

*** THE HON'BLE SRI JUSTICE A.V. SESA SAI**

+ WRIT PETITION No. 16777 OF 2009

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% 24.03.2015

K. Venugopal Reddy and ors

....Petitioners

v.

\$ The Deputy Superintendent of Police,
Ananthapur Division, Ananthapur and ors

.... Respondents

! Counsel for the Petitioner: Sri A. Hanumantha Reddy
Counsel for Respondents 1to3:Government Pleader for Home
Counsel for Respondent No.4: Sri R.Ramanjaneyulu.

<Gist :

>Head Note:

? Cases referred:

1. AIR 1992 SC 604
2. 2009 CrI.L.J. 350
3. (2011)11 SCC 259
4. 2009(1) ALD (CrI) 22(AP)
5. AIR 1996 SC 1011
6. 2005(1) ALT (CrI) 213 (AP)
7. (2013) 3 SCC 330
8. 2004 SCC(CrI) 2104
9. 2006(3)ALT(CrI) 216 (AP)

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 16777 of 2009

DATED 24TH MARCH, 2015.

BETWEEN

K. Venugopal Reddy and ors.

...Petitioners

And

The Deputy Superintendent of Police,
Ananthapur Division, Ananthapur and ors.

...Respondents.

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 16777 of 2009

ORDER:

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1. In the present Writ Petition filed under Article 226 of the Constitution of India, the petitioners herein are praying this Court to declare the registration of FIR No. 184 of 2009 on the file of the II Town Police Station, Ananthapur for the offences alleged under Sections 323, 354, 506 of Indian Penal code read with Sections 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'the Act') as illegal and arbitrary and for consequential quashment of the same.

2. Heard Sri A.Hanumantha Reddy, learned Counsel for the petitioners, learned Government Pleader for Home, appearing for Respondents 1 to 3 and Sri R.Ramanjaneyulu, learned Counsel appearing for the fourth respondent. Perused the material available before this Court.

3. The facts and circumstances, in nutshell, leading to the filing of this Writ Petition are as *infra* > The fourth respondent herein lodged a complaint on 5.6.2009 with the II Town Police Station alleging that her husband lodged a complaint on 12.03.2009 and the police registered the same as Crime No. 56/2009 on the file of the II Town Police Station, Ananthapur for the alleged offences punishable under Sections 344, 383 and 506 IPC against petitioners 3 and 4 and after obtaining anticipatory bail, the petitioners herein went to the house of fourth respondent herein and threatened her with dire consequences

for lodging complaint and abused her and her husband in the name of caste and beaten them to withdraw the complaint. The II Town Police, Ananthapur registered the same as Crime No. 184/2009 for the alleged offences under Sections 354, 506 IPC and Section 3(i)(x) of the Act. Seeking to quash the said FIR No. 184/2009, the present Writ Petition came to be filed before this Court.

4. This Court on 13.08.2009 passed an order, directing the official respondents not to arrest the petitioners in connection with Crime No. 184 of 2009.

5. In response to the notice, respondents 1 to 4 filed counter affidavits, denying the averments and allegations made in the affidavit filed in support of the Writ petition and, in the direction of justifying prosecution launched against the petitioners.

6. The submissions/contentions of the learned Counsel for the petitioners are:

1. that the very complaint lodged by the fourth respondent which culminated in registration of FIR No. 184/2009 is a patent abuse of process of Court;
2. that the fourth respondent made a complaint for extraneous considerations and only for the purpose of dragging the petitioners towards the negotiating table to extract money;
3. that the husband of the fourth respondent is an educated person and executed an agreement of sale on 05.03.2009 for sale of the land to an extent of Ac.0.92.236 cents in Sy.No.135/20 of Kukkalapalli village of Rudraram Gram Panchayat, Ananthapur District followed by registration of the sale deed vide document bearing No.1244/2009, dated 0.3.2009 on the file of the Sub Registrar, Ananthapur and having sold the property, he lodged a complaint on 12.3.2009, which ended in acquittal in C.C.No.286

of 2010 by the Court of the learned Additional Judicial Magistrate of First Class, Ananthapur;

4. that the fourth respondent belongs to 'Baliya' community, which is a Forward Caste, as such, she cannot maintain a complaint under the provisions of the Act and simply because her husband belongs to Scheduled Caste, she (fourth respondent) would not automatically become a member of SC community;
5. that the fourth respondent, acting as next friend and guardian for her minor children, instituted O.S.No.17 of 2009 on 23.3.2009 before the Court of learned Additional District Judge-cum-Family Court, Ananthapur for partition of the suit schedule properties including the subject property stating that without their consent her husband sold away the subject property for his personal and the said suit ended in dismissal. The suit in O.S.No.58 of 2009 got filed by the husband of the fourth respondent against himself and fourth respondent herein also ended in dismissal on 17.07.2014;
6. that earlier on 12.03.2009, the husband of the fourth respondent lodged a complaint and the same was registered as crime No. 56/2009 against the petitioners 3 and 4 and the prosecution launched in C.C.No.286 of 2010 based on the complaint for the alleged offences under Sections 344, 383, 506 and 420 IPC ended in acquittal by the Court of the learned Judicial First class Magistrate, Ananthapur; and
7. that the essential ingredients of Section 3(1)(x) of the Act are absent in the crime registered against the petitioners.

7. To substantiate his submissions and contentions, the learned Counsel for the petitioners placed reliance on the decisions in the State of

Haryana Vs. Bhajanlal {AIR 1992 SC 604}, Gorige Pentaiah Vs. State of A.P. { 2009 CrI.L.J. 350}, Asmathunnisa Vs. State of Andhra Pradesh {(2011)11 SCC 259}, M. Ramesh Vs. State of AP { 2009(1) ALD (CrI) 22 (AP)}, Mrs. Valsamma Paul Vs. Cochin University {AIR 1996 SC 1011}, Gara Yesobu Vs. State of AP {2005 (1) ALT (crl) 213 (AP)}, Rajiv Thapar Vs. Madanlal Kapoor {(2013) 3 SCC 330}, State of Orissa through Kumar Raghavender Singh Vs,. Ganesh Chander Jew {2004 SCC (CrI) 2104} and BVSS Ramana Murthy Vs. State of AP {2006(3) ALT (CrI) 216 AP}.

8. The submissions/contentions of the learned Government Pleader, appearing for respondents 1 to 3 and learned Counsel, appearing for Respondent No.4 are:

1. that the prosecution launched in the instant case is in conformity with the law and there is no illegality nor any abuse of process of law as alleged by the petitioners and as such, extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be permitted to be invoked;
2. that there are necessary and essential ingredients of the provisions of law as indicated in the First Information Report;
3. that only in the extra-ordinary circumstances, the jurisdiction of this Court under Article 226 of the Constitution of India can be invoked to quash the FIR and the present case is not a case of such nature; and
4. that the allegations made against the petitioners herein cannot be gone into in the present Writ Petition and unless a full-fledged trial is conducted by the criminal courts truth would not come out.

9. In the above back ground of the facts and circumstances of the case and submissions/contentions advanced by the learned counsel on either side, the only issue that emerges for consideration of this Court is, whether the petitioners herein are entitled for any relief from this Court under Article 226 of the Constitution of India ?

10. The legislative intent behind in enacting the criminal laws is to maintain law and order, peace and tranquility in the society. Therefore the prosecutions shall be in the direction of achieving the said goal and in the direction of inspiring confidence and faith of the people in the system and the process of law should never be permitted for wreaking vengeance against the persons for individual benefits in the said disguise. It is a well settled law that inherent and extraordinary powers of this Court under Section 482 of Cr.P.C., and Article 226 of the Constitution of India are required to be pressed into service very sparingly and with great care, caution and circumspection and within the principles and parameters laid down in the authoritative pronouncements. In the event of there being any abuse of process of law, there is a sacred obligation and duty cast on the courts to arrest the same to strengthen the confidence of the people in the system guided by rule of law.

11. The Parliament enacted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in the year 1989 and also framed rules under the said legislation. There is obviously historic background for the said legislation and this is evidently one of the major steps towards achieving the constitutional goals as enshrined under Chapter III and IV of our Magna Carta. There is sacred and holy object behind the legislation and one of the objects is elimination of certain social evils which have become hurdles and menace for the development and growth of certain vulnerable sections of our society. Therefore, the prosecutions under this legislation shall be in furtherance of the same, but not in the direction of frustrating sacred and laudable object. Various issues raised in the present Writ Petition are needed to be viewed and

examined in the light of the above aspects and the law laid down by the constitutional Courts in the authoritative pronouncements.

12. Petitioners 3 and 4 are husband and wife, and, are the parents of petitioners 1 and 2. Initially on the complaint of the husband of the fourth respondent, namely, Juturu Ramanjaneyulu, the police registered a crime in FIR No.56/2009 on 12.03.2009 against the petitioners 3 and 4 herein for the offences alleged under Sections 344, 383, 506 and 420 IPC. In the said complaint, it was alleged that the accused by wrongfully confining the complainant got registered the sale deed on 09.03.2009 in the office of the Sub Registrar, Rudrampeta, Ananthapur in respect of the land admeasuring 0.92.236 cents situated in Sy.No.135/20 of Kukkalapalli village of Rudraram Gram Panchayat, Ananthapur District. After investigation, the police filed a charge sheet and it was numbered as C.C.No.286 of 2010 on the file of the Court of the learned Additional Judicial Magistrate of First Class, Ananthapur. The learned Magistrate, by way of Judgment dated 18.02.2013, acquitted the accused/petitioners 3 and 4 herein. It is evident from a perusal of the said judgment that the learned Magistrate took into consideration the evidence of P.Ws. 6 and 7, who were the Senior Assistant in the office of the Sub Registrar and Scribe of the sale deed respectively, who deposed that the husband of the fourth respondent voluntarily executed the sale deed on 12.03.2009 for valid sale consideration and received the entire sale consideration. On 5.6.2009 the fourth respondent herein, who is the wife of the complainant in Cr.No.56 of 2009, lodged the present complaint, alleging that after obtaining anticipatory bail in Cr.No.56 of 2009, the accused in the said crime, who are the petitioners 3 and 4 herein, along with petitioners 1 and 2, came to their house and threatened the fourth respondent and her husband, and abused them in the name of their caste and threatened them with dire consequences. It was also alleged that the accused demanded them to withdraw the complaint. Based on the said complaint, the II Town Police, Ananthapur registered a case in Crime No.184/2009 for the offences alleged under Sections 323, 354, 506 IPC and Section 3(1)(x) of the Act. As pointed out by the learned Counsel for the petitioners, the complaint is absolutely silent as to when exactly the offence took place, i.e. time and date of occurrence of

offence. The complaint is also not clear as to who committed the act of outraging the modesty of the fourth respondent. Another significant aspect, which needs mention at this juncture is that the husband of the fourth respondent executed the agreement of sale on 5.3.2009, agreeing to sell the subject property which is the centre of controversy. But curiously there is no mention of the same either in the complaint in Crime No. 56 of 2009 or in Crime No. 184 of 2009. Yet another vital aspect which requires to be noticed is that the fourth respondent-complainant, acting as guardian and, next friend on behalf of the minor children, instituted O.S.No.17 of 2009 on 23.03.2009, for partition of the suit schedule property including the subject property, on the file of the learned District Judge, Ananthapur, against her husband, who was arrayed as first defendant therein and sons & daughters, who were arrayed as Defendants 2 to 6, who were born through the first wife of the first defendant and 4th petitioner herein as Defendant No.7. In the plaint filed in the said suit, she pleaded as follows:

“.....The 7th defendant who is purchaser of the part in scheduled property recently on 9.3.2009 and receiving the same by the 1st defendant for his personal. More over the 1st defendant have no right to sale the part of the plaint scheduled property without consent of the other members. The plaintiffs entitled 1/8th share in the plaint scheduled property”

13. According to the learned Counsel for the petitioners, the said suit ended in dismissal. While referring to the contents of the plaint, it is contended by the learned Counsel for the petitioners that having stated in the plaint that her husband sold the subject property in favour of the petitioners herein for his personal use, it is not open for the fourth respondent to launch criminal prosecution against the petitioners herein. It is further contended by the learned Counsel for the petitioners that the attempt of the fourth respondent is to pressurize and drag the petitioners to negotiating table for extraneous

consideration and to extract money. This Court having gone through the material available before this Court found sufficient force in the said submissions of the learned Counsel for the petitioners. It is also the case of the petitioners that the husband of the fourth respondent got filed another suit by one Erigala Sudhakar Reddy vide O.S.No.58 of 2009 on 27.10.2009 against himself and fourth petitioner herein on the file of the Court of the learned District Judge, Ananthapur, seeking specific performance of agreement of sale dated 15.01.2009 and the said suit also ended in dismissal on 17.07.2014. A copy of the said judgment dated 17.07.2014 is placed on record by the learned Counsel for the petitioners. It is appropriate to reproduce the relevant findings of the learned District Judge on additional issue No.1, which read as follows:

“ In this case D2 obtained a registered sale deed on 9.3.2009 and as DW.1 himself admitted in his evidence that in criminal case he stated before the sub-registrar while registering Ex.B.1 that he received sale consideration and hence it is concluded that execution of Ex.B.1 is bonafide and genuine. Further according to D3 immediately after receiving legal notice from the plaintiff, she went to the house of D1 and she also came to know that D1 went to Proddatur and the house was locked and the same was not denied. In this case the conduct of the plaintiff that though he came to know about execution of Ex.B.1 he did not try to contact D2 to inform her about his agreement of sale also creates a doubt about the case of plaintiff and D1. Added to that agreement of sale is not registered and hence D2 also has no knowledge about it. According to her she is a bonafide purchaser for a valid consideration and since D2's title and possession is under a registered document it is considered. D2 also deposed that she has been in possession and therefore this issue is answered in favour of D2.”

14. It is also the case of the petitioners that at relevant point of time, the first petitioner was studying engineering course at Hyderabad and second petitioner

was doing her project work at Hyderabad after completion of her MBA and petitioners 3 and 4 were at Chennai for treatment of petitioner No.4 for Cancer at Apollo Hospital, Chennai. Relevant documents have been filed in support of the same.

15. Yet another contention canvassed by the learned Counsel for the petitioners is that there are no essential ingredients of Section 3 (i)(x) of the Act in the present FIR registered against the petitioners. According to the learned Counsel for the petitioners, the necessary ingredients are, namely, (1) victim should belong to a member of Scheduled Caste or a Scheduled Tribe, and (2) intention to humiliate within public view; and in the absence of the same in the complaint lodged by the fourth respondent, no case is made out against the petitioners. In order to consider the said contention, it is apposite to refer to the said provision of law, which reads as under:

“3: **Punishment for offences of atrocities**:- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(i) to (ix) xxxxxxx xxx

(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 be extended to five years and with fine.”

16. The said provision of law, in clear and vivid terms demonstrates that in order to launch prosecution under Section 3(1)(x) of the Act, two necessary and indispensable ingredients must exist. They are, the victim should belong to Scheduled Caste or Scheduled Tribe and there must be humiliation of such person in public view. It is the case of the petitioners that the fourth respondent belongs to ‘Balija’ community which is a Forward caste/(OC), but not either Scheduled Caste or Scheduled Tribe. In order to demonstrate the same, a

caste certificate dated 11.08.2009 issued by the Tahsildar, Ananthapur is placed on record by the learned Counsel for the petitioners, which unambiguously shows that the fourth respondent belongs to 'Baliya' Community. The genuineness of the said certificate is not disputed by any of the respondents and on the other hand in the counter filed by the official respondents, it is stated that the fourth respondent belongs to Baliya community which can never be a Scheduled Caste. It is submitted by the learned Counsel for the petitioners that the Tahsildar, Ananthapur Mandal initiated enquiry against the fourth respondent by issuing notice dated 17.11.2009. A copy of the said notice is also placed on record by the learned Counsel for the petitioners. It reads as under:

"L.Dis.B/1718/2009 Office of Tahsildar,
Ananthapur,
Dated 17.11.2009

Notice

Smt. Gajula Lakshmi W/o G.Ramanjaneyulu, resident of D.No.6-1-433, Lakshminagar, Ananthapur is hereby informed that after thorough and detailed enquiry into the matter regarding obtained caste certificate by you and after verifying the school certificate of your brother, it reveals that originally you belongs to "Baliya" by caste. Further it is also informed to you that you have obtained false Caste Certificate as you belongs to S.C. from this office. Further you have also been issued a notice previously to attend this office along with your original certificates. You have informed to this office that you are not feeling well. But you have not produced any Medical Certificate for the above reason.

Hence you are hereby informed that attend this office on 30.11.2009 along with your all original certificates for verification and if you did not turn up on the above date, criminal action will be initiated against you as per Section 10 of Act 16/1993 (The A.P.(SC,ST BCs)Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997).

Sd/- Tahsildar,

Ananthapur.

18.11.2009

To

Smt. Gajula Lakshmi

W/o G.Ramanjuaneyulu,

D.No.6-1-433, Lakshminagar,

Kadapa.”

17. According to the learned Counsel for the petitioners, the fourth respondent did not attend the said enquiry.

18. It is the categorical case of the petitioners that the fourth respondent belongs to Balija caste which is not either Scheduled Caste or Scheduled Tribe. In the counter affidavit of the fourth respondent, there is no specific denial of the said averment. Simply because the fourth respondent married a person belonging to Scheduled Caste, caste status of the fourth respondent would not automatically alter. In the absence of any material to disclose the caste of the fourth respondent that she belongs to Scheduled Caste, it can safely be concluded that there is no first ingredient. It is also not the case of the fourth respondent in the complaint that the alleged incident took place in the public view. The complaint does not disclose that the alleged incident occurred within public view and the complaint also does not mention of any such open place. Even according to the complaint only, the fourth respondent and her husband were present at the relevant point of time of the alleged incident Therefore even the second ingredient is also not present.

19. Coming to the judgment cited by the learned Counsel for the petitioners.

20. In the case of ***State of Haryana Vs. Bhajanlal*** (supra), the Apex Court observed at Para 102 as follows:

“108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F. I. R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/ or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

21. In **Gorige Pentaiah Vs. State of A.P.** (supra), at Paras 23,24,25,26, 28, 29,30, 31, 32 and 38 read as under:

"23. This court in *State of Karnataka v. L. Muniswamy and Others* (1977) 2 SCC 699 observed that the wholesome power under section 482 Cr.P.C. entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this court and other courts.

24. In *Chandrapal Singh and Others v. Maharaj Singh and Another* (1982) 1 SCC 466, in a landlord and tenant matter where criminal proceedings had been initiated, this Court observed in para 1 at page 467 as under :-

"A frustrated landlord after having met his Waterloo in the hierarchy of civil courts, has further enmeshed the tenant in a frivolous criminal prosecution which prima facie appears to be an abuse of the process of law. The facts when stated are so telling that the further discussion may appear to be superfluous."

25. The court noticed that the tendency of perjury is very much on

the increase. Unless the courts come down heavily upon such persons, the whole judicial process would come to ridicule. The court also observed that chagrined and frustrated litigants should not be permitted to give vent to their frustration by cheaply invoking jurisdiction of the criminal court.

26. This court in *Madhavrao Jiwajirao Scindia and Others v. Sambhajirao Chandrojirao Angre and Others* (1988) 1 SCC 692 observed in para 7 as under :

"7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

27. xxxxxxxx xxxxxxxx xxxxxxxx

Xxxxxxxx xxxxxxxx xxxxxxxx

28. This court in *Janata Dal v. H. S. Chowdhary and Others* (1992) 4 SCC 305 observed thus :

"132. The criminal courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. The powers possessed by the High Court under section 482 of the Code are very wide and the very plentitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles."

29. In *G. Sagar Suri and Another v. State of UP and Others* (2000) 2 SCC 636, this court observed that it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process particularly when matters are essentially of civil nature.

30. This court in *Roy V. D. v. State of Kerala* (2000) 8 SCC 590 observed thus :-

"18. It is well settled that the power under section 482 Cr.P.C. has to be exercised by the High Court, inter alia, to prevent abuse of the process of any court or otherwise to secure the ends of justice. Where criminal proceedings are initiated based on illicit material collected on search and arrest which are per se illegal and vitiate not only a conviction and sentence based on such material but also the trial itself, the proceedings cannot be allowed to go on as it cannot but amount to abuse of the process of the court; in such a case not quashing the proceedings would perpetuate abuse of the process of the court resulting in great hardship and injustice to the accused. In our opinion, exercise of power under section 482 CrPC to quash proceedings in a case like the one on hand, would indeed secure the ends of justice."

31. This court in *Zandu Pharmaceutical Works Ltd. and Others v. Mohd. Sharaful Haque and Another* (2005) 1 SCC 122 observed thus :-

"It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

32. In *Indian Oil Corporation v. NEPC India Ltd. and Others* (2006) 6 SCC 736, this court again cautioned about a growing tendency in business circles to convert purely civil disputes into criminal cases. The court noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The court further observed that "any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and

discouraged."

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35. In our considered opinion, filing of such a frivolous complaint in the instant case is a total abuse of process of law. Consequently, we set-aside the impugned judgment passed by the High Court and quash the complaint emanating from Crime No.281 of 2004, Police Station, Uppal, Hyderabad."

22. In ***Asmathunnisa Vs. State of Andhra Pradesh*** (supra), the Apex Court at paras 8 and 9 observed as follows:

"In this connection, learned counsel for the appellant has placed reliance on a judgment of the Kerala High Court in E.

Krishnan Nayanar v. Dr. M.A. Kuttappan & Others 1997 Cri. L.J. 2036. The relevant paragraphs of this judgment are paras 12, 13 and 18. The said paragraphs read as under:

"12. A reading of Section 3 shows that two kinds of insults against the member of Scheduled Castes or Scheduled Tribes are made punishable - one as defined under sub-section (ii) and the other as defined under sub-section (x) of the said section. A combined reading of the two sub-sections shows that under section (ii) insult can be caused to a member of the Scheduled Castes or Scheduled Tribes by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood, and to cause such insult, the dumping of excreta etc. need not necessarily be done in the presence of the person insulted and whereas under sub-section (x) insult can be caused to the person insulted only if he is present in view of the expression "in any place within public view". The words "within public view", in my opinion, are referable only to the person insulted and not to the person who insulted him as the said expression is conspicuously absent in sub-section (ii) of Section 3 of Act 3/1989. By avoiding to use the expression "within public view" in sub-section (ii), the Legislature, I feel, has created two different kinds of offences an insult caused to a member of the Scheduled Castes or Scheduled Tribes, even in his absence, by dumping excreta etc. in his premises or neighbourhood and an insult by words caused to a member of the Scheduled Castes or Scheduled Tribes "within public view" which means at the time of the alleged insult the person insulted must be present as the expression "within public view" indicates or otherwise the Legislature would have avoided the use of the said expression which it avoided in sub-section (ii) or would have used the expression "in any public place".

Insult contemplated under sub-section (ii) is different from the insult contemplated under sub-section (x) as in the former a member of the Scheduled Castes or Scheduled Tribes gets insulted by the physical act and whereas in the latter he gets insulted in public view by the words uttered by the wrongdoer for which he must be present at the place.

xxx xxx xxx

As stated by me earlier the words used in sub-section (x) are not "in public place", but "within public view" which means the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted. In my view, the entire allegations contained in the complaint even if taken to be true do not make out any offence against the petitioner".

The aforesaid paragraphs clearly mean that the words used are "in any place but within public view", which means that the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present."

23. In ***M. Ramesh Vs. State of Andhra Pradesh*** (supra), a learned single Judge of this Court at para 27 of the judgment observed as follows:

"The father of the deceased, who was examined as P.W.2 though stated that he is a Madiga by caste, admitted in his cross-examination that his father is chengalah and his father belongs to Balija community. When once the father of P.W.2 is a Balija by caste, P.W.2 will not get the status of Madiga. In fact, this was admitted by P.W.1, i.e. the wife of P.W.2. In her cross-examination, she has categorically stated that L.W.2 K. Murali Swamy is Balija by caste and he is her husband. Of course, she has stated in the chief examination that she belongs to Madiga community. Even in an inter-caste marriage, the offspring gets the status of father, but not that of the mother. When once the father of the deceased is admitted to be a member belonging to Balija caste, it cannot be said that the deceased is a Madiga by caste, so as to attract the provisions of the Act."

24. In ***Mrs. Valsamma Paul Vs. Cochin University***, the Apex Court observed as follows:

"In *Murlidhar Dayandeo Kesekar v. Vishwanath Pandu*, (1995) 3 JT (SC) 563 : (1995 AIR SCW 2224); and *R. Chandevaram v. State of Karnataka*, (1995) 7 JT (SC) 93, this Court had held that economic empowerment is a fundamental right to the poor and the State is enjoined under Articles 15(3), 46 and 39 to provide them opportunities. Thus, education, employment and economic empowerment are some of the programmes, the State has evolved and also provided reservation in admission into educational institution, or in case of other economic benefits under Articles 15(4) and 46 or in appointment to an office or a post under the State under Article 16(4). Therefore, when a member is transplanted into the Dalits, Tribes and OBCs he/she must of necessity also undergo same handicaps, be subject to the same disabilities, disadvantages, indignities or sufferings so as to entitle the candidate to avail the facility of reservation. A candidate who had the advantageous start in life being born in forward caste and had march of advantageous life but is transplanted in backward caste by adoption or marriage or

conversion, does not become eligible to the benefit of reservation either under Article 15(4) status of Scheduled Caste etc. by voluntary mobility into these categories would play fraud on the Constitution, and would frustrate the benign constitutional policy under Articles 15(4) and 16(4) of the Constitution.

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The recognition of the appellant by the member of Latin Catholic would not, therefore, be relevant for the purpose of her entitlement to the reservation under Article 16(4), for the reason that she, as a member of the forward cast, had advantageous star in life and after her completing education and becoming major married Yesudas; and so, she is not entitled to the facility of reservation given to the Latin Catholic, a backward class.”

25. In ***Gara Yesobu Vs. State of AP*** (supra), a learned single judge of this Court held at para 5 as follows:

“ As rightly contended by Sri E.B.Ghagiratha Rao, learned Counsel for the petitioners in CrI.P.No. 3342 of 2003 (ie.A-63 to A-66) the charge is bald and does not state who among the 66 persons named as accused uttered the offending words or which of the accused said what words and/or their overt acts. A plain reading of the charge-sheet shows that all the accused abused the alleged victims. As rightly contended by the learned Counsel it is not possible to believe that all accused in chorus could have uttered the same words at the same time. So prima facie prosecution for an offence under Section 3(1)(x) of the Act is an abuse of process of law.”

26. In ***Rajiv Thapar Vs. Madanlal Kapoor*** (supra), the Apex Court observed as paragraphs 26 and 27 as follows:

“This Court had an occasion to examine the matter in *State of Orissa Vs. Debendra Nath Padhi*. (supra) (incidentally the said judgment was heavily relied upon by the learned counsel for the respondent-complainant), wherein it was held thus:-

“29. Regarding the argument of accused having to face the trial despite being in a position to produce material of unimpeachable character of sterling quality, the width of the powers of the High Court under Section 482 of the Code and Article 226 of Constitution of India is unlimited

whereunder in the interests of justice the High Court can make such orders as may be necessary to prevent abuse of the process of any Court or otherwise to secure the ends of justice within the parameters laid down in Bhajan Lal's case." (emphasis is ours).

Recently, this Court again had an occasion to examine the ambit and scope of Section 482 of the Cr.P.C. in *Rukmini Narvekar Vs. Vijiava Satardekar & Ors.* (2008) 14 SCC 1, wherein in the main order it was observed, that the width of the powers of the High Court under Section 482 of the Cr.P.C. and under Article 226 of the Constitution of India, was unlimited. In the instant judgment, this Court held that the High Court could make such orders as may be necessary to prevent abuse of the process of any court, or otherwise to secure the ends of justice. In a concurring separate order passed in the same case, it was additionally observed, that under Section 482 of the Cr.P.C., the High Court was free to consider even material, that may be produced on behalf of the accused, to arrive at a decision whether the charge as framed could be maintained. The aforesaid parameters shall be kept in mind while we examine whether the High Court ought to have exercised its inherent jurisdiction under Section 482 of the Cr.P.C. in the facts and circumstances of this case."

27. In ***State of Orissa through Kumar Raghavender Sing Vs. Ganesh***

Chander Jew, the Apex Court at para 20 held that:

"When the background facts of the case are considered the question regarding applicability of Section 197 of the Code takes a temporary back seat. The factual scenario as indicated above goes to show that on 28.2.1991 respondent was produced before the Magistrate. He was specifically asked as to whether there was any ill-treatment. Learned SDJM specifically records that no complaint of any ill-treatment was made. This itself strikes at the credibility of the complaint. Additionally, the doctor who has examined him stated that for the first time on 2.3.1991 he treated the complainant. Though there are several other aspects highlighted in the version indicated in the complaint and the materials on record are there, we do not think it necessary to go into them because of the inherent improbabilities of the complainant's case and the patent mala fides involved. It is no doubt true that the threshold interference by exercise of jurisdiction under Section 482 of the Code has to be in very rare cases, and this case appears to be of that nature. It fits in with the category no.7 of broad categories indicated in [State of Haryana v. Bhajan Lal](#) (1992 Supp (1) SCC 335). It is to be noted that though plea regarding non-complaint before the Magistrate was specifically taken to justify interference, the High Court has not

dealt with this aspect at all thereby adding to the vulnerability thereof.”

28. In ***B.V.S.S. Ramana Murthy Vs. State of AP*** (supra), a learned single Judge of this Court at para 4 observed that:

“ The learned Counsel for the petitioner contends that no sanction as contemplated under Section 197 Cr.P.C. is also obtained. As pointed out, there are inherent improbabilities in the complainant’s case. The Supreme Court in State of Orissa through Kumar Raghvendra Singh and others Vs. Ganesh Chandraw Jew held that where the complaint is coupled with inherent improbabilities it can be quashed. Accordingly this petition has got to be allowed.”

29. The principles laid down in the above referred judgments, the voluminous material available before this Court and facts and circumstances of the case and various litigations instituted by the fourth respondent and her husband, who is a retired employee of the Central Excise Department, against the petitioners herein drive this Court to an irresistible conclusion that the prosecution launched against the petitioners is undoubtedly and certainly a patent abuse of process of law, which can neither be permitted to be initiated nor be permitted to be continued, lest the citizens loose faith and confidence in the system of rule of law. This Court is also of the definite opinion that this is eminently a fit case where extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India is required to be pressed into service to restrain and avoid and avert the abuse of process of law.

30 For the aforesaid reasons, this Writ Petition is allowed and the case in Crime No. 184 of 2009 on the file of the II Town Police Station, Ananthapur is hereby quashed.

31. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A.V. SESA SAI

DATED 24TH MARCH, 2015

Msnr.

Note: LR copy to be marked: