



2026:AHC:46823

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL No. - 2318 of 2026**

Kusum Kannaujiya

.....Appellant(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

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Counsel for Appellant(s) : Ankur Rai, Vikalp Kumar Rai  
Counsel for Respondent(s) : G.A.

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**Court No. - 51**

**HON'BLE ANIL KUMAR-X, J.**

1. Heard Sri Vivek Chaturvedi, learned counsel for the appellant and Sri K.K.Gupta, learned AGA for the State.

2. The present criminal appeal under Section 14-A(1) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act has been preferred to allow the present appeal and set aside the impugned order dated 19.1.2026 passed by the learned Court of Special Judge (SC/ST Act), Azamgarh in Criminal Misc. Case No. 2289 of 2025 (Kusum Kannojiya vs. Pawan Chaubey and 4 others), under Section 173(4) BNSS, P.S. Bardah, District Azamgarh.

3. Learned counsel for the appellant submitted that the application filed by the appellant under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023 was wrongly dismissed by the learned Trial Court. It is contended that instead of directing registration of an FIR, the learned Trial Court itself conducted an inquiry into the allegations made in the application. According to the learned counsel, it is settled law that a Special Court is not authorised to conduct such an inquiry while dealing with an application under Section 173(4) BNSS. It is further argued that Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rule 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 prohibit the Court from conducting any such inquiry on an application filed under Section 173(4) BNSS. In support of his submissions, learned counsel has placed reliance upon the judgment in **Asha v. State of Uttar Pradesh Neutral Citation No. 2025:AHC-LKO:785**.

4. Learned AGA has submitted that SC/ST Act has not put any such restrictions upon Special Courts and it nowhere says that Courts will act as

post offices upon an application under Section 173(4) BNSS.

5. In light of the submissions raised by Learned Counsels, following questions are framed for consideration:-

(1) Whether a Special Court/Magistrate is bound to direct registration of an FIR on an application filed under Section 173(4) BNSS by a victim belonging to the Scheduled Caste or Scheduled Tribe community?

(2) Whether the provisions of Section 4 of the SC/ST Act and Rule 5 of the SC/ST Rules apply to a Special Court while considering an application filed under Section 173(4) BNSS by a victim belonging to the Scheduled Caste or Scheduled Tribe community.

6. Before proceeding with the above legal questions, it will be relevant to discuss the conclusions of Co-ordinate Bench in **Asha (Supra)**. In the said case, Section 4 , 18A and Rule 5 of Sc/ St Act were discussed and it was held in para -11 :-

*"11. From a perusal of the impugned order, it appears that the learned Magistrate has inquired into the factum before passing the impugned order. Thus, in fact, he has conducted an inquiry himself, which is prohibited under the Act. In this case, the First Information Report should have been registered by the concerned Police Officer at the Police Station, Jagatpur. Since the F.I.R. was not registered, she approached the Superintendent of Police Raebareli. He also appears to have not followed the mandate under Section 4 of the SC/ST Act as well as Rule 5 of the SC/ST Rules. Thereafter, learned Special Court, while passing the impugned order, instead of directing the concerned Police Station to register the First Information Report, conducted the inquiry himself, which is prohibited under Section 18-A of the SC/ST Act. Thus, in view of the aforesaid discussion, this impugned order cannot be sustained and is liable to be set aside."*

7. Said provisions were carefully examined by the this Court. Section 4 deals with the punishment of public servants who neglect their duties in matters relating to offences against members of the Scheduled Castes or Scheduled Tribes. This section lays down that:-

(i). If a public servant (such as a police officer or government official) deliberately fails to perform his duty in cases involving offences under the SC/ST Act, he can be punished.

(ii). Neglect of duty may include:

- Not registering an FIR when information about an offence is given.

- Not properly investigating the offence.
- Not protecting the victim or witnesses.
- Not filing the charge sheet in time.
- Ignoring other legal duties required under the Act.

(iii). If such intentional neglect is proved, the public servant can be punished with imprisonment for a term which may extend to one year.

(iv). In simple terms, Section 4 ensures that government officials and police officers cannot ignore complaints or fail to act in cases involving offences against SC/ST persons. If they deliberately neglect their duties, they can be punished under this provision.

(vi). Similarly, Rule 5 prescribes the procedure to be followed when any information relating to the commission of an offence under the Act is given to the officer in charge of a police station. It requires the police officer to promptly register the FIR and take necessary steps for investigation. Further, Section 18-A of the Act prohibits any preliminary inquiry or prior approval for the registration of an FIR in cases under the Act. Hence, it is evident that Section 4, Section 18-A and Rule 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are mainly intended to regulate the duties of police officers and other public servants in relation to registration and investigation of offences under the Act, and they do not curtail the judicial discretion of the Court while considering an application under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. Hence, the legal position is that a Special Court or Magistrate is not automatically bound to direct registration of an FIR on an application filed under Section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023 merely because the applicant belongs to the Scheduled Caste or Scheduled Tribe community. The power conferred upon the Court under Section 173(4) BNSS, which is similar to the power earlier exercised under Section 156(3) Cr.P.C., is discretionary in nature. Before directing registration of an FIR and investigation, the Court is required to examine the allegations made in the application and apply its judicial mind to the facts of the case. If the Court finds that immediate police investigation is not necessary, it may treat the application as a complaint case and proceed in accordance with the procedure prescribed for complaint cases by recording the statements of the complainant and the witnesses.

9. The **Priyanka Srivastava v. State of Uttar Pradesh, (2015) 6 SCC 287**, has clearly held that the Magistrate should not mechanically direct

registration of an FIR and must apply judicial mind before passing such an order. Similarly, in **Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710**, it has been observed that even in matters relating to offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Court must examine whether the allegations disclose a prima facie offence connected with the caste of the victim.

10. Further, Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rule 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 mainly impose duties upon public servants and police authorities to promptly register and investigate offences under the Act. These provisions do not curtail or take away the judicial discretion of the Court while considering an application under Section 173(4) BNSS.

11. Therefore, the Special Court or Magistrate is not bound to direct registration of an FIR in every case merely because the applicant belongs to the Scheduled Caste or Scheduled Tribe community. The Court must first evaluate the allegations placed before it and thereafter decide whether it is appropriate to direct investigation by the police or to proceed with the matter as a complaint case.

12. Accordingly, the present appeal is dismissed.

**March 9, 2026**  
Ujjawal

**(Anil Kumar-X,J.)**