

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 931 of 2019

Smt. Sabita Pal & Ors.

Vs

The State of West Bengal & Anr.

For the Petitioners

: Mr. Sourav Chatterjee,
Mr. Satadru Lahiri,
Mr. Safdar Azam.

For the State

: Mr. Swapan Banerjee,
Mr. Suman De.

Heard on

: 16.01.2023

Judgment on

: 06.02.2023

Shampa Dutt (Paul), J.:

The present revision has been preferred praying for quashing of the proceeding being SC and ST Case No. 04 of 2016 arising out of GR Case No. 2655/11 corresponding to Hare Street Police Station Case No. 516 of 2011 dated 28.07.2011 and the Charge Sheet being No. 426 of 2011 dated 27.11.2011 under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and under Sections 341/353/506/34 of the Indian Penal Code, 1860 as well as all orders passed in connection with the instant proceeding, presently pending before the Learned Special Judge, Bench-1, (NDPS Act), Calcutta.

As per report submitted by Hare Street, P.S. along with the copy of the death certificate which shows that the Petitioner No.2/accused Barun Chakraborty has expired on 23rd January, 2022. And as such the present case abates against the said Accused/Petitioner No. 2, Barun Chakraborty.

In **Rashida Kamaluddin Syed & Anr. Vs. Shaikh Saheblal Mardan, on 2nd March, 2007**, the Supreme Court held that:-

*“The Code of Criminal Procedure provides only for the **death** of an **accused** or an appellant but does*

*not expressly provide for the **death** of a complaint. The Code also does not provide for the **abatement** of inquiries and trials although it provides for the **abatement** of appeals on the **death** of the **accused**, in respect of appeals under Sections 411A(2) and 417 and on the **death** of an appellant in all appeals except an appeal from a sentence of fine. Therefore, what happens on the **death** of a complainant in a case started on a complaint has to be inferred generally from the provisions of the Code”.*

The petitioner’s case is that the Accuseds/Petitioners state that the Accuseds/Petitioners No. 1, 3 and 4 are the employees of the office of Joint Director General of Foreign trade, Government of India.

Pursuant to a Letter of Complaint lodged by one P. Halder, Zonal Joint Director General of Foreign Trade, of 4, Esplanade East, Kolkata (hereinafter referred to as the Complainant/Opposite Party no. 2) with the Officer-in-Charge of Hare Street Police Station, the instant case being Hare Street Police Station Case No. 516 of 2011 dated 28.07.2011, was registered for investigation against the Accuseds/Petitioners and others for commission of the alleged offences punishable under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Under Sections 341/353/506/34 of the Indian Penal Code, 1860.

It is submitted that, after completion of perfunctory investigation in connection with the instant case, the investigating agency submitted Charge Sheet vide Charge Sheet No. 426 of 2011 dated 27.11.2011 against the Accused/Petitioners and others for commission of the alleged offences punishable under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Under Sections 341/353/506/34 of the Indian Penal Code, 1860.

The instant case is a counter case to a criminal proceeding being GR Case No. 2858/11 arising out of the Hare Street Police Station Case No. 572 dated 12.08.2011 under Section 354 of the Indian Penal Code, 1860 initiated against Pranabananda Halder i.e. the Complainant/Opposite Party of the impugned criminal proceeding at the instance of one Anjana Biswas Charaborty i.e. the wife of the Accused/Petitioner No. 2 herein and the protest made by the Accuseds/Petitioners against such illegal activities of the Complainant/Opposite Party.

The Complainant/Opposite Party of the instant case over the self same issue, which is the subject matter of investigation of the instant case maliciously, lodged another complaint against the Accuseds/Petitioners and others with the Officer-in-charge of Hare Street Police Station. On the basis of said Letter of

Complainant another specific case being Hare Street Police Station case No. 521 of 2011 dated 29.07.2011 was registered for investigation under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The mala-fide intention of the Complaint/Opposite Party is palpable from the fact that he initiated the subsequent successive FIR over the self same subject matter by suppressing all material facts and representing the entire situation in a distorted manner, as well as for forcing Accused/Petitioner No. 2 and his wife i.e. Anjana Biswas Chakraborty for not pursuing the case initiated by her against the Complainant/Opposite Party for outraging her modesty.

Ms. Anjana Biswas Chakraborty i.e. the wife Accused/Petitioner No. 2 and another accused namely Subrata Mondal under such circumstances preferred two revisional application being CRR No. 3146 of 2014 and CRR No. 3643 of 2017 before the Hon'ble High Court, Calcutta in connection with Hare Street Police Station case No.521 of 2011 dated 29.07.2011 as well as Hare Street Police Station Case No. 516 of 2011 respectively, and ultimately both the proceedings were quashed by the Hon'ble High Court, Calcutta vide a judgment and orders dated 18th May, 2017 and 06th March, 2019 as passed by His

Lordship Hon'ble Justice Siddhartha Chatterjee and Hon'ble Justice Asha Arora respectively.

Two other Accused Persons of the instant case namely Kamala Chatterjee and Asis Kumar Basu also preferred revisional application being CRR No. 2988 of 2011 before this Hon'ble Court, praying for quashing of the instant proceeding against them. Ultimately, on 24th June, 2016 after hearing the Learned Advocates appearing for the respective parties His Lordship Hon'ble Justice R.K. Bag vide an order dated 24th June, 2016 was pleased to quash the impugned proceeding so far as the Petitioners of the said revisional application is concerned on the **ground of compromise.**

The instant case was registered on the basis of Complaint lodged by the Complainant/Opposite Party against the Accused Persons to the effect that on 22nd September, 2011 at 14.30 hours the Accused Persons being the staff of office of Joint Director General of Foreign Trade (complainant), entered into the chamber of the Complainant/Opposite Party and wrongfully restrained him and intentionally insulted with the intention to humiliate him as he belongs to the member of Scheduled Caste and restrained him from discharging his government duties.

The Accuseds/Petitioners state the upon receipt of the Charge Sheet as well as its accompaniments, the Learned Chief Metropolitan Magistrate, Calcutta was pleased to transfer the case record before the Learned Metropolitan Magistrate, 5th Court, Calcutta (hereinafter referred to as 'the Learned Magistrate') for further enquiry, trial and disposal of the same.

The Learned Magistrate upon receipt of the case record by way of transfer from the Learned Chief Metropolitan Magistrate, Calcutta and upon perusal of the Charge Sheet and its accompaniments, was pleased to observe that since the case is punishable under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the same is exclusively triable by the Special Court. In spite of making such observation, the Learned Magistrate was pleased to take cognizance against the Accused/Petitioners and others for commission of the alleged offences punishable under Sections 341/353/506/34 of the Indian Penal Code, 1860 as well as 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and issued warrant of arrest against the Accused Persons.

Pursuant to the order passed by the Learned Chief Judge, City Sessions Court, Bichar Bhawan, Calcutta in Criminal Revision No. 55 of 2016, the case record of the instant case was

transferred to the Court of the Learned Special Judge, Bench-1, (NDPS Act), Calcutta (hereinafter referred to as 'the Learned Judge') as the said Learned court is designated as Special Court within the scope and ambit of Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act and instant case was renumbered as SC and ST Case No. 04 of 2016. Upon receipt of the case record, the Learned Judge was pleased to take cognizance of the complained offences. Subsequently, the Accuseds/Petitioners and others surrendered before the Learned Judge on respective dates and were enlarged on bail.

The Learned Judge erroneously took cognizance of the alleged offences without appreciating that true and proper appreciation of the Charge Sheet as well as the materials collected during the course of investigation.

The Accuseds/Petitioners further state that there is also no material to show that they ever threatened him either to cause harm to his person or property. Rather instant case is nothing but a ploy of the Complainant/Opposite Party to save himself from the clutches of law for his wrongful acts.

The Accuseds/Petitioners state that although they have been implicated as accused in connection with the instant case for commission of the alleged offences but true and proper

appreciation of the materials on record especially the allegations levelled in the Letter of Complainant which is treated as First Information Report of the instant case as well as the Charge Sheet and its accompaniments would make it palpable that there is no specific allegation against the Accuseds/Petitioners, as to that what role they had played on the alleged date of incident at the time of commission of the alleged offences.

The Learned Judge erred in law and fact without considering that because of continuous misuse/malicious prosecution under the respective provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Hon'ble Apex Court is of the specific opinion that to avoid false implication of innocent persons as well as to prevent using the provisions of the said act for satisfying unbridled envy and/or for settling any private disputes, before registering any case for investigation under respective provision of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 a preliminary enquiry may be conducted by the Deputy Superintendent of police of the concerned area to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated. The Hon'ble Apex court also intended such opinion to be followed as direction and/or as mandate of the law of the land as such also made necessary provision for

initiation of disciplinary provision in case of violation of such direction. It is needless to state that such direction of the Hon'ble Apex Court literally extended the scope of judicial discretion available to the Learned Judge at the time of taking cognizance in connection with any prosecution under respective provision of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Accuseds/Petitioners state that while allowing the impugned proceeding to continue against them for commission of the alleged offences the Learned Judge erred in law and fact without appreciating that the Complainant/Opposite Party allowed the impugned proceeding to be quashed against two of the Accused Persons who does not belong to Scheduled Caste and Scheduled Tribes as per Clause 24 and 25 of Article 366 of the Constitution of India, **on the ground of compromise** and/or withdrew the proceeding against those two Accused Persons on his sweet will. The manner in which the Complainant/Opposite Party has withdrawn the case against two of the accused persons of the instant case who are standing in similar footing with the Accuseds/Petitioners so far as the nature of allegations are concerned and is pursuing the case against the Accuseds/Petitioners, clearly postulates the mala-fide intention of the Complainant/Opposite Party i.e. to wreck vengeance against

the Accuseds/Petitioners as they dare to protest against the criminal Activities of the Complainant/Opposite Party and/or the wife of the Accused/Petitioner No. 2 initiated a criminal proceeding against the Complainant/Opposite Party for outraging her modesty in the office premises. The instant case is nothing but a ploy of the Complainant/Opposite Party to force the Accuseds/Petitioners to succumb to his illegal demand as well as to compel the wife of the Accused/Petitioner No. 2 to withdraw the case, which she initiated against him for his criminal activities. That withdrawal of prosecution for criminal offence, which is a social wrong in a piece-meal manner, is unheard in the realm of law.

Mr. Sourav Chatterjee Learned counsel for the petitioner has submitted that further continuance of the impugned proceeding is against the established principles of law as laid down by the Hon'ble Apex Court and by this Hon'ble Court as also in total violation of the expressed provisions of the Code of Criminal Procedure, 1973 and thus the interference of this Hon'ble Court is highly solicited in the interest of justice and equity.

Further continuance of the aforesaid proceeding is glaring example of the abuse of the process of Court which if allowed to

continue for a single day beyond the state it has already reached, will degenerate itself into a weapon of harassment and as such is liable to be quashed forthwith.

The instant case is a counter case to a criminal proceeding being GR Case No. 2858/11 arising out of Hare Street Police Station Case No. 572 dated 12.08.2011 under Section 354 of the Indian Penal Code, 1860 initiated against Pranabananda Halder i.e. the Complainant/Opposite Party of the impugned criminal proceeding at the instance of one Anjana Biswas Chakraborty i.e. the wife of the Accused/Petitioner No. 2 and the protest made by the Accuseds/Petitioners against such illegal activities of the Complainant/Opposite Party.

That manner in which the Complainant/Opposite Party withdrew the case against two of the Accused Persons of the instant case who are standing in similar footing with the Accuseds /Petitioners so far as the nature of allegations are concerned and is pursuing the case against the Accuseds/Petitioners, that clearly postulates the mala-fide intention of the Complainant/Opposite Party.

The Learned Judge erroneously took cognizance of the alleged offences without appreciating that true and proper appreciation of the Charge Sheet as well as the materials collected

during the course of investigation of the instant case, fails to make out any criminal offence against the Accuseds/Petitioners, for which they could be asked to face the ordeal of criminal trial in connection with the impugned proceeding.

That there is also no material to show that they ever threatened him either to cause harm to his person or property rather the instant case is nothing case is nothing but a ploy of the Complainant/Opposite Party to save him from the clutches of law for his wrongful acts.

The ends of justice being higher than mere ends of law, the continuation of the proceeding against the Petitioners would severely and seriously defeat the interest of justice as the materials collected in course of investigation of the instant case fails to make out any case for which the Accuseds/Petitioners could be asked to face the ordeal of criminal trial.

The impugned proceeding is otherwise bad in law and ought to be quashed.

Mr Arijit Ganguly Learned advocate for the state has produced the case diary and submitted that there is sufficient material and evidence to make out a prima facie of cognizable offences having been committed by the petitioners and the such the revision is liable to be dismissed.

In spite of due service there is no representation on behalf of the Opposite Party No. 2 complainant has not appeared.

On hearing the Learned Counsels for the petitioner and the state and considering the materials on record, including the case diary, the following facts are before the court.

- a) Hare Street P.S. Case No. 572 of 2011 dated 12.08.2011 under Section 354 of the Indian Penal Code has been filed by Anjana Biswas Chakraborty wife of accused Barun Chakraborty (now deceased) against the complainant in the present case, P. Halder on basis of a complaint petition dated 22.07.2011 and 12th August 2011 signed by 120 employees alleging that said P. Halder, who was then the zonal joint DHFT, Kolkata has shown arrogance by saying *that “Ami kono jabab dite badhya nai... Karor kono katha sunbo na. Apnara Ekhuni ekhan theke berie jaan noile apnader Daler SC/ST Member er mathader Police Deke Ene Arrest Korabo Ebong Chakri Khabo”*.

The said statements include threat to the SC/ST members also.

Proceedings against Anjana Biswas Chakraborty has been quashed in a separate criminal revision as she too belongs to the same category.

- b) The complaint in this case by Sri P. Halder filed with Hare Street police station on 28th of July 2011 is numbered 516/11 under the sections are stated above.
- c) By a letter dated 2nd September 2011, the complainant withdrew the complaint (on compromise) against Mr. Ashish Kumar Basu and Mrs. Kamala Chatterjee as department enquiry did not reveal any act by the said persons.
- d) Statement recorded under Section 161 CR.P.C. of the complainant reveals that the primary allegations are all against accused Barun Chakraborty (now deceased).
- e) The petition of complaint dated 25th July, 2011 filed by the complainant here in is against the petitioners along with others, who have had the proceedings against them quashed.

f) The complainant/opposite party also stated that:-

*“Additionally I too made a complaint as stated earlier to the Hare Street Police Station in my capacity as the Zonal Joint Director General Foreign Trade on July 19, 2011 under General Diary 1821 against Mr. Barun Chakraborty for repeated use of filthy, crass, intimidating, unconstitutional language against me, for openly threatening me and making me feel vulnerable as a member of SC community by Mr. Barun Chakraborty. As stated earlier a copy of the complaint (“**Complaint**”) is attached hereto as Annexure B.*

B. Incident on July 22, 2011

Following the incidents as stated in part A of this complaint on July 22, 2011 as I had returned to office after a meeting at around 2.30 pm the employees led by one Mr. Bulbul Banerjee including but not limited the following employees:-

1. Asit Sarkar.
2. Apurva Mukherjee.
3. Ashish Kumar Bose.
4. Subrata Mandal.
5. Kamala Chatterjee.
6. Anjana Chakraborty.
7. Sabita Pal.
8. Kaberi Dey.

Forcibly entered my office and demanded that I drop all charges made by me against Mr. Barun Chakraborty. They were narrating dharnas and threatening me of dire

consequences in the event that I do not withdraw the charges.”

g) The dispute between the complainant and the accused persons started when they were given election duty by the District Election Commissioner through the complainant.

h) Other petition of complaints filed by the representatives of the SC and ST association show that the complaints have been filed only in respect of accused Barun Chakraborty.

From the above facts it is evident that accused Barun Chakraborty being a union leader had led a team, which also included members of SC and ST members protesting against being allotted election duty. The main allegation is only against Barun Chakraborty. Subsequent complaint is against the other accused persons who had agitated before the complainant, requesting him to withdraw the complaint against Barun Charkaborty. The complainant then filed the complaint against other accused persons alleging offence under the SC/ST Act. The primary allegation against Barun Chakraborty also includes offence under SC/ST Act.

The other offences alleged include Sections 341/353/506//34 of the Indian Penal Code, But the ingredients

required to constitute the said offences are clearly absent in respect of all the accused persons. The statements in the complaint do not say anything from which it can be prima facie evident that the offences as alleged were committed by the petitioners/accuseds. Nor is there any materials in the case diary to make out a prima facie case of cognizable offence as alleged against any of the accused persons.

The main allegation under Section 3 of the SC and ST Act is against Barun Chakraborty, the person who allegedly led the other employees who were protesting against election duty. Admittedly all the petitioners/accused persons are also public servants. **The parties in this case, work in the same office.**

The said Barun Chakraborty has expired. The case has abated only against him and not against other accused persons in this case.

In **The State of Tamil Nadu vs. Nirmala (2018 ALL MR (Cri) 440 (SC))**, the Supreme Court held that:-

“5. Having considered the decisions of this Court and upon hearing the learned counsels for the parties we are of the view that the death of the main accused does not result in abatement of the trial.....”

Though Barun Chakreaborty was the principal accused in the present case, the case has been initiated in respect of the other petitioners too as co-accused.

The Supreme Court in **Ramawatar Vs. The State of Madhya Pradesh, Criminal Appeal No. 1393 of 2011**, the Supreme Court held that:-

“9. Having heard learned Counsel for the parties at some length, we are of the opinion that two questions fall for our consideration in the present appeal. First, whether the jurisdiction of this Court under Article 142 of the Constitution can be invoked for quashing of criminal proceedings arising out of a ‘non-compoundable offence? If yes, then whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?

*10. So far as the first question is concerned, it would be ad rem to outrightly refer to the recent decision of this Court in the case of **Ramgopal & Anr v. The State of Madhya Pradesh, (1999)5 SCC 238**, wherein, a two Judge Bench of this Court consisting of two of us (N.V. Ramana, CJI & Surya Kant, J) was confronted with an identical question. Answering in the affirmative, it has been clarified that the jurisdiction of a Court under Section 320 Cr.P.C cannot be construed as a proscription against the invocation of inherent powers vested in this Court under Article 142 of the Constitution nor on the powers of the High Courts under Section 482 Cr.P.C. It was further held that the touchstone for exercising the extraordinary powers under Article 142 or Section 482 Cr.P.C., would be to do complete justice.*

Therefore, this Court or the High Court, as the case may be, after having given due regard to the nature of the offence and the fact that the victim/complainant has willingly entered into a settlement/compromise, can quash proceedings in exercise of their respective constitutional/inherent powers.

11. The Court in **Ramgopal (Supra)** further postulated that criminal proceedings involving nonheinous offences or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level. The Court, however, being conscious of the fact that unscrupulous offenders may attempt to escape their criminal liabilities by securing a compromise through brute force, threats, bribes, or other such unethical and illegal means, cautioned that in cases where a settlement is struck postconviction, the Courts should, inter alia, carefully examine the fashion in which the compromise has been arrived at, as well as, the conduct of the accused before and after the incident in question. While concluding, the Court also formulated certain guidelines and held:

“19... Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: **(i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.**”

[Emphasis Applied]

12. In view of the settled proposition of law, we affirm the decision of this Court in **Ramgopal (Supra)** and reiterate that the powers of this Court under Article 142 can be

invoked to quash a criminal proceeding on the basis of a voluntary compromise between the complainant/victim and the accused.

13. *We, however, put a further caveat that the powers under Article 142 or under Section 482 Cr.P.C., are exercisable in postconviction matters only where an appeal is pending before one or the other Judicial forum. This is on the premise that an order of conviction does not attain finality till the accused has exhausted his/her legal remedies and the finality is subjudice before an appellate court. The pendency of legal proceedings, be that may before the final Court, is sinequanon to involve the superior court's plenary powers to do complete justice. Conversely, where a settlement has ensued post the attainment of all legal remedies, the annulment of proceedings on the basis of a compromise would be impermissible. Such an embargo is necessitated to prevent the accused from gaining an indefinite leverage, for such a settlement/compromise will always be loaded with lurking suspicion about its bona fide. We have already clarified that the purpose of these extraordinary powers is not to incentivise any hollow-hearted agreements between the accused and the victim but to do complete justice by effecting genuine settlement(s).*

14. *With respect to the second question before us, it must be noted that even though the powers of this Court under Article 142 are wide and farreaching, the same cannot be exercised in a vacuum. True it is that ordinary statutes or any restrictions contained therein, cannot be constructed as a limitation on the Court's power to do "complete justice". However, this is not to say that this Court can altogether ignore the statutory provisions or other express prohibitions in law. In fact, the Court is obligated to take note of the relevant laws and will have to regulate the use of its power*

and discretion accordingly. The Constitution Bench decision in the case of **Supreme Court Bar Assn. v. Union of India & Anr., (1998) 4 SCC 409 ¶ 48**, has eloquently clarified this point as follows:

“48. The Supreme Court in exercise of its jurisdiction under Article 142 has the power to make such order as is necessary for doing complete justice “between the parties in any cause or matter pending before it”. The very nature of the power must lead the Court to set limits for itself within which to exercise those powers and ordinarily it cannot disregard a statutory provision governing a subject, except perhaps to balance the equities between the conflicting claims of the litigating parties by “ironing out the creases” in a cause or matter before it. Indeed this Court is not a court of restricted jurisdiction of only disputesettling. It is well recognised and established that this Court has always been a law maker and its role travels beyond merely disputesettling. It is a “problemsolver in the nebulous areas” (see *K. Veeraswami v. Union of India* [(1991) 3 SCC 655 : 1991 SCC (Cri) 734] but the substantive statutory provisions dealing with the subjectmatter of a given case cannot be altogether ignored by this Court, while making an order under Article 142. Indeed, these constitutional powers cannot, in any way, be controlled by any statutory provisions but at the same time these powers are not meant to be exercised when their exercise may come directly in conflict with what has been expressly provided for in a statute dealing expressly with the subject.”

15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a

recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of uppercastes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twifold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of castebased atrocities.

16. *On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.*

17. *Adverting to the case in hand, we note that the present Appellant has been charged and convicted under the unamended Section 3(1)(x) of the SC/ST Act, which was as follows:*

“3. Punishments for offences of atrocities- (1) *Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—*
xxxx

(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;

xxxx"

18. *We may hasten to add that in cases such as the present, the Courts ought to be even more vigilant to ensure that the complainant victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the Courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the Courts should consider, would depend on the facts and circumstances of each case.*

19. *Having considered the peculiar facts and circumstances of the present case in light of the aforestated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:*

Firstly, *the very purpose behind Section 3(1)(x) of the SC/ST is to deter castebased insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community. In the present case, the record manifests that there was an undeniable preexisting civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the*

deprecated incident was the aforesaid civil/property dispute. Considering this aspect, we are of the opinion that it would not be incorrect to categorise the occurrence as one being overwhelmingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.”

Thus keeping in mind the judgments of the Supreme Court, the materials in the present case in respect of the petitioners, do not make out a prima facie case against the petitioners of committing offences as alleged and as such permitting the case to proceed would amount to abuse of the process of law/court. Accordingly, in the interest of justice, the proceedings in this case is liable to be quashed.

In **Ramesh Chandra Gupta vs. State of Uttar Pradesh and Ors., 2022 LiveLaw (SC) 993, Criminal Appeal No(s). 2060 of 2022 (Arising out of SLP (Crl.) No(s). 39 of 2022)**, the Supreme Court held:-

*“15. This Court has an occasion to consider the ambit and scope of the power of the High Court under Section 482 CrPC for quashing of criminal proceedings in **Vineet Kumar and Others vs. State of Uttar Pradesh and Another, (2017) 13 SCC 369** decided on 31st March, 2017. It may be useful to refer to paras 22, 23 and 41 of the above judgment where the following was stated:
“22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under Section*

482 CrPC vested in the High Court. Section 482 CrPC saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if 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. In para 7 of the judgment, the following has been stated :

‘7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if 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 saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper

realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.'

41. *Inherent power given to the High Court under Section 482 CrPC is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended with mala fides and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 CrPC to quash the proceeding under Category 7 as enumerated in State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 which is to the following effect :*

'102. (7) Where a criminal proceeding is manifestly attended with mala fides 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.' Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 but did not advert to the relevant facts of the present case, materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its

jurisdiction under Section 482 CrPC and quashed the criminal proceedings.”

16. The exposition of law on the subject relating to the exercise of the extra-ordinary power under Article 226 of the Constitution or the inherent power under Section 482 CrPC are well settled and to the possible extent, this Court has defined sufficiently channelized guidelines, to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. This Court has held in para 102 in **State of Haryana and Others v. Bhajan Lal and Others, 1992 Supp. (1) 335** as under :

“**102.** 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 FIR 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 FIR 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 FIR 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.”

17. *The principles culled out by this Court have consistently been followed in the recent judgment of this Court in **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others, 2021 SCC Online SC 315.**”*

CRR 931 of 2019 is thus allowed.

The proceeding being SC and ST Case No. 04 of 2016 arising out of GR Case No. 2655/11 corresponding to Hare Street Police Station Case No. 516 of 2011 dated 28.07.2011 and the Charge Sheet being No. 426 of 2011 dated 27.11.2011 under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and under Sections 341/353/506/34 of the Indian Penal Code, 1860, is hereby quashed.

There will be no order as to costs.

All connected Application stand disposed of.

Interim order if any stands vacated.

Copy of this judgment be sent to the Trial Court forthwith for necessary compliance.

Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)