

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

CIRCUIT BENCH AT JALPAIGURI

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 160 of 2022

with

CRAN 1 of 2022

Ravindra Kumar Jain

vs.

The State of West Bengal & Anr.

For the Petitioner

: Mr. Rajdeep Das,
Ms. Sneha Shankar,
Mr. Abhrojyoti Das.

For the State

: Mr. Aditi Sankar Chakraborty,
Mr. Nilay Chkraborty.

**For the Opposite Party
No. 2**

: Mr. Sandipan Ganguly, Id. Sr. Adv
Mr. Surya Prasad Chattopadhyay,
Mr. Subham Ghosh,
Mr. Mayank Roy.

Hearing concluded on

: 11.10.2023

Judgment on

: 16.10.2023

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of the entire proceedings arising out of Matigara Police Station Case No. 764 of 2022 dated 07.07.2022 under Sections 341/325/506 of the Indian Penal Code and read with Section 3(1)(r)(s) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 corresponding to Special G.R. Case No. 21/2022, now pending before the Learned Additional District and Sessions Judge, 1st Court at Darjeeling.
2. On hearing the learned counsel for both sides and on perusal of the petition of complaint at page 16 of the revisional application it has been stated by the complainant that when she tried to save her husband, the petitioner pushed her back and abused her by caste i.e. Schedule Tribe within public view. Subsequently, the petitioner threatened them with dire consequence.
3. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in ***Hitesh Verma vs. State of Uttarakhand & Anr.*** reported in **(2020) 10 SCC 710** wherein the Court held that one of the essential ingredients required to constitute the offence under 3(1)(r)(s) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 is that the incident is to be at a "place in public view" due to presence of members of the public.
4. In the present case as seen from the written complaint, it appears that the incident allegedly occurred at a wedding reception organized at a public place being a ceremonial venue.

5. The Learned counsel for the petitioner has further relied upon the judgment of the Hon'ble Supreme Court in **Ramesh Chandra Vaishya vs. The State of Uttar Pradesh & Anr.** in **Criminal Appeal No...../2023 (arising out of SLP(CRL) No. 1249 of 2023)** in which Paragraph 18 reads as follows:-

“18. That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by use of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks. Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under Section 438, Cr.P.C. and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of

witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognizance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial.”

6. In the present case also the written complaint does not make any reference to any utterances, if any, made by the petitioner in course of the altercation as to the caste of the complainant. There is absolutely no statement making out a case for offence under Section 3(1)(r)(s) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989. While granting anticipatory bail to the present petitioner, the Division Bench of this Court in **CRM (A) 490 of 2022** observed as follows:-

“.....In the present case, on plain reading of the complaint on the basis of which the FIR has been initiated prima facie this Court finds that there is no intention to insult or humiliate the victim. In the complaint, it is alleged that the petitioner had suddenly assaulted the husband of the de facto complainant.

In view of the above, this Court is of the view that till this stage there is no material available in case diary for the alleged offence.....”.

7. The learned counsel for the opposite party/complainant has argued that there is sufficient materials on record to make out a prima facie case against the petitioner in respect of the offences alleged and, as such, the case should be permitted to proceed towards trial.

8. The learned counsel for the opposite party/complainant has relied upon the following judgments:-

1. **Dinesh Bhai Chandubhai Patel vs. State of Gujarat & Ors.**

reported in **(2018) 3 SCC 104.**

2. **Kaptan Singh vs. State of Uttar Pradesh & Ors.** reported in

(2021) 9 SCC 35.

3. **Central Bureau of Investigation vs. Arvind Khanna** reported in

(2019) 10 SCC 686.

4. **Amit Kapoor vs. Ramesh Chander & Anr.** reported in **(2012) 9**

SCC 460.

5. **State of Haryana vs. Bhajan Lal** reported in **(1992) Supp (1) SCC**

335.

9. The said compilation of judgments has been filed along with a note of arguments stating therein that the complaint in the present case was filed by the complainant around mid night, in a traumatized state of mind that she was undergoing from the offence that had just been committed upon her as well as her husband. It is further stated that even if the complaint/FIR does not disclose the specific words having been uttered by the accused person to the complainant, the same were particularly disclosed to the investigating authority during the course of the investigation after refreshing her memories and recovering from the trauma that she had suffered during the commission of the offence. Reference may be kindly accorded to the statement of the opposite party recorded under Section 161 of the Criminal Procedure Code, 1973. It is further stated that part quashment of

proceedings is impermissible under Section 482 of the Code, as has been laid down by the Hon'ble Apex Court in the case of ***Dinesh Bhai Chandubhai Patel vs. State of Gujarat & Ors.*** reported in **(2018) 3 SCC 104**. It is further stated that Section 154 read with Section 157 of the Code clearly envisages that the FIR need not be an encyclopedia of facts and the same is only an instrument to initiate the investigation of a cognizable offence. Moreover, Section 157 of the Code envisages that if the investigating authority, on receipt of the information under Section 154 of the Code, finds reason to suspect the commission of offence shall proceed to investigate the same as per the provisions of the Code. If the aforesaid provisions are read into the context of the instant case, the same shall clearly depict the commission of the offence under Sections 341/325/506 of the Indian Penal Code, 1860 read with Section 3(1)(r)(s) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

10. It is further submitted that there are several statements of witnesses under Section 161 of the Cr.P.C. which support the case of the complainant and, as such, as the commission of offences alleged has been prima facie made out against the petitioner, the present case is not liable to be quashed.

11. The learned Additional Public Prosecutor appearing for the State has placed the case diary.

12. On perusal of the charge-sheet, it appears that the investigating officer has clearly noted in the charge-sheet as follows:-

“.....I also collected the CCTV footage clips of the PO but as it was captured from a far distance and audio was not clear hence I did not tagged the same with the investigation of this case.....”

13. From the case diary, it further transpires that the husband of the complainant and the petitioner were partners in a transport company styled as **“Sree Gopal Road Link”** but the same was dissolved in the year 2005. It further appears from the materials in the case diary that during investigation it transpired that the petitioner allegedly insulted the complainant stating that she takes beef meat in presence of many other in public and threatened with dire consequences. The said statement also does not come within the purview of Section 3(1)(r)(s) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

14. In ***Randheer Singh vs The State of U.P. & Ors., Criminal Appeal No. 932 of 2021, on September 02, 2021***, the Supreme Court held:-

“23. Even though an FIR need not contain every detail, an offence has to be made out in the FIR itself. It is the case of the Private Respondents that Bela Rani has no title. Bela Rani executed a false Power of Attorney in favour of Rajan Kumar (since deceased). Alternatively, the Power of Attorney, in itself, was a forged document.

33. In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the Appellant is concerned. There is no whisper of how and in what manner, this Appellant is involved in any criminal offence and the charge sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions

may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in Paramjeet Batra (supra) extracted above.”

15. From a copy of emergency ticket, the history of assault given to the doctor by the husband of the petitioner is of physical assault, nails scratch over left hand, kick over abdomen, slapped over face. The doctor did not find any external cut injury. **The said emergency ticket does not name the petitioner before the doctor while giving the history of assault.**

16. The Division Bench of this Court while granting anticipatory bail at that stage also did not find any materials in the case diary to prima facie make out a case under Section 3(1)(r)(s) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. **Thus, from the materials on record including the case diary as discussed till the date of submission of charge-sheet there is absolutely no materials on record to show prima facie** that the ingredients required to constitute the offence as alleged including the offence under Section 3(1)(r)(s) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 341/325/506 IPC are on record. There being no materials on record which prima facie make out a case of the offences as alleged in the present case against the petitioner right from the First Information Report till the submission of charge-sheet **(Randheer Singh vs The State of U.P. & Ors.(Supra))** and **(Ramesh Chandra Vaishya vs. The State of Uttar Pradesh & Anr. (Supra))**. The present revision is thus liable to be quashed

against the petitioner as the continuation of the same will be a clear abuse of the process of law.

17. The present revision being CRR 160 of 2022 is allowed.

18. Accordingly, the entire proceedings arising out of Matigara Police Station Case No. 764 of 2022 dated 07.07.2022 under Sections 341/325/506 of the Indian Penal Code read with Section 3(1)(r)(s) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 corresponding to Special G.R. Case No. 21/2022, now pending before the Learned Additional District and Sessions Judge, 1st Court at Darjeeling, is quashed in respect of the petitioner Ravindra Kumar Jain.

19. All connected Applications, if any, stand disposed of.

20. Interim order, if any, stands vacated.

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

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

(Shampa Dutt (Paul), J.)