



[2025:RJ-JD:52947]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Appeal No. 494/1994

Brij Mohan @ Raja S/o Nathraj R/o Pungalpagda, Jodhpur  
-----Appellant

Versus

State Of Rajasthan  
-----Respondent



For Appellant(s) : Mr. Rajiv Bishnoi  
For Respondent(s) : Mr. Rajesh Bhati}  
Mr. Ravindra Bhati} AGA  
Ms. Anjali Kaushik

HON'BLE MR. JUSTICE FARJAND ALI

Judgment

REPORTABLE

05/12/2025

1. By way of the instant appeal, appellant has challenged the judgment of conviction and the sentence dated 19.09.1994 imposed by the learned Special Judge (SC/ST Prevention of Atrocities Act Cases) No.3, Jodhpur in Sessions Case No.30/1994, whereby he has been convicted and sentenced as under:-

Offence for which convicted	Substantive sentence	Fine and default sentence
Section 3 (1)(X) of the SC/ST Act	Six Months SI	Fine of Rs.1,000/- in default to further undergo two months SI
Section 323 of the IPC	Three Months SI	Fine of Rs.500/- and in default to further undergo one month's SI

Being aggrieved by the said judgment, the appellant has approached this Court seeking reversal of the findings recorded by the Trial Court.

2. The prosecution case, as unfolded from the impugned judgment, is that a report (Exhibit P-1) was lodged by the



complainant Rajan Solanki on 22.08.1991, alleging that he was intentionally insulted, intimidated, and physically assaulted by the accused by referring to his caste. It was alleged that such conduct amounted to an offence under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, 1989 in addition to an offence under Section 323 IPC.

2.1. The background of the dispute, however, reveals that the complainant had purchased a Bajaj Kawasaki motorcycle from the appellant's showroom on loan, which was financed by Bajaj Auto Finance Company Ltd., and had admittedly defaulted in repayment of the monthly instalments, with several cheques issued by him being dishonoured. Consequent to such default, the appellant demanded clearance of outstanding dues.

2.2. During this period, the motorcycle met with an accident and was brought to the appellant's showroom for repairs. The repair work was duly carried out and the cost thereof was assessed at approximately ₹10,000/-. The complainant was asked to make payment and take delivery of the repaired vehicle. According to the prosecution, when the complainant went to collect the vehicle, he allegedly offered payment through a demand draft which was refused by the appellant, who instead insisted upon payment in cash or by cheque. It is further alleged that during this interaction, the appellant insulted the complainant by referring to his caste and physically pushed him out of the showroom.

2.3. Following investigation, a charge-sheet was filed for offences under Section 323 IPC and Section 3(1)(x) of the SC/ST Act. The accused pleaded not guilty, and the trial proceeded. The



prosecution examined seven witnesses and tendered documentary evidence, while the defence examined three witnesses and produced twelve documents. Upon culmination of trial, the learned Special Judge convicted the accused, leading to the present appeal.

3. I have heard learned counsel for the parties at considerable length and have meticulously perused the entire material available on record. Upon a holistic evaluation of the evidence, it becomes manifest that the substratum of the dispute between the parties was purely contractual and commercial in nature, namely that of seller and customer. The complainant admittedly purchased the motorcycle from the appellant's showroom in April 1990, and it stands proved on record that he defaulted in payment of the loan instalments. Several cheques issued by him were dishonoured, a fact not disputed during trial. In such circumstances, the appellant was legally justified in insisting upon clearance of outstanding dues.

3.1. More than a year after the purchase, the complainant brought the motorcycle to the appellant's showroom for repairs following an accident. The repair work was duly carried out, and the appellant was legitimately entitled to demand payment towards labour charges and replacement of damaged parts before delivering the vehicle. The prosecution case that the complainant attempted to tender payment by way of a demand draft is conspicuously unsupported by any reliable evidence. Not a single document, whether the alleged demand draft, a bank receipt, or any contemporaneous record demonstrating its preparation, was



produced during the trial. Had such a demand draft genuinely been prepared, its existence would have been easily demonstrable by producing the draft itself or at least some banking record. The absence of any such proof creates a serious lacuna in the prosecution case and substantially undermines the credibility of the complainant's version, reinforcing the defence plea that the dispute arose purely on account of non-payment.

3.2. Equally infirm is the prosecution's allegation of physical assault. No medical evidence whatsoever has been adduced to corroborate the claim that the complainant was slapped or sustained any injury. The testimonies of the prosecution witnesses do not inspire confidence, as none of them consistently or convincingly corroborated the allegation of "maar-peeet." The site map (Exhibit P-6) further assumes significance. It clearly depicts that the alleged incident occurred entirely within the enclosed and private precincts of the appellant's showroom. The place marked "H", where the complainant claims to have been pushed or slapped, falls well within the closed premises of the shop. Significantly, the prosecution has neither pleaded nor proved the presence of any independent member of the public at the relevant time. He also unequivocally asserted that the alleged offence took place inside the shop. This fact stands corroborated by Exhibit P-6, which clearly establishes that the place of occurrence was within the shop premises. In view of this undisputed position, the alleged act cannot be said to have been committed at a place within public view; consequently, the essential ingredients of Section 3(1)(x) of



the SC/ST Act are not satisfied, rendering the said provision inapplicable.

3.3. At this juncture, it becomes imperative to examine the scope and essential ingredients of Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, which, at the relevant time, read as follows:

*"Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, 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..."*

The essence and legislative utility of this provision lie in curbing caste-based humiliation and indignity inflicted upon members of Scheduled Castes and Scheduled Tribes in the public domain, where such acts not only demean the individual but also reinforce social oppression by public display. The expression *"in any place within public view"* has been consistently interpreted by courts to mean that the alleged insult must occur at a place where it is capable of being witnessed by members of the public other than the complainant and the accused.

3.5. This Court reiterates, with emphasis, that the textual and purposive interpretation of Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, mandates that the alleged act must occur at a place "within public view", a locus so situated or exposed that the conduct in question is capable of being observed, perceived or witnessed by members



of the general public. The statutory phrase imports an objective criterion of public visibility: it is not satisfied by the mere presence of more than one person or by a private exchange between individuals, but by the availability of the scene to public observation and scrutiny.

3.6. In the facts at hand, the incident is averred to have transpired within close precincts, specifically *within the four corners of the walls* of the shop premises. This description denotes a spatially confined and enclosed environment, shielded from casual public access and observation. Such an enclave, locked within the four walls of a private commercial establishment, falls squarely outside the ambit of a public vista; it lacks the outward exposure which the legislative provision contemplates as an essential element for Section 3(1)(x) to apply.

3.7. Moreover, the character of the alleged conduct must be assessed against this spatial precondition. Allegations of humiliation or intimidation, however grave, acquire the statutory complexion contemplated by Section 3(1)(x) only when they are perpetrated in a setting where the public at large could witness or be made aware of them contemporaneously. Where the asserted acts are confined to a private interior, the four corners of the room, the requisite nexus with public visibility is absent, and the act remains a private wrong cognisable, if at all, under other provisions of law.

3.8. Accordingly, even on an acceptance of the complainant's averments that a non-member subjected a member of a



Scheduled Caste or Scheduled Tribe to humiliation or intimidation, such conduct, if confined to the close and enclosed precincts of the shop, within the four corners of the walls, would not satisfy the essential ingredient of "public view." In the absence of this indispensable element, Section 3(1)(x) of the Act cannot be held to be attracted, and the matter must be evaluated, if appropriate, under alternative penal or civil provisions cognate to private affronts.

3.9. In the present case, this foundational requirement remains wholly unestablished. The evidence on record unambiguously demonstrates that the alleged incident, even if assumed to have occurred, took place inside a closed showroom, beyond the view of the general public. There is a complete absence of independent eyewitnesses, no indication of public presence, and no material to suggest that the alleged humiliation was visible or audible to members of the public. Thus, the sine qua non for invoking Section 3(1)(x) of the SC/ST Act is glaringly absent.

3.10. In addition to this, the lack of medical corroboration regarding the alleged assault and the failure to substantiate the claim of payment through demand draft cumulatively weaken the prosecution case. The learned Trial Court, while recording conviction, failed to appreciate these material infirmities and applied the stringent provisions of a special penal statute to a factual matrix that essentially emanated from a private commercial dispute. Such an approach resulted in a manifest misapplication of law.





3.11. For the reasons aforesaid, this Court is of the considered opinion that the prosecution has failed to establish the essential ingredients of the offence under Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, as well as the offence under Section 323 IPC, beyond reasonable doubt. The conviction recorded by the learned Trial Court, therefore, cannot be sustained.

4. Accordingly, the appeal deserves to be allowed. The impugned judgment of conviction and order of sentence dated 19.09.1994 passed by the learned Special Judge (SC/ST Prevention of Atrocities Act Cases) No.3, Jodhpur in Sessions Case No.30/1994, is hereby set aside. The appellant is not required to surrender; his bail bonds, if any, stand discharged.

5. Let the record be sent back to the concerned court. All pending applications, if any, stand disposed of.

**(FARJAND ALI),J**

1-Mamta/-