

(1998) 12 AHC CK 0019

In the Allahabad High Court

Case No : Writ Petition No. 3846 (M.B.) of 1998

Sudhanshu Gupta and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-12-1998

Acts Referred:

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 3(1), 3(10)

Citation : (1999) 3 ACR 2611

Hon'ble Judges : R.P. Nigam, J;D.K. Trivedi, J

Bench : Division Bench

Advocate : Rajendra Kumar Dwivedi, for the Appellant; G.A., for the Respondent

Judgement

D.K. Trivedi and R.P. Nigam, JJ.—By means of this petition, the Petitioners pray for quashing of the First Information Report in respect of the case crime No. 1033 of 1998 under Sections 323/504/506, IPC and Section 3(1)(10) Schedule Caste and Schedule Tribe Act, P.S. Kotwali, Lakhimpur Kheri.

2. The contention of the learned Counsel for the Petitioners is that the complainant in this case is the son of Chief Judicial Magistrate, Lakhimpur Kheri therefore, the police is unnecessarily harassing the Petitioners who were not involved in the incident. The incident took place just in front of the house of the Petitioners and the Petitioners tried to subside the dispute which was going on between the students. The Petitioners also filed several affidavits of the persons who are residing near the place of the incident including Sri Bhuvenshwari Prasad Saxena who is running a coaching institute. The present petition was filed and this Court directed the Government Advocate to obtain instruction. Today the Government Advocate obtained instruction and also placed before us the case diary. The contention of the Petitioners' counsel is that even Section 3 of the Schedule Caste and Scheduled Tribes (Prevention of Atrocities)(sic) Act is not attracted because no word has been mentioned in the First Information Report nor any serious thing is mentioned in the statements of the two persons recorded

upto now. The investigating officer is also present and he has stated that he has not yet recorded the statements of any other witness of the locality. He only recorded the statements of the two injured persons. He admits that no statement of the person whose house has been shown in the site plan has been recorded. However, looking into the facts and circumstances of the case, we are of the opinion that at this stage the First Information Report cannot be quashed but in order to provide a fair investigation, it would be proper if the Superintendent of Police appoints some one else to investigate the case and the said Investigating Officer would investigate the case independently and thereafter if he comes to the conclusion that the Petitioners are also involved in the incident, then he may proceed in accordance with law. It may be clarified that the Investigating Officer would now make independent investigation without any influence and submit.

3. With these observation, the writ petition is disposed of finally.