

UPET010024212025



**In the Court of Special Judge [Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act] Etah**

Present: Ashok Kumar XIII (J.O. Code - UP2392)

Complaint Case No. 96 of 2025

Avneesh Pratap aged about 23 years, son of Shri Premchandra, resident of Udayapura,
Thana-Jaithra, District Etah (Scheduled Caste, Kori) ... Complainant.

Versus

1. **Shobhit alias Chhotu** aged about 21 years, son of Jugendra Singh
2. **Puneet** aged about 22 years, son of Jugendra Singh
3. **Amit alias Jhandu** aged about 25 years, son of Bantu
4. **Krishna** aged about 19 years, son of Bhure alias Akkhi
5. **Shivank** aged about 22 years, son of Ajay
6. **Surjeet** aged about 26 years, son of Mahaveer Singh All residents of Udayapura,
Thana-Jaithra, District Etah ... Opposite Party/Accused

Date: 08.07.2025

1. The present matter before this Court is a complaint case filed by Avneesh Pratap under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023, for consideration at the stage of pre-summoning evidence, with the objective of determining whether there are sufficient grounds to proceed against the named accused persons or to dismiss the complaint. The complainant, Avneesh Pratap, belongs to the Kori Scheduled Caste community, and the allegations pertain to incidents that occurred on 14.03.2025.
2. The gravamen of the complaint, as submitted by Avneesh Pratap, is that on 14.03.2025, at approximately 09:00 PM, while returning home after meeting his family members, the accused persons, namely Shobhit alias Chhotu, Puneet sons of Jugendra Singh, Amit alias Jhandu son of Bantu, Krishna son of Bhure alias Akkhi, Shivank son of Ajay, and Surjeet son of Mahaveer Singh, all residents of

Udaypura, Thana-Jaithra, District Etah, who are stated to be of the Brahmin caste, conspired together, surrounded him, forcibly caught him, threw colour on him, and tore his clothes. When the complainant protested this act, the accused persons allegedly humiliated him by using caste-abusive language, specifically "Koriya," and verbally abused him in front of other villagers.

3. The complaint further states that out of fear, the complainant fled to his home, but the accused persons pursued him, entered his house, and physically assaulted him with kicks, punches, and belts. Upon hearing his cries for help, his father, along with Jugendra son of Babu Ram and Suraj son of Manik Chandra, came to his rescue. However, the accused also assaulted them with kicks and punches, causing minor injuries to Jugendra and Suraj. It is alleged that Anuj Kumar son of Deshraj Singh and other villagers witnessed the incident and intervened to stop the altercation. The complainant further averred that when he, along with the villagers, went to the Dhumri Police Post to report the incident, the police detained Jugendra and Shobhit alias Chhotu. On 15.03.2025, they were challaned under Sections 170, 126, and 135 of the Bharatiya Nyaya Sanhita, 2023. The police, however, neither registered the complainant's report nor provided him with a medical examination slip. When the complainant persisted, the police allegedly threatened to challan him as well, leading him to leave out of fear. Subsequently, on 17.03.2025, the complainant sent a typed application via registered post to the Senior Superintendent of Police, Etah, but no action was taken on it to date. Consequently, the complainant was compelled to file the present application before this Court.
4. In support of his complaint, the complainant, Avneesh Pratap, appeared as PW1 and gave his statement under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023, on 05.05.2025. He reiterated the events of 14.03.2025 at 09:00 PM, stating that while returning from Holi celebrations, he encountered Puneet, Shobhit, Amit, Surjeet, Krishna, and Shivank, who threw colour on him and tore his clothes when he objected. He further stated that they abused him by his caste, saying "Koriya, what will you do?". When he fled home, they chased him, entered his house, and assaulted him. His father, along with Jugendra, Suraj, and Anuj, came to save him and also sustained injuries. He stated that they went to the police post, where Shobhit and Jugendra were detained. The next day, when they went to the police post again, no action was taken on his complaint, and he was threatened with detention if he spoke further. He claimed that the police did not conduct his medical examination, and he subsequently sent an application to the Superintendent of Police, Etah, on 17.03.2025. He denied any prior enmity with

the opposite parties and stated that his injuries on his head, eye, and chest were caused by sticks, rods, and belts, and he received private medical treatment as government hospital treatment was unavailable.

5. Three other witnesses, Jugendra, Surajpal, and Anuj Kumar, also provided their statements under Section 225 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Jugendra (PW1 on 21.05.2025) stated that on 14.03.2025 at 09:00 PM, he heard cries from Avneesh Pratap's house and saw Shobhit, Amit, Puneet, Krishna, Shivank, and Surjeet assaulting Avneesh Pratap with belts and sticks inside his house. He, along with Suraj, Anuj, and Avneesh Pratap's parents, intervened, and they were also assaulted. He corroborated the use of caste-abusive language "Koriya." He further stated that he and Puneet were detained by the Dhumri police and later challaned for disturbing peace, but Avneesh Pratap's report was not registered. He denied any prior dispute between Avneesh Pratap and the opposite parties, stating the dispute arose on Holi. Interestingly, he stated that no one suffered injuries in the beating and that he did not know the opposite parties.
6. Surajpal (PW2 on 04.06.2025) stated that he is uneducated and could not recall the exact date of the incident but estimated it to be about three months prior. He claimed that Shobhit, Puneet, Amit, Shivank, and Surjeet were intoxicated and assaulted Avneesh Pratap at his house. He intervened and was also assaulted. He mentioned that Avneesh, Jugendra, and Anuj went to the police station, but no action was taken, and he and Jugendra were detained and Jugendra was challaned. He also denied any prior dispute between Avneesh and the opposite parties and claimed that Avneesh sustained injuries but did not seek medical treatment. He corroborated the use of caste-abusive language.
7. Anuj Kumar (PW3 on 25.06.2025) stated that on 14.03.2025 at around 09:00 PM, Avneesh was returning from his sister's house when Shobhit, Puneet, Surjeet, Amit, Shivank, and Krishna threw colour on him, tore his clothes, and hurled caste-abusive words. He stated that Avneesh informed him of this. He further stated that when Avneesh ran home, the accused pursued him and assaulted him inside his house. Upon hearing the commotion, he intervened and was also assaulted with punches, slippers, and belts, along with Avneesh, Jugendra, and Suraj. He confirmed that Suraj and Jugendra were challaned at the police station. He, however, explicitly stated that he did not witness the accused throwing colour on Avneesh and that there was no prior dispute between Avneesh and the accused. He claimed to have sustained injuries to his right ear and waist in the altercation but did not possess any medical treatment slips. He added that Avneesh and all the accused reside next to his house.

8. A police report, obtained in response to the complaint, provides a counter-narrative to the complainant's allegations. The report from Thana Jaithra, District Etah, states that on 14.03.2025, at approximately 08:00 PM, Surjeet son of Mahaveer Singh was sitting near the village temple. A previous altercation regarding an Instagram status led to an attack on Surjeet by Abhishek son of Premchandra, the complainant Avneesh son of Premchandra, Shivkumar son of Manikchandra, Anuj son of Deshraj, and two unknown individuals, who allegedly abused him and attacked him with sticks, rods, and sharp-edged weapons. When Puneet son of Jugendra and Krishna son of Dharamveer intervened, they were also abused and assaulted. Villagers intervened and separated them. Surjeet, Puneet, and Krishna, who sustained injuries in the altercation, reported the incident at the police station and underwent medical examinations at CHC. Copies of their medical reports are stated to be attached. Based on Surjeet's complaint on 19.03.2025, FIR No. 66/25 was registered under Sections 191(2), 191(3), 190, 115(2), 118(1) of the Bharatiya Nyaya Sanhita, 2023, against Avneesh and five others, and the investigation is ongoing. The police report explicitly states that no one from the complainant's side sustained any injuries in this incident, and the dispute was not related to Holi. It also mentions that the complainant Avneesh did not visit the police station on that day. The report further alleges that Avneesh, through villagers, pressured Surjeet and others to compromise the case and threatened to file a false Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act case through the Court if they did not agree to a compromise.
9. The police report additionally incorporates statements from villagers, namely Kamlesh Kumar son of Raghunandan, Dinesh Chandra son of Ram Prakash, Vinay Kumar son of Sureshchandra, and others, who allegedly stated that the allegations made by Avneesh are completely false. The report highlights that the complainant's house is approximately 900 meters from the temple, where the incident occurred, and no person from his caste resides near the temple where the altercation took place. It concludes that the complainant has filed a false application with fabricated allegations to pressure the opposite parties into a compromise in the case already registered against him. It further asserts that while three persons from the opposite party sustained visible injuries, confirmed by medical reports from CHC Jaithra, no injuries were sustained by the complainant's side. The police report also denies any use of abusive or caste-specific words at the scene. It states that no FIR has been registered at the police station regarding the incident described in the complainant's application.

10. At the stage of issuing process under Section 204 of the Code of Criminal Procedure, 1973 (corresponding to Section 227 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the Magistrate/Court is not required to undertake a detailed scrutiny of the evidence as if conducting a trial. The Court's role is limited to determining whether there are sufficient grounds to proceed, based on a prima facie satisfaction that the allegations constitute an offence and that there is a reasonable prospect of conviction. As emphasized by the Hon'ble Supreme Court in ***Mehmood Ul Rehman v. Khazir Mohammad Tunda And Others* 2015 SCC ONLINE SC 320**, the Magistrate must apply his mind and be satisfied that there is ground for proceeding before issuing process, and this satisfaction must be reflected in the order, though a formal or detailed order is not required. The criminal process must not be used as a weapon of harassment. Similarly, in ***Abhijit Pawar v. Hemant Madhukar Nimbalkar And Another* 2016 SCC ONLINE SC 1533**, the Hon'ble Supreme Court reinforced that the Magistrate must indicate satisfaction that the allegations constitute an offence and there is ground for proceeding, and the inquiry or investigation under Section 202 CrPC (or Section 225 BNSS) before issuing process is not a mere formality. The application of mind is demonstrated by disclosure of satisfaction in the order. Furthermore, in ***State Of Gujarat v. Afroz Mohammed Hasanfatta* 2019 INSC 146; 2019 SCC ONLINE SC 132**, it was reaffirmed that while the order issuing process must show application of mind and satisfaction of sufficient grounds, detailed reasons are not necessary at this stage; the Magistrate is concerned with allegations and evidence only to the extent of prima facie satisfaction.

11. In ***Birla Corporation Limited v. Adventz Investments And Holdings Limited And Others* 2019 SCC ONLINE SC 682**, the Hon'ble Supreme Court clarified that adequacy of evidence is to be assessed only at trial, not at the stage of issuing process. It also highlighted the importance of inquiry or directing investigation under Section 202 CrPC (as amended in 2006) before summoning an accused residing beyond jurisdiction, to prevent harassment by false complaints.

12. In the present case, the complainant, Avneesh Pratap, has alleged that he was subjected to an assault and caste-based abuse. However, a critical examination of the pre-summoning evidence reveals significant inconsistencies that cast serious doubt on the veracity of the complaint. While the complainant and his witnesses largely corroborate the assault and the use of caste-abusive language, certain material contradictions emerge from the witness statements themselves. For instance, Jugendra (PW1) explicitly states that no one suffered injuries in the beating, which directly contradicts the complainant's assertion of having sustained

injuries and seeking private medical treatment. This is further contradicted by Surajpal (PW2), who states that Avneesh sustained injuries but did not seek medical treatment. Furthermore, Anuj Kumar (PW3) states that he did not witness the initial act of throwing colour on Avneesh, which is a key part of the complainant's narrative. These discrepancies, particularly concerning the injuries and initial sequence of events, significantly weakens the evidentiary value of the pre-summoning statements.

13. Moreover, the police report paints an entirely different picture of the incident, suggesting that the complainant and his associates were the aggressors in a prior dispute related to an Instagram status, resulting in injuries to the opposite parties, for which an FIR has already been registered against the complainant and others. The police report's assertion that no one from the complainant's side sustained injuries and that the complainant did not visit the police station on the alleged date further undermines the complaint. The distance between the complainant's house and the scene of the alleged incident at the temple, as indicated in the police report, also raises questions about the sequence of events as narrated by the complainant. The police report unequivocally states that the allegations made by the complainant are false and designed to pressure the opposite parties due to an existing criminal case against him.

14. While the Court's role at this stage is not to conduct a full-fledged trial, the material on record, including the significant contradictions within the complainant's own evidence and the comprehensive and detailed counter-narrative presented in the police report, creates a substantial doubt regarding the prima facie case against the accused. The purpose of an inquiry under Section 202 of the Code of Criminal Procedure, 1973 (or Section 225 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is precisely to ascertain the truth or falsehood of the complaint and to prevent the summoning of accused persons on frivolous grounds, especially when they reside outside the Court's immediate jurisdiction. The inconsistencies in the pre-summoning evidence and the strong counter-evidence presented by the police report suggesting a malicious motive behind the complaint cannot be ignored at this preliminary stage. To issue process in such circumstances would amount to allowing the criminal process to be used as a weapon of harassment, which is to be avoided as per the principles laid down by the Hon'ble Supreme Court.

15. Having considered the complaint, the statements of the complainant and the witnesses recorded under Sections 223 and 225 of the Bharatiya Nagarik Suraksha Sanhita, 2023, respectively, and the police report, this Court finds that there are no

sufficient grounds to proceed against the accused persons. The inconsistencies in the statements of the complainant and the witnesses, coupled with the detailed police report indicating a prior dispute and a potential motive for filing a false complaint, militate against the existence of a prima facie case. The evidence, when considered in its totality, does not establish sufficient grounds for proceeding against the accused persons to the extent required for the issuance of process under Section 227 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Order

The complaint is hereby dismissed under Section 226 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The case file be consigned to the record room after necessary compliance as per rules.

Date: 08.07.2025

(Ashok Kumar XIII)
Special Judge [S.C./S.T.
(Prevention of Atrocities) Act]
Etah