000/-<br>each | 3 months (SI)<br>to be suffered by<br>each. |
|                                                                          | <b>504 IPC</b>                                          | 1 Year (RI)<br>imprisonment to<br>be suffered by<br>each    | 1000/-<br>each | 1 months (SI)<br>to be suffered by<br>each. |
|                                                                          | <b>506(2)<br/>IPC</b>                                   | 2 Year (RI)<br>imprisonment to<br>be suffered by<br>each    | 2000/-<br>each | 2 months (SI)<br>to be suffered by<br>each. |

**8-** Accordingly the convicts are sentenced as above. The period already undergone by the convicts during the enquiry, investigation and trial of the case shall be set off against the terms awarded as provided under section 428 of the Cr.P.C. (Now 468 BNSS). All the sentences shall run concurrently.

**9-** Conviction warrants be prepared accordingly. File be consigned to the record room after due compliance.

**10-** Copy of the judgment be given to all the convicts free of cost.

**11-** A copy of the judgment be sent to the District Magistrate, Bijnor under Section 365 of Cr.P.C.( Now 406 BNSS.)

**Date- 07.07.2026**

**(Sunil Kumar Singh-III)**  
**Special Judge, S.C.,S.T.(P.A.) Act,**  
**Bijnor.**  
**J.O. Code- U.P.6076**

**The Judgment signed, dated and pronounced in the open court today.**

**Date- 07.07.2026**

**(Sunil Kumar Singh-III)  
Special Judge, S.C.,S.T.(P.A.) Act,  
Bijnor.  
J.O. Code- U.P.6076**