



**HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL APPEAL No. - 9125 of 2026**

Guddo

.....Appellant(s)

Versus

State of U.P. and 7 others

.....Respondent(s)

Counsel for Appellant(s)	: Ganesh Kumar
Counsel for Respondent(s)	: G.A.

Court No. – 91

AFR

Reserved On 1.10.2026

Delivered On 13.10.2026

HON'BLE SANTOSH RAI, J.

1. Heard Sri Ganesh Kumar, learned counsel for the appellant, Sri Purushottam Maurya, learned AGA for the State and perused the material on record.

2. This appeal under Section 14-A(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("the Act") is directed against the order dated 12.02.2026 passed by the learned Additional District Judge/Special Judge (SC/ST Act), Ghaziabad, in Criminal Misc. Case No.1258/2025 (Guddo Vs. Ajay Kumar Singh & Ors.). By that order the learned Special Judge rejected the appellant's application under Section 4 of the Act, in which she sought that cognizance be taken and criminal

proceedings be directed against the seven respondents, all public servants, for alleged wilful neglect of duty.

3. The appellant, an illiterate widow belonging to the Scheduled Caste (Balmiki community), states that in 2020 her minor daughter, Kumari Soni alias Sabnam, then about 13 years of age, was working as a domestic help in the house of Sandeep Sharma and his wife Rekha Sharma. The daughter suddenly went missing. After searching for her without success, the appellant, apprehending kidnapping, trafficking and sexual exploitation, gave a written application along with a caste certificate to the then Station House Officer, P.S. Kaushambi (respondent no.1), on 15.03.2020. She alleges that no case was registered and no lawful action was taken on it.

4. The appellant further alleges that, after her daughter was recovered, medical examination confirmed rape and pregnancy; that Sandeep Sharma and Rekha Sharma, to save themselves, lodged a complaint resulting in Case Crime No.24/2020 at P.S. Kaushambi; that the Investigating Officer, out of casteist mentality, deliberately investigated on false facts, did not add the provisions of the SC/ST Act, and neither arrested nor proceeded against the real accused; that the Circle Officer (Respondent No. 3), as supervising officer, forwarded a defective charge-sheet; that her complaint to the Inspector General, Meerut Zone, led to an inquiry by Respondents 4 and 5 in which neither she nor her statement was taken and a one-sided report was prepared; and that her later representations (30.01.2024, 12.04.2024, 13.05.2025, 16.05.2025), her complaint to the National Commission for Scheduled Castes (13.05.2025), her RTI applications, and her request

dated 10.08.2025 for prior sanction under Section 218 of the BNSS were either disposed of by copying the earlier report or remain unanswered and amounted to wilful neglect punishable under Section 4 of the Act.

5. The respondents filed their objections before the Special Judge, SC/ST Act, Ghaziabad. They produced, among other documents, a copy of the First Information Report and a copy of a form of the Uttar Pradesh Rani Laxmi Bai Mahila evam Bal Samman Kosh. Their case was that an FIR was in fact registered on the appellant's own written complaint and duly investigated, and that no duty under Section 4(2) of the Act was neglected.

6. The learned Special Judge, after hearing the appellant's counsel and perusing the record, held in substance as follows:-

".....The application is under Section 4 of the Act, which punishes a non-SC/ST public servant who wilfully neglects the duties required of him under the Act and the Rules; the duties are listed in Section 4(2)(a) to (g). The appellant's main grievance is that no FIR was registered on her complaint of 15.03.2020. The record, however, shows that on 07.02.2020, at 23:48 hours, Case Crime No. 24/2020 under Section 366 IPC was registered at P.S. Kaushambi against unknown persons on the written report of the appellant herself. The FIR records that her daughter, Shabnam (Soni), working at the flat of Rekha Sharma at Sector-4, Vaishali, left on 05.02.2020 at about 11:00 a.m. without informing anyone, and that she suspected a boy with whom the girl was in telephonic contact. The appellant's statement that no case was registered, and that the FIR was lodged by Sandeep Sharma and Rekha Sharma, is therefore contrary to the record; she has not placed the true facts before the Court. During investigation, statements of the informant, the victim and other witnesses were recorded under Section 161 Cr.P.C., the victim's statement was recorded under Section 164 Cr.P.C., and a charge-sheet was filed against the accused Sonu, which is pending before the Court of the Special Judge (POCSO Act). If the appellant is dissatisfied with the

investigation, she is free, during trial, to lead her own evidence and that of other witnesses and to move an application for proceeding against persons other than the accused. She cannot invoke Section 4 of the Act at this stage. The police officers discharged their duties as required by Section 4(2), the FIR was registered, the investigation was conducted by a competent officer, the spot was inspected, and the necessary steps under Rules 5, 6 and 7 of the SC/ST (Prevention of Atrocities) Rules, 1995 were taken. There is therefore no sufficient ground to take cognizance against the concerned officers, and the application was rejected....."

7. In brief the grounds of appeal are that the minor daughter of the appellant was allegedly kidnapped from the house of the accused Sandeep Sharma, subjected to sexual harassment and became pregnant, yet the police failed to register the FIR under the relevant provisions of the SC/ST Act and the IPC. It is further contended that the police authorities and senior police officers failed to conduct a proper and impartial investigation, wilfully neglected their statutory duties under Section 4 of the SC/ST Act, and did not incorporate the relevant provisions of the said Act despite the statements of the minor victim recorded under Sections 161 and 164 Cr.P.C. allegedly supporting the prosecution version. The appellant alleges that the police authorities attempted to shield the actual culprit and that the trial court failed to consider these material aspects while passing the impugned order dated 12.02.2026. Hence, the impugned order is illegal and unsustainable in the eyes of law and is liable to be set aside.

8. Learned counsel for the appellant submits that the Special Judge ignored the repeated complaints and the documentary material showing the officers' inaction; the FIR was not registered on the appellant's complaint of

15.03.2020; the provisions of the Act were not added despite the appellant's caste certificate; the supervising and inquiring officers acted in collusion; and the application ought at least to have been entertained for inquiry.

9. Learned counsel for the respondents/learned AGA submits that the impugned order is well-reasoned and based on the record; that an FIR was registered promptly on the appellant's own report; that the allegations are a collateral attack on an investigation which has ended in a charge-sheet; and that dissatisfaction with the course or outcome of an investigation does not amount to wilful neglect of duty under the Act.

10. Section 4(1) of the Act provides that a public servant who is not a member of a Scheduled Caste or Scheduled Tribe and who wilfully neglects the duties required of him under the Act and the Rules made under it is punishable with imprisonment of not less than six months, extendable to one year. Section 4(2) enumerates the duties, which include: reading over and recording the information given orally before the informant signs it; registering a complaint or FIR under the appropriate sections of the Act; giving a copy of the recorded information to the informant forthwith; recording statements of victims and witnesses; conducting the investigation and filing the charge-sheet within sixty days, recording reasons for any delay; correctly preparing and translating documents; and performing any other duty specified in the Act or Rules. Under Section 4(3), cognizance of such neglect is taken by the Special Court or Exclusive Special Court, which may direct criminal proceedings against the public servant. The

proviso to sub-section (2) links proceedings against the public servant to an administrative inquiry.

11. The essential ingredient is 'wilful neglect of a duty specifically cast by the Act or the Rules'. Dissatisfaction with the outcome of an investigation, a difference of view on how it should have been conducted, or an administrative lapse in responding to representations does not by itself attract Section 4.

12. The record shows that an FIR was registered as Case Crime No.24 of 2020 at Police Station Kaushambi and that, upon completion of investigation, a charge-sheet was submitted. These facts may be relevant to the background of the dispute, but they do not, by themselves, establish the commission of an offence under Section 4 of the Act. Registration of an FIR reflects only the initiation of criminal investigation, while submission of a charge-sheet reflects the investigating agency's opinion that the material collected warrants prosecution. Neither circumstance conclusively establishes that the public servant wilfully neglected a duty imposed by the Act or the Rules.

13. For the purposes of Section 4, the prosecution must, at the threshold, disclose: (i) the existence of a specific statutory or regulatory duty cast upon the public servant; (ii) the public servant's knowledge of, and responsibility for, performing that duty; (iii) a specific omission or failure to perform it; (iv) that the omission was wilful, deliberate, or attributable to conscious disregard of the duty, rather than to a bona fide error, lack of jurisdiction, inadvertence, or a disputed exercise of official judgment; and (v) where required by the proviso to Section 4(2), the requisite recommendation for an administrative enquiry. The FIR

and charge-sheet must therefore be examined against these statutory requirements, and not treated as substitutes for proof of them.

14. Thus, the following points arise for determination:-

(i) Whether the officers wilfully neglected the duty to register an FIR.

(ii) Whether the grievances regarding the investigation, the non-addition of provisions of the Act, and the non-arrest of other persons constitute an offence under Section 4.

(iii) Whether the post-investigation conduct of the officers (inquiry, replies to the appellant and the National Commission for Scheduled Castes, RTI replies, and disposal of representations) discloses an offence under Section 4.

(iv) Whether the impugned order calls for interference.

15. The principal plank of the appellant's case is that nothing was done on her application. The record belies this. The certified copy of the FIR on the record shows that Case Crime No. 24/2020 under Section 366 IPC was registered at P.S. Kaushambi on 07.02.2020 at 23:48 hours on a written report whose informant is the appellant herself, within about two days of the girl's disappearance on 05.02.2020. The appellant's assertion that the FIR was lodged by Sandeep Sharma and Rekha Sharma is not borne out by the document. In substance, therefore, the primary statutory duty under Section 4(2)(b), registration of the FIR, was performed.

16. The application dated 15.03.2020 post-dates the FIR by more than five weeks and concerns the same incident. Where an FIR has been registered on a cognizable offence, no second FIR can be registered on the same incident; further information is to be dealt with in the course of the same investigation. The duty to register an FIR on information disclosing a cognizable offence, had thus already been discharged. The non-registration of a separate FIR on the later application cannot be treated as wilful neglect.

17. The question of the victim's age (19 years in the FIR, approximately 13 years according to the appellant) is for the trial court to determine on proper evidence. It is not for this Court to decide in this appeal, and nothing in this judgment shall be read as an observation on it.

18. After registration, the investigation proceeded. The learned Special Judge has recorded, on the basis of the case diary and charge-sheet material, that statements under Section 161 Cr.P.C. of the informant, the victim and witnesses, and the statement of the victim under Section 164 Cr.P.C., were recorded; that the spot was inspected; and that a charge-sheet has been submitted against the accused Sonu, on which trial is pending before the Special Judge (POCSO Act). These steps correspond to the duties in Section 4(2)(d) and (e) of the Act and Rules 5, 6 and 7 of the 1995 Rules. The appellant has not placed before this Court any material to show that the charge-sheet was filed beyond sixty days without recorded reasons, or that any specific statutory duty was wilfully neglected.

19. The appellant's real complaint is that the investigation was one-sided, that persons she names as the actual

culprits were not arrested or charge-sheeted, and that provisions of the Act were not added. These grievances relate to the quality and direction of the investigation. Such grievances are not remediable by a prosecution under Section 4. Settled law provides other remedies, an informant dissatisfied with an investigation may approach the Court concerned, which has the power to monitor the investigation and to direct further steps regarding the discipline governing such applications. During trial, the appellant may also invoke the Court's power to summon additional persons who appear to have committed the offence on evidence adduced. The learned Special Judge rightly pointed this out, and these remedies remain open to the appellant.

20. Whether the provisions of the Act were attracted against the persons the appellant names depends on whether the offences were committed on the ground that the victim belongs to a Scheduled Caste, which is a matter of evidence. A failure to apply particular sections after an FIR has been registered and investigated is, at most, a matter of investigation and trial. It is not wilful neglect of a duty specified in Section 4(2).

21. The appellant's allegations regarding the inquiry by respondent nos.4 and 5, the disposal of her representations by the Superintendent of Police, the DCP and the ACP, the reply sent to the National Commission for Scheduled Castes, and the replies to her RTI applications are, even taken at their highest, complaints of administrative inaction or dissatisfaction with the reasons given. None of them is a duty enumerated in Section 4(2) (a) to (g). Section 4 is a penal provision and must be

strictly construed. Conduct outside the enumerated duties cannot be brought within it by general allegations of casteist bias, collusion or abuse of power, unsupported by particulars or material. Allegations of mala fides and casteist motive of this kind need specific facts. None has been pleaded or shown beyond the conclusions in the application.

22. As to the supervising officer, forwarding a charge-sheet which the appellant considers defective does not constitute wilful neglect of a duty under Section 4(2), particularly when the charge-sheet has been accepted by the Court and the trial is under way. The appellant's allegation of a breach of Section 122(3) of the Police Act, 1861 and of the Citizen Charter, and the departmental instructions (including those of 1977 and 1981 regarding complaints against officers), are matters for the departmental or administrative authorities. They do not create a ground for taking cognizance under Section 4 of the Act.

23. The appellant's grievance that a complaint against an officer was marked to that officer or his subordinates for inquiry is a legitimate administrative concern. However, it does not, without more, show wilful neglect of any statutory duty under the Act. The material on record does not satisfy any of the essential elements necessary to constitute wilful neglect under Section 4 of the Act:-

(i) It does not identify with precision the particular provision of the Act or the Rules that imposed the alleged duty upon the public servant. A general allegation that official action was delayed, inadequate, or unsatisfactory

cannot take the place of identifying a specific statutory obligation.

(ii) The record does not demonstrate that the alleged duty was entrusted to, or was within the exclusive control of, the public servant concerned. Nor does it show that the public servant had knowledge of a subsisting obligation and nevertheless consciously chose not to perform it.

(iii) No definite act or omission has been identified by which the alleged duty was left undone. The existence of an FIR and the subsequent filing of a charge-sheet in Case Crime No.24 of 2020 do not establish that any separate duty under the Act or the Rules was omitted.

(iv) Even assuming that some procedural lapse or error occurred, the record contains no material showing that it was deliberate, conscious, or motivated by a wilful disregard of the statutory duty. Wilful neglect cannot be inferred merely from an adverse outcome, delay, dissatisfaction with the investigation, or the fact that a complainant disputes the manner in which official powers were exercised.

(v) The record does not disclose the statutory recommendation required under the proviso to Section 4(2), nor does it contain material showing that the procedural safeguard was duly complied with. Thus, the foundational facts necessary to invoke Section 4 are absent.

24. The proviso to Section 4(2) further requires a recommendation for an administrative enquiry before charges for the specified dereliction of duty are booked against a public servant. This requirement is not a mere

formality; it operates as a statutory safeguard against converting every allegation of official inaction or dissatisfaction into a criminal prosecution.

25. In **State of GNCT of Delhi & Ors. v. Praveen Kumar @ Prashant 2024 SCC OnLine SC 1591**, the Supreme Court recognised the importance of this safeguard in assessing whether proceedings against a public servant under the provision could lawfully be initiated. Relevant paragraphs of the judgment are extracted hereinbelow:

"13. Section 4(1), interpreted by the golden rule, has the following facets:

i. Firstly, section 4(1) is meant to operate against a public servant, and the threshold requirement is that the public servant shall not be a member of a Scheduled Caste or a Scheduled Tribe;

ii. Secondly, such a public servant willfully neglects his duties, as mandated under the Act of 1989 and the Rules of 1995.

*13.1 Section 4(2) has set out the duties for performance by a public servant and sub-section (2) uses the word 'include'. The word 'include' is a phrase of extension and not of restrictive connotations. The word 'include' is not equivalent to 'mean'. The word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the statute. [See *Dilworth v. Commissioner of Stamps* (1899) A.C. 99, 105-106; *South Gujarat Roofing Tiles Manufacturers Association v. State of Gujarat* (1976) 4 SCC 601; *Dadaji alias Dina v. Sukhdeobabu* (1980) 1 SCC 621].*

13.2 The words and phrases in sub-section (2) must be construed as comprehending not only such acts as they signify according to their natural import but also those which the interpretation clause declares that they shall include. In the case on hand, the dispute is not on whether the alleged commission or omission comes within any of the clauses of subsection (2) of section 4. The consideration is on the interpretation of the proviso to sub-section (2) of section 4 and consequent cognizance under section 4(3) of legal proceedings. Conversely, whether cognizance of an offence can be directed/carried out without the recommendation of the administrative enquiry.

13.3 In other words, to set in motion the penal proceedings including taking cognizance for an offence of commission and omission under section 4(2) of the Act of 1989, the recommendation of the administrative enquiry is a sine qua

non. The proviso is an inbuilt safeguard to the public servant from initiation of prosecution by every dissatisfied complainant. On appreciation of offences covered by section 3 and the nature of offences conversely dealt with under section 4 of the Act of 1989, it is noted that a complaint under section 3 presupposes insult, accusation, victimization, etc. of a member of the Scheduled Castes and Scheduled Tribes by a non-Scheduled Caste/Tribe person. However, the commission or omission by a public servant is rendered as an offence when the public servant contravenes the duties spelt in section 4(2) of the Act of 1989 read with the Rules of 1995 and by a recommendation made to that effect. The test in an enquiry is whether the public servant willfully neglected the duties required to be performed by the public servant under the Act of 1989 or not.

Interpreting the proviso to sub-section (2) of section 4, on the principles noted above, we notice that the proviso has an important role to play and in the scheme of proceedings under section 4 of the Act of 1989, acts as a condition precedent. Therefore, the commission or omission of any of the duties by the public servant becomes a cognizable offence against the public servant only on the recommendation of the administrative enquiry, for in law, an offence means any act or omission made punishable by any law for the time being in force. A combined reading of sub-sections (1), (2) and (3) of section 4, would demonstrate that the commission or omission by a public servant has penal consequences and the willful neglect is recommended by an administrative enquiry and the cognizance can be taken thereafter. The recommendation of administrative enquiry on alleged failure of duty or function by a public servant would make the neglect of an offence clear and the cognizance of such an offence is legal. The competent court can take cognizance of the commission or omission of any duty specified under sub-section (2) of section 4 when made along with the recommendation and direct legal proceedings. Therefore, to constitute a prima facie case of negligence of duty, the proviso to subsection (2) of section 4 contemplates an administrative enquiry and recommendations.

14.1 Sub-section (3) of section 4 enables the Special Court or Exclusive Special Court to take cognizance of the dereliction of a duty referred to in sub-section (2) of section 4 by a public servant. The reference to subsection (2) in sub-section (3) of section 4 would include the requirement in the proviso and the need for recommendation of an administrative enquiry as well. Alternatively, tapering the application of proviso to a later stage, viz., framing the charge, would defeat the very safeguard the proviso intends to accord to a public servant in the matter of registration of an FIR or facing criminal proceedings. The public servants are governed by conduct and discipline rules. The officers in charge of a police station are fastened

with obligations, duties and functions in matters relating to crimes, prosecution, etc. The deviation of conduct is called misconduct by a public servant. Normally the word "misconduct", among other contextual connotations, implies a wrongful intention and not a mere error of judgment. In service jurisprudence, the expression "misconduct" means wrong or improper misconduct, unlawful behaviour, misfeasance, wrong conduct, misdemeanor, etc.

14.2 In the absence of section 4, the dereliction of duty by a public servant would have resulted in disciplinary proceedings and a punishment commensurate to the misconduct found against the public servant. Now for the same set of acts of commission or omission, section 4 makes them punishable and stipulates imprisonment of public servants for a term not less than six months which may extend to one year. The penal action can be set in motion by taking cognizance under section 4(3) of the Act of 1989. Therefore, it is all the more reason that the requirement in the proviso to sub-section (2) of section 4 receives grammatical interpretation and makes a condition precedent for taking cognizance of an offence under section 4(2) of the Act of 1989.

14.4 The absence of recommendation would bar taking cognizance by the Court. In a given case, if a complaint without recommendation is filed before the Magistrate, the Magistrate before proceeding further to keep his decision conforming to section 4(2) read with the proviso, calls for a report/recommendation from the Department against the named public servant. The Special Court or the Exclusive Special Court based on an administrative enquiry report can take cognizance of the alleged offence and thereon direct penal proceedings. By keeping in perspective, the language/scheme of section 4, and on the literal interpretation of sub-sections (1), (2) and (3) of section 4, it would be legally permissible that the jurisdiction for infraction of sub-section (2) of section 4 is attracted only on the recommendation of the administrative enquiry and then, the cognizance under sub-section (3) of section 4 is ordered."

26. To attract Section 4 of the SC/ST Act, the essential requirements are that the person concerned must be a public servant who is not a member of a Scheduled Caste or Scheduled Tribe and that he must have wilfully neglected the duties imposed upon him under the Act and the Rules framed thereunder. The duties enumerated in Section 4(2) are illustrative and not exhaustive. However, the proviso to Section 4(2) mandates an administrative

enquiry and a recommendation thereon as a condition precedent for initiating penal proceedings against the public servant. The purpose of such enquiry is to ascertain whether the alleged omission or commission constitutes wilful neglect of duty, rather than a bona fide act or mere procedural lapse. Consequently, in the absence of the requisite administrative enquiry and recommendation, criminal proceedings cannot be initiated merely on the allegations of a complainant or on the basis of a judicial assessment of the alleged dereliction of duty. The Special Court or Exclusive Special Court must strictly adhere to the statutory safeguards embodied in Section 4(2) read with Section 4(3) of the Act.

27. In the present case, the record neither establishes compliance with this requirement nor supplies independent material proving the other elements of wilful neglect. In the absence of a specific statutory duty, a demonstrable and attributable omission, evidence of conscious or deliberate disregard, and the requisite administrative recommendation, the statutory threshold under Section 4 is not met.

28. The application before the Special Court, therefore fails to disclose a prima facie case under Section 4 of the Act. It does not identify the duty allegedly neglected, establish that the duty was entrusted to the public servant concerned, specify the act or omission constituting the breach, or furnish material from which wilfulness can reasonably be inferred. Nor does it demonstrate compliance with the statutory requirement of an administrative recommendation. The provision cannot be invoked merely because the complainant is dissatisfied

with official action or because an FIR and charge-sheet exist in a related criminal case. Where the essential statutory ingredients are absent, continuation of the proceedings would expose the public servant to criminal process without the factual foundation required by law and would amount to an abuse of the process of the Court. The application was, therefore, rightly rejected by the learned Special Judge, SC/ST Act, Ghaziabad.

29. For the reasons stated above, this Court finds no illegality, perversity, or jurisdictional error in the impugned order dated 12.02.2026 passed by the learned Special Judge, SC/ST Act, Ghaziabad, rejecting the application under Section 4 of the Act.

30. Accordingly, the appeal, being devoid of merit, is hereby **dismissed**. The impugned order stands **affirmed**.

31. The Registrar (Compliance) is also directed to serve a copy of this order within 48 hours by FAX/e-mail to the concerned court through District & Sessions Judge, Ghaziabad for compliance.

(Santosh Rai,J.)

October 13, 2026
RA