

**IN THE HIGH COURT AT CALCUTTA**

**(Criminal Revisional Jurisdiction)**

**APPELLATE SIDE**

**Present:**

**The Hon'ble Justice Shampa Dutt (Paul)**

**CRR 1136 of 2020**

**With**

**CRAN 1 of 2020**

**(Old CRAN No. 4557 of 2020)**

**With**

**CRAN 2 of 2020**

**Kazi Hidayatul Bari & Ors.**

**Vs**

**The State of West Bengal & Anr.**

**For the Petitioners**

: Mr. Milon Mukherjee,  
: Mr. Biswajit Manna.

**For the State**

: Mr. Swapan Banerjee,  
Mrs. Purnima Ghosh.

**For the Opposite Party No.2/  
Defacto Complainant**

: Mr. Subrata Bhattacharyya,  
: Mr. Indranuj Datta.

Heard on

: 22.03.2023

Judgment on

: 04.05.2023

**Shampa Dutt (Paul), J.:**

1. The present revision has been preferred praying for quashing of S.C./S.T. No. 05 of 2019, pending before the Learned Additional Sessions Judge, 1st Court, Asansol arising out of Kanksa Police Station Case No. 178/2019 dated 04.06.2019 under Sections 326/331/348/450/506/120B of the Indian Penal Code read with Section 3 of the Scheduled Caste and Scheduled Tribes Act.
2. The petitioner's case is that a petition of complaint was filed before the Court of the Learned Additional Chief Judicial Magistrate, Durgapur by the opposite party no. 2 therein alleging commission of offences against the petitioners punishable under Sections 326/331/348/450/506/120B of the Indian Penal Code read with Section 3 of the Scheduled Caste and Scheduled Tribes Act. Pursuant to the direction of the Learned Additional Chief Judicial Magistrate, Durgapur, Kanksa Police Station Case No. 178/2019 dated 04.06.2019 under Sections 326/331/348/450/506/120B of the Indian Penal Code read with Section 3 of the Scheduled Caste and Scheduled Tribes Act was registered for investigation.
3. The allegations leveled in the said petition of complaint are inter alia to the effect that the opposite party no. 2 and the petitioners were having a land dispute due to Barga Cultivation by the opposite party no. 2's predecessor.

4. On 01.04.2019 at about 9.00 p.m., the petitioners along with one Khanakar Enamul Haque and other local anti socials entered into the house of the opposite party no. 2 by breaking his house door. When the opposite party no. 2 tried to restrain the petitioners, the petitioners started using slang language by stating "*Maro sala Adiwasi r Bacchha ke ar bhagao ekhan theke, er Adiwasi der ekhane bosiye bhul hua cha*". Thereafter the petitioners and their associates assaulted the opposite party no. 2 and his family members with the intention to make them vacate their house/premises.
5. The opposite party no. 2, immediately after the incident, went to Kanksa Block Health Centre for necessary treatment, where the doctors advised him to take rest for a month. The opposite party no. 2 further informed the incident to the Inspector-in-Charge, Kanksa Police Station along with a written complaint but no steps were taken, due to the influence of the petitioners.
6. It is the case of the petitioners that they are the co-sharers of a property situated at Mouza Kanksa being RS Plot No. 1579, RS Khatian No. 354, JL No. 79. The petitioners along with their other siblings inherited the property after the death of one Rahima Bibi subsequent to which their names have been duly mutated in the records of the Government and they are regularly paying their taxes with the Government.
7. That the National Highway authority constructed a bye-pass starting from Hirudiha village to Railway Over Bridge Crossing at Dharala. The

family members of the opposite party no. 2 used to reside on the land which was acquired by the National Highway authorities for construction of such bye-pass. After acquisition of such land, the family members of the opposite party no. 2 duly accepted compensation granted by the authorities.

8. Since then the family members of the opposite party no. 2 temporarily settled by the side of the land of the petitioners but subsequently under the garb of such temporary settlement they started to grab the land of the petitioners. The petitioners preferred a petition under Section 144 of the Code of Criminal Procedure before the Learned Executive Court in November, 2018. Since commotion was caused by the family members of the opposite party no. 2, the petitioners lodged various complaints before Kanksa Police Station, but till date, no effective steps have been taken by them.
9. Finally when it was detected by the petitioners that the opposite party no. 2 and his family members were trying to illegally construct permanent structure over the said property, the petitioners preferred a being Title Suit No. 60 of 2019 before the court of the Learned Civil Judge (Junior Division), 2<sup>nd</sup> Court, Durgapur on 11.03.2019.
10. An ad interim injunction was allowed ex parte, thereby directing the parties to maintain status quo.
11. The aforesaid order regarding ad interim injunction was duly communicated to the opposite party no. 2 and his family members. The

**opposite party no. 2 entered appearance before the Learned Civil Judge on 22.04.2019 but prior to that on 17.04.2019, the opposite party no.2 preferred the application under Section 156(3) of the Code of Criminal Procedure before the Court of the Learned Additional Chief Judicial Magistrate, Durgapur** with an oblique motive to compel the petitioners to withdraw their Title Suit.

12. It is submitted that the proceeding impugned herein has been initiated with malafide intention and for such reasons the impugned proceeding should be quashed.
13. The petitioners submit that a complaint alleging offences punishable under the provisions of Schedule Caste and Scheduled Tribes Act should prima facie disclose an intention on the part of the accused to humiliate/insult or to intimidate a member of the said caste or tribe in order to lower down his prestige in the eye of the public. In the instant case nowhere it has been specified by the opposite party no. 2 that any act on the part of the petitioner was intended to lower down the prestige of the opposite party no. 2 for being a member of the Scheduled Caste or Scheduled Tribe at any public place or before the public at large. In such circumstances, the continuance of the proceeding under Section 3 of the Special Act on the basis of arbitrary allegations will be a gross abuse of the process of law.
14. That Section 7 of the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act provides a mandatory provision that an

offence committed under the said Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The Investigating Officer shall be appointed by the State Government/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to pursue implications of the case and investigate it along the right line within the shortest possible time. In the present case, the appointment of the Investigating Officer i.e. the Assistant Commissioner of Police, Kanksa does not reflect about the sense of ability or experience of the said Investigating Officer in conducting investigation of cases under the provisions of the said Act. Violation of such mandatory rule harps upon the very basis of the instant case. In such circumstances, continuance of the proceeding by an Investigating Officer not authorized to investigate as envisaged in the said Act would lead to travesty of justice and as such the same is liable to be quashed.

15. That the provisions of Section 9 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Rule 7 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 and Section 4 of the Code of Criminal Procedure, 1973 when jointly read, lead to the conclusion that the investigation of an offence under Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act, 1989) by an officer not appointed in terms of Rule 7 is illegal.

16. **Mr. Milon Mukherjee, learned senior counsel for the petitioners** has submitted that the impugned proceeding is a gross abuse of the process of court and as such the same is liable to be quashed.
17. That the Learned Magistrate while passing the impugned order ought to have observed that the modalities of Section 154(3) and Section 36 of the Code of Criminal Procedure has been complied with as per the direction of the Hon'ble Apex Court in Lalita Kumari Vs State of U.P. and Priyanka Srivastava & Anr. Vs State of U.P. (reported in 2014[2] SCC 1 and 2015[3] SCC 287).
18. In the case of Priyanka Srivastava Vs. State of U.P. (reported in 2015[3] SCC 287) it has been settled that apart from an affidavit from the complainant it is to be looked into by the Learned Magistrate that the complainant has explored the provisions of Section 154[1] and 154[3] of the Code of Criminal Procedure prior to his prayer before the Learned Magistrate for relief in terms with Section 156(3) of the Code of Criminal Procedure. In the instant case the opposite party no. 2 has disclosed in his petition of complaint that he lodged a complaint with Kanksa Police Station but no date or details regarding the same was mentioned in the petition of complainant. Moreover, in the said petition of complaint there is no averment to the effect that how such complaint was lodged. It is also absent in the petition of complaint that the opposite party no. 2 has availed the provision of Section 154(3) of the Code of Criminal Procedure.

In such circumstances, the Learned Magistrate by passing the order impugned herein has caused serious miscarriage of justice.

19. That even at the stage of passing an order under Section 156(3) of the Code of Criminal Procedure, the Magistrate needs to apply his mind and form an opinion to direct investigation by the police against the accused. Mere mentioning of a person as an accused is not sufficient to include his name for the purpose of investigation. More so, when such allegations are against his rival party with whom there is a long standing dispute. An order under Section 156(3) of the Code of Criminal Procedure is required to be passed cautiously as such complaint can be filed with malafide intentions.
20. Thus it is expedient in the interest of justice, that to uphold the dignity of law, the impugned proceeding is liable to be quashed and/or set aside.
21. **Mr. Subrata Bhattacharyya, learned counsel for the opposite party no. 2** has submitted that there is sufficient material on record to proceed towards trial and as such the revision is liable to be dismissed.
22. **Mr. Swapan Banerjee, learned counsel for the State is present with the case diary** and submits fairly that the present case has been initiated after the petitioners filed a title suit against the opposite party and obtained an ad interim order.
23. From the materials on record the following facts are before this Court:-

- (i) It is after receipt of summons in the title suit and prior to their appearance before the civil court that the present case has been initiated by the opposite party no. 2.
- (ii) None of the injury reports in the case diary reflect any external injury as noted by the attending doctor.
- (iii) The opposite party no. 2/Complainant has stated in Para 2 of his petition of complaint that “That there was land dispute between the complainant and accused persons due to Barga cultivation by the complainants predecessor”.

24. The proceedings in the present case is under Sections 326/331/348/450/506/120B IPC read with Section 3 of the Scheduled Caste and Scheduled Tribes Act.

- i) Regarding Section 326 IPC:- The ingredients required to constitute the said offence are absent in the present case.
- ii) Section 331 and 348 IPC:- The ingredients are also prima facie absent.
- iii) Section 450 IPC:- No such ingredients is present to prima facie show that any offence punishable with imprisonment for life was committed.
- iv) Section 506 IPC:- No such material/ingredient to constitute the said offence is on record.

25. **Mr. Mukherjee** has relied upon the following judgment:-

***Hitesh Verma vs State of Uttarakhand and Anr., 2020 SCC***

***OnLine SC 907, Criminal Appeal No. 707 of 2020, on November 5,***

***2020***, wherein the Supreme Court held:-

*“12. The basic ingredients of the offence, as provided in Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are (1) intentionally insulting or intimidating with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe, and (2) at a place within the public view.*

*14. All insults or intimidations to a person are not be an offence unless such insult or intimidation is on account of the victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. An offence under the Act is made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. **The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail of their remedies in accordance with law. If the appellant or his family members have invoked jurisdiction of the civil court, or that respondent 2 has invoked the civil court’s jurisdiction, the parties are availing of their remedies under the law. Such action is not because respondent 2 belongs to a Scheduled Caste.***

*15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. **The basic ingredient of the offence, i.e. the words were uttered “in any place within public view” is not made out.** Though in the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that they were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building.*

*16. There is a dispute between the parties is about the possession of the land. The appellant and others, it is*

*alleged, were not permitting respondent 2 to cultivate the land for the last six months. **Since the matter is regarding possession of property pending before the civil court any dispute arising on account of possession of the property does not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to the protected class.***

**It has also been observed by the Court that:-**

*“The offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out. The property disputes between a vulnerable section of the society and a person of upper caste does not necessarily mean that an offence under the Act is made out unless, the allegations are on account of the victim being a Scheduled Case. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar, any person to protect his rights by way of a procedure established by law. The charge-sheet to that extent is quashed. The appeal is disposed of in the above terms.”*

**(Paras 18, 22 and 24)**

26. **Mr. Bhattacharyya** has relied upon the following judgments :-

- (1) **Ashutosh Kumar vs State of Jharkhand and Anr., Cr.M.P. No. 823 of 2016, on 21.01.2019.**
  - (a) *Whether petitioner belongs to Schedule Caste or not cannot be decided without taking evidence.*
  - (b) *If written complaint on basis of which FIR has been lodged discloses commission of an offence which requires investigation, on the ground that it has been instituted malafide, First Information Report cannot be quashed.*

That the opposite party belongs to the protected class is not denied.

- (2) ***Dineshbhai Chandubhai Patel vs Arjunbhai Shankarbhai Rathod (Adivasi) & Ors., 2016 0 Supreme (SC) 1716, Crl. M.P. 10222 of 2016, on 29.06.2016.***

*“7. If the preliminary inquiry carried out by the Commissioner of Police, Surat City reveals a prima facie case as stated in the report then I expect the Commissioner to proceed further in accordance with law.”*

- (3) ***Shish Ram and Anr. Vs State of Rajasthan and Anr., Criminal Misc. Petition No. 207 of 2016, on 10.03.2016.***

*“9. In the case in hand, from perusal of the FIR and arguments advanced by the learned counsel for the petitioners, none of the grounds exists for quashing the FIR. Therefore, there is no question for quashing FIR to the extent of Section 3 of the SC/ST Act.”*

27. The Supreme Court in ***Ramawatar Vs. The State of Madhya Pradesh, Criminal Appeal No. 1393 of 2011, On 25<sup>th</sup> October, 2021***, held:-

*“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 ‘noncompoundable 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, interalia, 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 re-

iterate 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 hollowhearted 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 dispute-settling. 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 twofold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based 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 afore-stated 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 aforestated 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."***

28. (a) **In the present case** admittedly there is a land dispute between the parties.
- b) A Title Suit is pending between the parties.
- c) The present case has been filed after receiving summons in the Title Suit and prior to the appearance before the Civil Court.
- d) The alleged incident took place inside the house of the complainant (as stated in the petition of complaint).
29. As such, since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of

property, does not disclose an offence under the act and here in the present case there is no prima facie materials on record to show that the complainant was abused, intimidated or harassed only for the reason that the complainant belongs to the protected class (***Hitesh Verma vs State of Uttarakhand and Anr. (Supra) and Ramawatar Vs. The State of Madhya Pradesh (Supra)***).

30. **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 proceeding in this case is liable to be quashed.
31. In ***Ramesh Chandra Gupta vs. State of Uttar Pradesh and Ors., 2022 LiveLaw (SC) 993, Criminal Appeal No(s)....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.”**

32. From the materials on record guidelines 1 and 7 in the ***State of Haryana and Others vs. Bhajan Lal and Others*, (1992 Supp. (1) 335)** are applicable in this case.
33. **CRR 1136 of 2020 is thus allowed.**
34. The proceeding in S.C./S.T. No. 05 of 2019, pending before the Learned Additional Sessions Judge, 1<sup>st</sup> Court, Asansol arising out of Kanksa Police Station Case No. 178/2019 dated 04.06.2019 under Sections 326/331/348/450/506/120B of the Indian Penal Code read with

Section 3 of the Scheduled Caste and Scheduled Tribes Act, is hereby quashed.

35. There will be no order as to costs.
36. **All connected Applications stand disposed of.**
37. Interim order if any stands vacated.
38. Copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.
39. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

**(Shampa Dutt (Paul), J.)**