

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4568 OF 2019

Surekha Sanjay Parvadi

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

WITH

WRIT PETITION NO.4567 OF 2019

Mahesh Madhukar Palkar

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Vijay Thorat i/by Rajesh A. Tekale a/w Amruta Wanve, for the
Petitioner in WP/4568/2019.

Mr. Ashwin Vasista i/by Adhiraj Parab, for the Petitioner in
WP/4567/2019.

Mr. K. V. Saste, APP for the Respondent/State.

Mr. Shashikant Chaudhari a/w Pranot Pawar, Legal Aid Appointed
Advocate for Respondent No.2.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ.**

DATE : 25th JULY, 2023

P. C. (Per Nitin W. Sambre, J.)

1. Both these petitions are for quashing of FIR in Crime
No.26 of 2019 registered with respondent No.1/Mata Ramabai
Ambedkar Marg Police Station ("MRA Marg Police Station") for an
offence punishable under Sections 3(1)(zc) and 3(1)(za)(E) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989 (hereinafter referred as “SC and ST Act” for the sake of brevity).

2. The facts necessary for deciding the petitions are as under :-

The petitioner in Writ Petition No.4567 of 2019 is claimed to be working as Education Officer, whereas the petitioner in Writ Petition No.4568 of 2019 is working as an Administrative Officer in the Education Department of the Municipal Corporation of Greater Mumbai.

3. The respondent No.2/complainant was appointed as a teacher with the Municipal Corporation and as per service condition was allotted accommodation in Vikhroli, Park Site by Estate Department of the Corporation.

4. The said building where the respondent No.2/complainant was residing was declared as dilapidated by the Estate Department and as such, the Assistant Commissioner “N Ward” vide notice dated 19th August, 2017 to all the occupants including respondent No.2/complainant directed to vacate the said premises within two days. It is claimed that respondent No.2/complainant was also informed that she was allotted alternate accommodation in Chembur in lieu of the aforesaid official accommodation.

5. In spite of the aforesaid notice, since the respondent

No.2 has failed to vacate the same, another notice dated 18th May, 2018 came to be served asking her to vacate the premises within 48 hours. As the respondent No.2 failed to vacate the premises by shifting the quarter allotted to her in Chembur a warning notice was served to her by the Assistant Commissioner intimating that failure to vacate the premises will result in her suspension. In spite of the aforesaid communication dated 7th June, 2018, the respondent No.2 has failed to vacate premises resulting into again a communication dated 10th July, 2018 was issued to the respondent No.2 asking her to vacate the premises.

6. As the respondent No.2 again failed to vacate the premises in compliance with the notice dated 19th August, 2017, 18th May, 2018, 7th June, 2018 and 10th July, 2018, she came to be suspended from service vide order dated 14th August, 2018 communicated vide letter of administrative officer i.e. petitioner herein dated 10th September, 2018. The respondent No.2 was served with the charge-sheet dated 23rd October, 2018.

7. In the aforesaid background, having regard to the service conditions viz. entitlement of the respondent No.2 to the suspension allowance which is 50% of her salary communicated vide communication dated 4th February, 2019, issued by the petitioner/administrative officer, the respondent No.2/complainant was informed to submit requisite documents. After the aforesaid communication dated 4th February, 2019, the respondent No.2 has

caused to issue notice dated 12th April, 2019 through advocate asking for release of suspension allowance which was due and receivable from September, 2018. It is claimed that along with the said notice, the respondent No.2 has submitted documents viz. cancelled cheque, ECS Form, affidavit stating that she was not gainfully employed elsewhere and also copy of Aadhar Card. The administrative officer after receipt of the above, informed the respondent No.2/complainant vide communication dated 8th May, 2019 that the documents which were submitted were as per the requirements of accounts department and had been processed on 16th April, 2019. It is claimed that she was informed that her suspension allowance for the period of three months i.e. 10th September, 2018 to 9th December, 2018 has been approved and same shall be deposited in her bank account in next 8 to 10 working days.

8. In this background, it is the case of the petitioners that they have received a letter dated 13th May, 2019 from the respondent No.1 calling upon the department to furnish all such information and documents related to suspension of the respondent No.2/complainant more particularly about the disbursement of the suspension allowance.

9. Vide another communication dated 18th May, 2018 issued by the respondent No.2, petitioners were informed about the complaint being lodged by the respondent No.2 resulting into

registration of offence being Crime No.26 of 2019 punishable under Sections 3(1)(zc) and 3(1)(za)(E) of the SC and ST Act.

10. In the complaint referred above dated 31st May, 2019 preferred by the respondent No.2 which narrates that she belongs to Scheduled Caste category and the conduct of the petitioners being the officer responsible for release of suspension allowance of not releasing the same amounts to an offence under the provisions of the SC and ST Act as referred to above. It is claimed by the respondent No.2 in the complaint that she was suspended vide order dated 10th September, 2018. She was informed that she will be entitled to 50% salary as suspension allowance. She has stated that though she has fulfilled requirements for entitlement of such suspension allowance, she was not paid suspension allowance from 10th September, 2018 to 9th December, 2018. According to her, in spite of her repeated request to the petitioners, the suspension allowance was not released. Such conduct of the petitioners is contrary to the discipline and appeal rules as same has led to suffer her not only monetarily but also physically and psychologically. It is claimed that the conduct of the petitioners has given rise to the stress, agony to the respondent No.2, so also, the mother of the respondent No.2. She has claimed that the conduct of the petitioners amounts to social and financial boycott and non-release of the suspension allowance has resulted into the respondent No.2 being required to starve and was meted inhuman treatment.

11. Since the complaint discloses cognizable offence, Crime No.26 of 2019 came to be registered referred above of which quashing is sought in the present proceedings.

12. According to counsel for the petitioners, petitioners are public servants being employees of the Greater Mumbai Municipal Corporation. Assuming without admitting intentional delay in processing request of the respondent No.2 for release of suspension allowance, such act of the petitioners is in official capacity and same cannot be termed as one to show disrespect to the respondent No.2 *qua* her caste or deprive her of rightful claim of suspension allowance. According to counsel for the petitioners, in fact the suspension allowance was released to the respondent No.2 as could be inferred from the communication dated 7th May, 2019 addressed to MRA Marg Police Station. According to counsel for the petitioners, respondent No.2 has suppressed the fact about receipt of suspension allowance that too in her Bank account as was informed to MRA Marg Police Station vide communication dated 7th May, 2019. In such an eventuality, the respondent No.2 has suppressed the fact of release of suspension allowance. That being so, the FIR which suffers from suppression of material fact is liable to be quashed and set aside. According to them, already vide another letter dated 31st May, 2019, the respondent No.1 was informed by the petitioner/administrative officer that allowance of Rs.53,112/- for three months has been credited to the account of the respondent No.2/complainant on 16th May, 2019. It has been

also informed in the said communication that allowance of Rs.1,26,563/- for a period of 10th December, 2018 to 30th April, 2019 has been processed on 24th May, 2019 and was to be credited in the account of the respondent No.2 within 10 to 15 working days. As such, it is claimed that the respondent No.2 has completed the formality by submitting documents in response to the communication dated 4th February, 2019 and 5th March, 2019 vide lawyers notice dated 12th April, 2019. According to counsel for the petitioners, there is no delay on the part of the petitioners in processing request for providing suspension allowance as the documents were required in accordance with procedure adopted by the administrative/accounts department. Counsel for the petitioners submits that it is not the case of the respondent No.2 that the petitioners have evolved some different procedure for releasing suspension allowance. That being so, he would claim that the FIR is liable to be quashed and set aside as same is not based on the true factual matrix.

13. Counsel for the petitioners thereafter would invite our attention to the contents of the FIR. According to him, if the contents of the FIR are appreciated in the light of prescribed ingredients of the offence alleged against the petitioners *qua* provisions of Sections 3(1)(zc) and 3(1)(za)(E) of the SC and ST Act, satisfaction of necessary ingredients of offence cannot be inferred. According to learned counsel for the petitioners, petitioners have never imposed or threatened the respondent No.2

with social or economic boycott or a family or a group belonging to a Scheduled Caste or Scheduled Tribe. Counsel would urge that the entitlement of the respondent No.2 qua the suspension allowance is her legal right and the petitioners cannot withhold the said legal right as they are not authority under the law. According to counsel for the petitioners, delay was on the part of the respondent No.2 in reporting compliance of the documents which were required for the purpose of sanction and release of suspension allowance. He would further urge that the suspension allowance was not released or processed under the threat from the respondent No.2. He would as such urge that the imposing of social or economic boycott cannot be inferred against the petitioners as the case of the respondent No.2 for release of the suspension allowance was already processed from February, 2019. He would further urge that the offence punishable under Section 3(z)(E) of the SC and ST Act is attracted, in case, if a person obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to practicing any profession or carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to. According to him, the suspension of the respondent No.2 is by virtue of her conduct as reflected in the charge-sheet and the suspension order. The provisions of offence alleged under Section 3(1)(z)(E) can be read only, in case, if the act of stopping of a member of the Scheduled Caste or Scheduled Tribe from carrying on any

occupation or practicing any profession, trade or business or employment without in accordance with law is noticed. As such, he would urge that from the narrations in the FIR, the ingredients of the offence even under Section 3(1)(za)(E) cannot be inferred. That being so, counsel for the petitioners would urge that the FIR is liable to be quashed and set aside.

14. Counsel for the petitioners would urge that it is not the case of the respondent No.2 that she was isolatedly evicted from the corporation premises as same was in dilapidated condition. According to them, a similar action was taken against the other employees also and as such, it cannot be said that the respondent No.2 is victimized.

15. Learned APP assisted by counsel for the respondent No.2 Mr. Shashikant Chaudhari while opposing the claim would urge that the petitioners have approached this Court with unclean hands. According to learned APP, this Court is required to be sensitive to the special enactment i.e. provisions of the SC and ST Act and the Court has to be extremely circumspect in its approach. The SC and ST Act was enacted to deter acts of indignity, inhuman and harassment of the members of the Scheduled Castes and Scheduled Tribes community. The Court has to be mindful of the fact that the SC and ST Act has been enacted keeping in view the constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution of India with an objective of protecting the members of these

vulnerable communities, as well as to provide relief and rehabilitation to the victims of the caste based atrocities. According to learned APP, the fact that the respondent No.2 belongs to Scheduled Caste and the conduct of the petitioners as reflected in the FIR since constitute a cognizable offence, the crime came to be registered. Mr. K. V. Saste, learned APP would further urge that the investigation is at the nascent stage, as the crime was registered and investigated into. This Court has ordered no coercive steps in the matter. As such, he would urge that let the investigation be completed and in case, if the material is available to prosecute the petitioners, they will be charge-sheeted, however, this Court should not show indulgence at this stage of the proceedings. Learned APP would urge that the narration of the events viz. order of eviction of the respondent No.2, her suspension and then charge-sheeting and not paying suspension allowance sufficiently establishes the offence against the petitioners who were controlling the affairs about release of such allowance. As such, it is claimed that both these petitions are liable to be dismissed.

16. Counsel for the respondent No.2 would urge that the representation of the respondent No.2 dated 30th November, 2017 was not decided or the decision thereon was not brought to her notice. It is further claimed that the respondent No.2 never intentionally or deliberately failed to vacate the premises pursuant to the notice issued to her. According to counsel for the respondent No.2, domestic inquiry was not completed within the time

stipulated. According to counsel, the petitioners must explain the period within which the suspension allowance was though due and payable was not paid or disbursed. According to learned counsel, once it is mentioned in the suspension order dated 10th September, 2018 that the respondent No.2 will be paid suspension allowance, the petitioners were duty bound to release the same. Just because the respondent No.2 belongs to a reserved category, the said amount was not released. It is claimed that the petitioners had discriminatory approach in the matter of release of suspension allowance and behaved with racial prejudice. The petitioners had every intention to commit the offence in question in the backdrop of the social background of the respondent No.2, as such it is claimed that both these petitions are liable to be dismissed.

17. We have considered the rival submissions.

18. Admitted facts which this Court needs to take note of are that petitioners are not members of the Scheduled Castes or Schedule Tribes community, whereas the respondent No.2 belongs to Scheduled Caste category who was working as a teacher for thirty years with the Municipal Corporation of Greater Mumbai. The respondent No.2 was served with a notice to evict the premises and her failure to vacate has resulted into her suspension and charge-sheeting her.

19. In the aforesaid background, considering the allegations

made in the FIR, we are required to have regard to the provisions of the SC and ST Act. Section 2(1)(a) of the SC and ST Act defines the “atrocities”, it means, an offence punishable under Section 3 and Section 2(1)(b) defines “Code” to mean the Code of Criminal Procedure, 1973. The word “economic boycott” is defined in Section 2(1)(bc).

20. The fact remains that the petitioners and the respondent No.2 are public servants within the meaning of Section 2(bg) of the SC and ST Act. The respondent No.2 claiming to be a “victim” under Section 2(ec) of the SC and ST Act has chosen to file a complaint resulting into registration of offence being Crime No.26 of 2019.

21. The narrations therein speak of her targeted suspension from the service as a teacher and her entitlement for the suspension allowance which was not paid to her for a considerable period. As such, it is claimed by the respondent No.2 that the act of the petitioners who are working as Education Officer and Administrative Officer in not releasing the suspension allowance in reasonable time amounts to economic and social boycott and *prima-facie* offence can be said to have been committed which is punishable under Sections Sections 3(1)(zc) and 3(1)(za)(E) of the SC and ST Act.

22. The offence under Section 3(1)(zc) is made punishable, in case, if an accused imposes or threatens a social or economic

boycott of any person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe. According to petitioners, by not timely releasing subsistence allowance/suspension allowance, the offence of economic boycott cannot be inferred. As stated earlier, provisions of clause (bc) of Sub-Section (1) of Section 2 of the SC and ST Act, which defines “economic boycott” reads thus :-

- “(bc) “economic boycott” means –
- (i) a refusal to deal with, work for hire or do business with other person; or
 - (ii) to deny opportunities including access to services or contractual opportunities for rendering service for consideration; or
 - (iii) to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business; or
 - (iv) to abstain from the professional or business relations that one would maintain with other person;”

If we appreciate the aforesaid definition, particularly, having regard to the accusation in the FIR, it cannot be said that the act of the petitioners of delaying the payment of suspension allowance amounts to economic boycott, as such act is not covered by sub-clause (iii) of clause (bc) of Sub-Section (1) of Section 2 of the SC and ST Act. There is no element of refusal to do anything viz. payment of subsistence allowance by the petitioners. Rather the petitioners have initiated process of payment of subsistence allowance to which respondent No.2/complainant was entitled in law.

23. Apart from above, case of social boycott is at all not alleged by the respondent No.2 in the FIR. However, even if we consider such case, there does not appear any specific accusation as to which act of the petitioners amounts to a social boycott.

24. Apart from above, if we appreciate the offence alleged under sub-clause (E) of clause (za) of Sub-Section (1) of Section (3) of the SC and ST Act, which reads thus :-

“(E) practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to;”

Perusal of the above said provisions does not take this Court to the conclusion that the profession or the practice carried out by the respondent No.2/complainant or her employment in any job has been obstructed or she is prevented being a member of Scheduled Caste in any manner from discharging her duties. The petitioners are not the authorities who are competent to order suspension or withhold suspension allowance. Rather they have processed the entitlement of the respondent No.2 for such allowance.

25. If we appreciate the law laid down by the Apex Court in the matter of quashing of criminal prosecution, we are required to be sensitive to the law laid down by the Apex Court in the latest judgment of ***Gulam Mustafa Vs. State of Karnataka & Anr.*** reported in ***2023 SCC OnLine SC 603***. In the aforesaid judgment, while

considering the judgment of Apex Court in the matter of ***Ramawatar Vs. State of Madhya Pradesh*** reported in ***2021 SCC OnLine SC 966***, it is held that mere fact that the offence is covered under a ‘*special statute*’ would not inhibit the High Court from exercising the powers conferred under Section 482 of the Code. The powers can be exercised where it appears to the Court that the offence in question, although covered under the Atrocities Act, continuation of which would amount to abuse of process of law.

26. Apart from above, the High Court can also exercise its inherent powers for quashing of the FIR, in case, if it has noticed a false criminal case is preferred. In support of the aforesaid proposition, reliance can be placed on the judgment of ***Govind Prasad Kejriwal Vs. State of Bihar*** reported in ***(2020) 16 SCC 714***. The Apex Court in the matter of ***State of Haryana Vs. Bhajan Lal*** reported in ***AIR 1992 Supp (1) SCC 335*** has observed thus :-

“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.”

27. The powers under Section 482 of the CrPC can be exercised by the High Court to give effect to order under the CrPC or to prevent abuse of process of any court or otherwise to secure the ends of justice. In appropriate cases to prevent judicial process from being an instrument of oppression or harassment in the hands of frustrated or vindictive litigants, inherent power can be exercised as is laid down by the Apex Court in the matter of ***S. W. Palanitkar Vs. State of Bihar*** reported in ***(2002) 1 SCC 241***. The said powers can also be exercised by the High Court to do real and substantial justice for the administration of which alone Courts exist. Criminal Proceeding, if Court finds that initiation/ continuation of it amounts to abuse of the process of the court or quashing of these proceedings would otherwise serve the ends of justice, the powers under Section 482 of the CrPC can be exercised. When no offence is disclosed by the complaint, the powers can be exercised by the High Court. Apart from above, the Apex Court in the matter of ***Amit Kapoor Vs. Ramesh Chander & Anr.*** reported in ***(2012) 9 SCC 460*** has laid down the principles to be considered for proper exercise of jurisdiction under Section 482 of the CrPC. The Court is permitted to apply the test as to whether the uncontroverted allegations noticed from the record of the case and the documents submitted therewith *prima-facie* does not establish the offence. In case, if the allegations are so absurd and inherently improbable on the basis of which no prudent person can ever reach to conclusion and where the basic ingredients of a criminal offence are not satisfied, the High

Court can interfere by quashing said proceedings. However, the Apex Court in the matter of ***Rajeev Thapar Vs. Madan Lal Kapoor*** reported in ***2013(3) SCC 330*** has observed that at the stage of exercising powers under Section 482 of the CrPC, the evaluation or the truthfulness or otherwise of the allegation levelled by the prosecution or the complainant against the accused cannot be appreciated. Even otherwise weighty defence of the accused cannot be looked into. As such, this Court is required to consider the case of the petitioners in the background of the aforesaid proposition of law laid down by the Apex Court.

28. The Apex Court in the matter of ***Swaran Singh & Ors. Vs. State Through Standing Counsel & Anr.*** reported in ***(2008) 8 SCC 435*** had an occasion to interpret the provisions of SC and ST Act. The Apex Court has held that the context in which the conduct of the accused amounts to an offence is an important issue so as to infer motive to commit the offence.

The Apex Court further having regard to the fundamental rights guaranteed under Article 21 of the Constitution of India has observed that in the age of democracy and equality, no people or community can be insulted or looked down upon or the feelings should be hurt. The Apex Court has further held that an offence under the SC and ST Act can be quashed, if no *prima-facie* offence is disclosed in the FIR. In the matter of ***Hitesh Verma Vs. State of Uttarakhand & Ors.*** reported in ***(2020) 10 SCC 710*** the

Apex Court while dealing with the prayer for quashing has observed that the satisfaction of ingredients of the offence alleged is necessary, failing which the offence can be quashed.

29. In the case in hand, the notice dated 19th August, 2017 was served to the respondent No.2, so also, all the occupants of the building in which the respondent No.2 was also residing to vacate the same within two days as the building was dilapidated and was in dangerous condition. Initiation of such process on the part of the officials of the Corporation of Greater Mumbai is in the interest and a safeguard of the parties like the respondent No.2. From the record it further reflects that the respondent No.2 has failed to vacate the premises in question for substantial long period i.e. till the date of her suspension i.e. 10th September, 2018, in spite of she was offered alternate accommodation immediately. The entitlement of the respondent No.2 during her suspension of suspension allowance is her statutory right as per the provisions of BMC Service (Conduct) Rules, 1999. The Administrative Officer, Estate Department, “N Ward” accordingly issued suspension order to ten employees vide its order dated 10th July, 2018 and the respondent No.2’s name could be noticed at Sr. No.8 in the said suspension order. As such, it cannot be said that the respondent No.2 was singled out as an employee belonging to the reserved category to suffer suspension by practicing discriminatory or racial treatment.

30. The very conduct of the respondent No.2 of not

complying with the orders of the higher authorities asking her to shift at alternate place, was treated as insubordination and the order of suspension came to be issued. After the suspension order was issued on the respondent No.2 on 10th September, 2018, the Administrative Officer (Schools) i.e. petitioner herein has communicated the respondent No.2 vide letter (signed) dated 18th September, 2018, calling upon her to furnish certain information so as to process the case for payment of subsistence/suspension allowance. The respondent No.2 since has not complied with the same, another communication dated 4th February, 2019 of similar nature calling upon respondent No.2 to furnish information and the documents for processing the payment of suspension allowance was also issued.

31. It appears that the respondent No.2 vide letters dated 14th February, 2019 and 5th March, 2019 has requested for release of suspension allowance. The respondent No.2 was informed vide communication dated 5th March, 2019 by the office of the Corporation to furnish the required documents for processing payment of suspension allowance.

32. The respondent No.2 has caused to issue legal notice to the Municipal Corporation and its employees including petitioner dated 12th April, 2019 thereby enclosing requisite documents as were called vide earlier communications for the purpose of processing the payment of suspension allowance.

33. Accordingly, Administrative Officer has acknowledged the receipt of the same and informed that after processing file, same is sent to the Education Department. It was also informed to the respondent No.2 that the suspension allowance for a period from 10th September, 2018 to 9th December, 2018 was sanctioned vide communication dated 26th December, 2018 and 2nd May, 2019 with a further intimation that same shall be deposited in the account of the respondent No.2 within period of 8 – 10 days. Subsequent thereto, the petitioner was served with a notice by the police officers on 13th May, 2019 calling upon them to remain present with the original papers in relation to the prayer of the respondent No.2 about the payment of suspension allowance to the respondent No.2. Similar other communications were issued by the police authorities to the petitioners on 18th May, 2019.

34. In this background, the offence appears to have been registered against the petitioners. The fact remains that the offence came to be registered based on the complaint preferred by the respondent No.2 to the police authorities dated 31st May, 2019.

35. The fact remains that by the time the complaint came to be lodged and the offence was registered, suspension allowance claimed to have been released in favour of the respondent No.2, which fact was suppressed in the FIR, so also, statement recorded under Section 164 of the CrPC by the Magistrate on 13th September, 2019. It is brought to our notice that the following suspension

allowance was approved and paid to the respondent No.2 :-

अनु.क.	निलंबन भत्ता माहिना	मंजुरी क.	मंजुरी दिनांक	रक्कम
1.	(10.09.2018 ते 31.12.2018)	EFPS/II/400	07.05.2019	53,112/-
2.	जानेवारी-2019 ते मे - 2019	EFPS/II/532	24.05.2019	126,468/-
3.	जून-2019	EFPS/II/905	08.07.2019	26843/-
4.	जुलै-2019	EFPS/II/1403	02.08.2019	26843/-
5.	ऑगस्ट-2019	EFPS/II/1685	03.09.2019	26843/-
6.	सप्टेंबर-2019	EFPS/II/2061	03.10.2019	26843/-
7.	ऑक्टोबर-2019	EFPS/II/2262	02.11.2019	26843/-
8.	नोव्हेंबर-2019	EFPS/II/2565	03.12.2019	26844/-
9.	डिसेंबर-2019	EFPS/II/2876	08.01.2020	26844/-
10.	जानेवारी-2020	EFPS/II/3185	04.02.2020	26844/-
11.	फेब्रुवारी-2020	EFPS/II/3630	06.03.2020	26844/-
12.	मार्च-2020	EFPS/II/01	09.04.2020	26844/-
13.	एप्रिल-2020	EFPS/II/04	06.05.2020	26844/-
14.	मे-2020	EFPS/II/235	08.06.2020	26844/-
15.	जून-2020	EFPS/II/424	06.07.2020	26844/-
16.	जुलै-2020	EFPS/II/823	11.08.2020	26844/-

As such, it can be inferred that the suspension allowance was paid to the respondent No.2, still respondent No.2 has proceeded to lodge the complaint.

36. The delay, if any, in the matter of payment of suspension allowance to the respondent No.2 cannot be attributed to the petitioners, particularly, when the respondent No.2 has submitted the documents for processing such request is demonstrated from the available documents on 12th April, 2019. As such, within period of

one month from the date of submission of the documents, suspension allowance appears to have been deposited to the bank account of the respondent No.2 which fact is suppressed. Delay, if any, in the matter of payment of suspension allowance cannot be individually attributed to the petitioners as in the public offices the processing of the request takes some time and in the case in hand, the respondent No.2 herself has admitted that she has submitted documents on 12th April, 2019, even if it is appreciated that the suspension allowance was sanctioned on 26th December, 2018 and 2nd May, 2019 as reflected in the communication by Administrative Officer dated 8th May, 2019.

37. As such, the mitigating circumstances which have led to the delayed release of subsistence/suspension allowance in favour of the respondent No.2 cannot be said to be an offence within the meaning of the word “economic boycott” as defined in clause (bc) of Sub-Section (1) of Section 2 of the SC and ST Act. Apart from above, the conduct of the petitioners cannot be said to be amounting to obstruction or prevention of the respondent No.2 she being a member of Scheduled Caste category, in practicing her employment in the matter. The petitioners cannot be said to have imposed or threatened a social or economic boycott by delaying the payment of suspension allowance. In any case, it cannot be said that the petitioners at any point of time have refused to do anything on the terms of which things would be only done in the ordinary course of business so as to term the same as economic boycott within the

meaning of clause (bc) of Sub-Section (1) of Section 2 of the SC and ST Act.

38. From the foregoing discussion, it can be inferred that even if the offence is alleged under the special statute, this Court is armed with the powers under Section 482 of the CrPC to quash the same, as the continuation of the same would amount to abuse of process of law. The petitioners were within their lawful powers to process the request of the respondent No.2/complainant for release of suspension allowance. Even if the prosecution against the petitioners is permitted to be continued, same will amount to the harassment of the petitioners, who are public servants. The uncontroverted allegations even have not made out the offence against the petitioner, and hence, the satisfaction of the necessary ingredients cannot be inferred. That being so, the conduct of the petitioners cannot be said to be amounting to commission of offence or leading to infer existence of motive to do so.

39. As such, for the reasons recorded herein-above in the given set of facts and circumstances of the case, it cannot be inferred that the petitioners had any intention to commit the offence under the provisions of SC and ST Act thereby causing social and economic boycott on the victim i.e. respondent No.2 by not releasing suspension allowance in time. The fact that the suspension order was issued against ten of the employees for identical reasons like that of respondent No.2, the failure of the respondent No.2 to

report timely compliance for processing the request for release of the suspension, the fact that before lodging of the FIR, suspension allowance was already released which fact was suppressed by the respondent No.2, sufficiently speaks of the mind of the respondent No.2.

40. That being so, both the Writ Petitions stand allowed in terms of prayer clause (a).

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]