



2026:DHC:624



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment Reserved on: 21.01.2026
Judgment pronounced on: 27.01.2026

+ CRL.A. 448/2016

UDAIVEER SINGH

.....Appellant

Through: Mr. F.K. Jha, Mr. Gaurav Jha, Ms. Shalini Jha and Mr. Aaryamaan Singh, Advocates

versus

GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State with Inspector O.P. Vishnoi

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 374(2) of the Code of Criminal Procedure, 1973, (the CrPC) has been filed by the sole accused in Sessions Case No. 06/2014 on the file of the Additional Sessions Judge-02, South-West, Dwarka Courts, Delhi challenging the judgment dated 12.04.2016 and the order on sentence dated 19.04.2016 as per which the appellant has been convicted for the



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offence punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the SC & ST Act).

2. The prosecution case, as revealed from the charge-sheet/final report is that the accused, a senior officer of PW2, belonging to an upper caste, repeatedly abused the latter by making caste based derogatory remarks with the intent to humiliate him within public view. During the said time, PW2 was working in the Malaria and Dengue Department, Municipal Corporation of Delhi and was posted in Ward number 134 in Najafgarh Zone, South West Delhi. Hence, the accused was alleged to have committed the offence punishable under Section 3(1)(x) of the SC & ST Act.

3. Based on Ext. PW2/A complaint of PW2, dated 22.10.2013, given to the National Commission for Scheduled Castes, an enquiry was conducted and thereafter, as per order dated 24.03.2014 of the DCP, crime number 251/2014, Najafgarh Police



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Station, that is, exhibit PW6/A FIR was registered by PW12, Assistant Commission of Police. PW12 conducted the investigation to the crime and on completion of the same, submitted the charge sheet/final report on 19.05.2014, alleging the commission of the offence punishable under the aforementioned section before the jurisdictional magistrate.

4. On appearance of the accused before the jurisdictional magistrate pursuant to receipt of summons, copies of all the prosecution reports were furnished to him as contemplated under Section 207 CrPC. Thereafter, in compliance of Section 209 CrPC, the case was committed to the Court of Session concerned.

5. When the accused appeared before the trial court, as per order dated 10.07.2014, a charge under Section 3(1)(x) of the SC & ST Act was framed, read over and explained to the accused, to which he pleaded not guilty.

6. On behalf of the prosecution, PWs.1 to 13 were examined and Exts. PW1/A-B, PW2/A, Mark P2/1-5, Mark P2/B, Mark D1,



Mark D2, PW3/A, PW4/D1-D4, PW5/DA, PW6/A-B, Mark X, Mark Y, PW10/1, Mark A, Mark B and PW12/A-E were marked in support of the case.

7. After the close of the prosecution evidence, the accused was questioned under Section 313 CrPC, regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those incriminating circumstances and maintained his innocence. He submitted that he has been falsely implicated in the case as he had given memos and circulars to PW2 and to the other witnesses as they were not performing their duties properly. He submitted that though 06.10.2013 was a Sunday, all the employees had been directed to work as the outbreak of Dengue and Malaria was at its peak. PW4, Union leader along with PW2 and other witnesses, contractual workers, deliberately avoided work as they thought that if the situation worsened, they would get permanent employment. Further, no complaint regarding the alleged abuse



was made either to the police or to the department before Ext. PW2/A complaint was given, as PW2 and his associates were quite aware and conscious that had they given such a complaint, their lie would be exposed. He further submitted that he never used to conduct field meetings but used to carry out only random checks and that all meetings, instructions and reports were taken in his office after 4:00 P.M.

8. After questioning the accused under Section 313 CrPC, compliance with Section 232 CrPC was mandatory. In the case on hand, no hearing as contemplated under Section 232 CrPC is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89: 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.PC has caused any prejudice to him.



9. On behalf of the accused, DW1 was examined and Exts. DW1/A and DW1/B were marked.

10. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 12.04.2016, held the accused guilty of the offence punishable under Section 3(1)(x) of the SC & ST Act and hence, sentenced him to undergo rigorous imprisonment for a period of 02 years along with fine of ₹30,000/-and in default to undergo simple imprisonment for six months. The benefit under Section 428 Cr. PC has been granted. Aggrieved, the accused has preferred the present appeal.

11. It was submitted by the learned counsel for the appellant/accused that Ext. PW2/A complaint was filed by PW2 as an afterthought and in order to shield himself from disciplinary action including possible termination, as the appellant had issued a memo dated 08.10.2013 to the latter and his associates for non-performance of duties. The complaint was instituted with an



ulterior intention to wreak vengeance upon the appellant, as disciplinary proceedings had been initiated by the accused against PW2 for dereliction of duty. It was further submitted that there is an unexplained delay of about 7 to 8 months in giving the complaint. The complaint does not speak about the date, time or place at which the offence was committed or that it was done in public view. It was also submitted that PW4 to PW10 are interested witnesses, as they are associates of PW1 and they also had a grudge against the appellant/accused as the latter had issued memos to them also for dereliction of duty.

12. *Per Contra*, it was submitted by the learned Additional Public Prosecutor that there is no infirmity in the impugned judgment calling for an interference by this Court.

13. Heard both sides.

14. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.



15. It is true as pointed out by the learned Additional Public Prosecutor that PW2 as well as PW4, PW5, PW7, PW8 and PW9 stand by the prosecution case while they were examined before the Court. The important question is, can their testimony be relied on to find the accused guilty of the offence charged against him and whether their testimony is trustworthy?

16. Before I refer to the complaint, I refer to Section 3(1)(x) as it then stood:

“(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

.....

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

.....

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years with fine. ”

(Emphasis Supplied)

17. PW2/A complaint dated 22.10.2013 given by PW2 alleging the abuse, based on which the crime was registered,



reads:-

“श्रीमान जा,
मैं जगबीर सिंह सुपुत्र स्वर्गीय ताराचन्द मलेरियों डेंगू विभाग में वार्ड
नं०.134 ए नजफगढ़ जोन दक्षिणी दिल्ली नगर निगम में कार्यरत हूँ।
साहब जी मैं अनुसूचित जाति से - बाल्मिकी समाज से सम्बन्ध रखता
हूँ। साहब जी मेरा ऐ०. एम०. आई०. उदयवीर जी कहते है कि मैं उच्च
जाति का वाहुबली हूँ पिछले 8-9 महीने से मुझे जाति सूचक शब्दों
(चूहड़ा, चमार, ढेड़, कमीन) व बहुत गन्दी उपमाओं व गालियाँ देकर
लज्जित करते है। उन्होने सभी सीमाए पार कर दी है। तंग आकर मैंने
इसकी शिकायत अपने मुख्य अधिकारी डी०. एच०. ओ०. साहब डा०
मितल (एस०. डी०. एम०, सी०.) व डी०. सी०. (एस०. डी०. एम०. सी०.)
नजफगढ़ को भी कर चूके है। उदयवीर जी हमें दादागीरी धमकियों
देते है और तुम्हें नौकरी से टर्मिनेंट कराकर छोड़गां और प्रार्थना पत्र
उठाने का अत्यधिक दबाव बना रहा है। मैं बहुत डरा हुआ हूँ मैं
आपकी सरण में आया हूँ तुझे इस अत्याचारीक ऐ०. एम०. आई०. से
बचाया जाये। मैं आपके आगे न्याय की गुहार लगा रहा हूँ। इसके उपर
सख्त से सख्त कानूनी कार्यवाही तुरन्त की जाये। आपकी अति कृपा
होगी।”

18. As is clear from a reading of the complaint, the date, time
or the place at which the abuse is alleged to have taken place has
not been mentioned anywhere. The complaint also does not reveal



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the fact that the abuse was done within public view. It is true that at the bottom of PW2/A complaint, names of a few persons are stated as witnesses. However, the complaint does not say that any member of the public or the persons whose names figure at the bottom were present or had seen or heard the appellant/ accused abusing PW2 or that the abuse was done in public view. Intention to insult or intimidate with an intent to humiliate a member of the schedule caste and schedule tribe community must be in any place within public view. To be a place within ‘public view’, as referred to in the Section, the place should be open where members of the public can witness or hear the utterances made by the accused to the victim. If it is done in a place where members of the public are not present, then it cannot be said that it has taken place at a place within public view as contemplated under the Section. (See **Karuppudayar v. State represented by the Dy.SP, Lal Gudi Trichi 2025 KHC 6089 : AIR 2025 SC 705; Deepak Kumar Tala v. State of Andhra Pradesh 2025 KHC 7219 : 2025 SCC**



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OnLine SC 638 and Hutu Ansari @ Hutu Ansar v. State of Jharkhand 2025 KHC 7246 : AIR 2025 SC 2465). However, Ext. PW2/A complaint is silent about the place and it also does not say that the abuse took place in public view. Therefore the testimony of PW2 and the other prosecution witnesses can only be taken as an improvement of the original complaint.

19. Further, there is a delay about 08 months or so in giving the complaint which has also not been properly explained. It is true that mere delay in giving a complaint is no ground to reject the prosecution case. However, in the case on hand, there are other circumstances also which raise doubts regarding the prosecution case and hence, the delay in giving the complaint is also a vital factor in this case.

20. The specific defence taken by the appellant/accused is that the complaint had been given only because he had issued memo to PW2 as well as the other prosecution witnesses for dereliction of duty. As per Ext. PW4/D3 memo, PW2 and his



associates were asked to work by the appellant/ accused even on a Sunday. Despite the direction PW2 and others did not report for duty and therefore, the appellant/accused is alleged to have issued a memo against PW2 and others. The fact that a memo had been issued by the accused is admitted by PW2 in his cross examination. The relevant portion of his cross examination reads thus: -

“.....It is correct that accused had issued a memo to me prior to 6.9.2013. I do not know whether other persons who are named by me above were also given memos for not working properly. It is correct that the said memo was issued to me for not working properly and for not properly breeding of mosquitoes. It is correct that I am not a permanent employee of MCD and I am on contract basis. It is wrong to suggest that I did not work properly and accused used to make me understand or that I have lodged a false complaint against the accused in order to avoid termination of my services.

I do not remember whether the accused had given me memo on 8.10.2013 and has also issued a circular warning thereby that my contract could be terminated if I do not work properly. It is correct that circular dated 8.10.2013 bears my signatures at point X and same is mark D1 and the copy of memo dated



8.10.2013 is mark D2 bearing my signatures at point A. It is wrong to suggest that to escape from duties I have lodged a false complaint directly to SCST commission.....”

(Emphasis Supplied)

21. The memo marked D dated 08.10.2013 issued reads-

“Memo

By order of DHO N.G. Zone. All the staff include DBC(Staff) will do their dirty on every Sunday till further order. Due to epidemic (panic condition) of Dengue cases you will do work on Sunday Strictly. But except Narender all D.B.C were absent on 6/X/13 without information. It Shows that you are not interested in the work of DBC and interrupted troubled the M.C.D. work. Reply of this memo within 2 days. If you are failed to reply this case will be sent to Higher authority for taking disciplinary action.

Copy to

- 1. Kailash*
- 2. Lokesh*
- 3. Bijender*
- 4. Surender*
- 5. Sombir*
- 6. Jagbir*
- 7. Basant*
- 8. Krishna*
- 9. D.H.O., N.G. Zone*

They refused to give Reply but orally accepted their mistake.



10. O/C.”

“

DT. 8/10/13

Circular

सभी D.B.C को आदेश दिया जाता है कि वो सुबह अपने अपने क्षेत्र में कार्य करने जायेंगे और दोपहर 1.00 pm पर circle पर वापिस आकर दोबारा 2.00 pm circle/Incharge क्षेत्र में काम करने जायेंगे। और शाम 4.00 PM पर Circle पर आकर अपनी अपनी Summary Report देंगे. दोपहर बाद के काम के हस्ताक्षर ... दीवारों पर Time भी लिखेंगे।

1. Narender
2. Bijender
3. Surender
4. Kailash.
- 5 Krishan
6. Sombir
7. Jagbir
8. Basant
9. Lokesh

.....”

22. Therefore, it is clear that the complaint was initiated by PW2 pursuant to the appellant/accused issuing memo to him. This aspect along with the delay in giving the complaint does



probabilise the defense case that the complaint was given as an afterthought as memo had been issued by the appellant/accused to PW2 for dereliction of duty. Interestingly, PW4, PW5, PW7, PW8 and PW9 are also seen to have been served with the Circular and memo for failing to report for work. Most of them have also admitted the receipt of the memo. Therefore, it may not be safe to rely on their testimony alone to conclude regarding the guilt of the accused. During the course of examination, PW2 and PW4, PW5, PW7, PW8 and PW9 have a case that the appellant/accused had abused PW2 in full public view and that there were other members of the public also present. However, none of the said independent witnesses have been examined. In addition, the complaint does not reveal that the incident took place within public view.

23. In these circumstances, doubts arise in the mind of the Court regarding the prosecution case. Hence, I find that the trial court went wrong in relying on the unsatisfactory evidence on record to find the accused guilty. I find that the accused is entitled



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to the benefit of doubt.

24. In the result, the appeal is allowed. The impugned judgment is set aside and the appellant/accused is acquitted under Section 235(1) Cr.PC. The appellant/accused is set at liberty and his bail bond shall stand cancelled.

25. Applications, if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JANUARY 27, 2026

RS/ER