

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**CRR 1353 of 2005
Sri Shyam Kumar & Anr.
-Vs-
Badri Narayan Adhikari**

With

**CRR 1432 of 2003
Biplav Kumar
-Vs-
Badri Narayan Adhikari**

With

**CRR 2591 of 2005
Prohalad Chandra Das & Ors.
-Vs-
The State of West Bengal**

For the Petitioners : Mr. Amajit De
Ms. Shakshi Rathi

For the State : Mr. Pravas Bhattacharya
In CRR 2591 of 2005 Mr. Suman De

Heard on : 15.12.2023, 19.02.2024, 05.03.2024, 12.06.2024

Judgment on : 20.09.2024

Ananya Bandyopadhyay, J.:-

1. The instant three revisional applications have been preferred for quashing of the entire proceedings of Complaint Case No. 144C/2004 including the order taking cognizance and all subsequent orders, pending in the Court of Judicial Magistrate, 1st Class, In-Charge of the Court of Sub-Divisional

Judicial Magistrate, Kalyani, Nadia and quashing of the entire proceedings of Complaint Case No. 81C of 2003 including the order taking cognizance and all subsequent orders, pending in the Court of Learned Sub-Divisional Judicial Magistrate, Kalyani, Nadia and quashing of the proceedings being Ranaghat G.R.P.S. Case No. 2 dated 06.01.2004 under Sections 143/ 342/ 352/323/506/309 of the Indian Penal Code, pending in the Court of Learned Additional Chief Judicial Magistrate, Ranaghat, Nadia.

2. The petitioners were public servants working for gain for Indian Railways and the petitioners had been entrusted with serious responsibilities for smooth and efficient management, safety and security and contract of trains in the Eastern Railway, especially petitioner no. 1 (in CRR 1353 of 2005), who was the General Manager of Eastern Railway and was in overall charge of Railway Administration of Eastern Railway.
3. The petitioners being public servant being member of Indian Railway Service were managing the affairs of administration of Eastern Railway, had been protected by Section 188 of the Indian Railways Act and sanction was required to initiate any action against the petitioners, but the Learned Court while taking cognizance and issuing process against the petitioners erred in not adjudicating the question of sanction which was a mandatory requirement under the law for initiation of any criminal prosecution against the petitioners who were the public servants and members of Indian Railways Services.
4. Pursuant to a petition of complaint filed by one Badrinarayan Adhikari in the Court of the Learned Sub-Divisional Judicial Magistrate, Kalyani, Nadia

alleging commission of offences punishable under Sections 143/ 147/ 323/ 384/506/120B/34 of the Indian Penal Code against the petitioners and 14 others on 31.05.2004. The Learned Court on 11.03.2005 took cognizance against the petitioners and issued process directing the petitioners to appear on 20.05.2005.

5. The averments made in the said petition of complaint were to the effect that since the complainant had protested against the illegal activities with regard to ticket checking by “CHETNA” car an instrument of Eastern Railway to apprehend ticketless travelers and further the complainant had initiated case against the Railway administration it was alleged that on 04.04.2004 while the complainant was in his chamber around 17.45 hours the accused person at the direction of the petitioner no. 1 came in four cars and threatened the complainant to withdraw the case instituted against the Railways and it was alleged that one A.P. Dwivedi, Secretary to the petitioner no. 1, P.C. Das working as Assistant Commercial Manager and Joy Shankar Dwivedi working as R.P.F., Sub-Inspector, Sealdah Division coerced the complainant to sign on blank papers, however the complainant raised hue and cry and on hearing such hue and cry, it was stated that the accused persons left in a hurry and in such circumstances since the local police station did not entertain the complaint, the instant complaint was lodged.
6. The Learned Advocate for the petitioners submitted as follows:-
 - i. The petition of complaint taken in the organic whole did not prima facie make out a case of extortion as the ingredients of alleged offence were conspicuously absent and lacking in material particulars even if the

entire allegation was taken at the face value and accepted in its entirety, and in the interest of justice the relevant criminal prosecution should be quashed.

- ii. The instant case the Court was used for oblique purpose for wreaking vengeance and since the chances of ultimate conviction on the basis of said petition of complaint were not only bleak but no useful purpose was likely to be served in allowing the same to ever continue the instant complaint was liable to be quashed.
 - iii. The allegations contained in the said petition of complaint were patently absurd and false in view of the facts and circumstances stated hereinabove, as the complainant only to wreak vengeance and without ulterior motive to coerce the Railway administration to make payment of Rs.20 Lakhs as compensation. The complainant had lodged the instant complaint which was lacking in material particulars, and the Learned Court while taking cognizance erred in not applying his judicial mind on record but acting as a mere post office for issuance of process since the complainant was a practising advocate of self-same Court, and as such the entire proceedings was liable to be quashed in the interest of justice.
7. The Learned Advocate for the petitioners (in CRR 1353 of 2005) further submitted that:-

- i. In complaint it had been stated that regarding the incident of 16.02.2003, complainant filed a complaint vide 81C of 2003. On 04.04.2004 at 5.45 p.m. under the instructions of petitioner no. 1, petitioner no. 2 and others threatened the complainant to withdraw

the case. It was also stated that protest of the complainant was published in various newspapers.

- ii. The complaint itself showed that out of personal vendetta, the instant complaint was lodged and Learned Magistrate taken steps against petitioner without following the statutory provisions. No sanction was obtained to prosecute the petitioners. As per Section 188 of the Indian Railways Act and Section 197 of the Code of Criminal Procedure, sanction was required to initiate any proceeding against this petitioner which was lacking in this case.
- iii. On 20.11.2002, complainant, not as a common people but using his designation as an advocate, demanded Rupees 20 Lakhs compensation from the Government railway officials failing which he threaten to go to Consumer Court and High Court and as a result of that this false fabricated case was lodged by the complainant i.e Badri Narayan Adhikary.
- iv. Railway officials namely, Sandhya Sarkar has made a G.D. before Sealdah GRPS vide G.D.E. No. 1007 dated 17.11.2003 under Sections 179/145/146 of the Indian Railway Act against Badri Narayan Adhikary and complainant was arrested in connection with that case.
- v. On 17.11.2003 at 10:30 a.m., Badri Narayan Adhikary examined himself at hospital, no injury was found on his body, and he was discharged on that day. In this regard, DRM (Division Railway Manager), Sealdah made a complaint before the General Manager, Eastern Railway on 19.01.2004 and also before the Assistant

Secretary, Home Department, Government of West Bengal on 25.02.2004 against the complainant. As a counterblast, this case was lodged.

- vi. Neither any signed blank paper was recovered from the possession of the complainant and moreover incident took place on 04.04.2004 but the complaint was lodged on 31.05.2004 without any explanation of this indefinite delay. For the aforesaid reasons the petitioner deserves an order of Discharge from the Hon'ble High Court at Calcutta.
8. The Learned Advocate for the petitioner (in CRR 1432 of 2003) further submitted that:-
- i. This Criminal Revision had been filed challenging the Complaint Case No. 81C of 2003 dated 26.03.2003, now pending before the Learned Judicial Magistrate, Kalyani, Nadia.
 - ii. In complaint it had been stated that on 18.10.2002 during the checking of tickets at Dum Dum Railway Station, some hot altercation and scuffling took place between one Jibesh Kundu and the complainant. It was alleged that in spite of valid ticket, accused confined the complainant in "Chetna" train and treated himself in B.R. Singh Railway Hospital Emergency Ward. Complainant made Diary at Dum Dum GRP vide No. 760 dated 19.10.2002. On 23.02.2002 all the accused came to the house of complainant and asked him to withdraw the case and forced him to sign in a blank paper. Complainant made a complaint before Dum Dum Police Station on 19.10.2003 and before Railways, Sealdah Division on 21.10.2003.

- iii. Thereafter, Divisional Railway Manager, Sealdah held enquiry on November, 2002 but complainant choose not to appear in enquiry on 08.11.2002. On 20.11.2002, complainant, not as a common people but using his designation as an advocate, demanded Rupees 20 Lakhs compensation from the government railway officials failing which he threaten to go to Consumer Court and High Court and as a result of that this false fabricated case was lodged by the complainant i.e Badri Narayan Adhikary.
- iv. The complaint itself showed that out of personal vendetta, the instant complaint was lodged and Learned Magistrate taken steps against petitioner without following the statutory provisions. As per Section 188 of the Indian Railways Act and Section 197 of the Code of Criminal Procedure, sanction was required to initiate any proceeding against this petitioner which was lacking in this case.
- v. There was a delay of 3 days in filing complaint and there is no explanation to that effect.
- vi. The incident of visiting Railway Officials on 22.03.2003 but no General Diary was made by the complainant in that regard.
- vii. Complaint was made at Kalyani although incident took place at North 24- parganas.
- viii. In the enquiry, complainant failed to produce any witness. Neither any signed blank paper was recovered from the possession of the complainant. For the aforesaid reasons the petitioner deserves an order of discharge from the Hon'ble High Court at Calcutta.

9. The Learned Advocate for the petitioners (in CRR 2591 of 2005) further submitted that :-

- i. This Criminal Revision had been filed challenging the Ranaghat G.R.P.S. Case No. 2 dated 06.01.2004 under sections 143/342/352/323/506 and 379 of the Indian Penal Code, now pending before the Learned Additional Chief Judicial Magistrate, Ranaghat, Nadia.
- ii. In complaint it was stated that on 17.11.2003, complainant was going to Kalyani Court, boarded a train at Shimurali and got down at Kalyani Railway Station at 10:10 a.m. and upon being asked by the T.T.E. to show his ticket, he showed his monthly ticket which was snatched away by the petitioner no.1 herein and the complainant was physically abused by the T.T.E.s for which he sustained severe injuries on his body. Thereafter, the petitioners took the complainant to Sealdah and beat him with Lathi enroute in a special ticket checking train namely, "Chetna" and one Sealdah complaint being T.R. No. 1245 dated 17.11.2003 under Sections 145/146 of the Railways Act was lodged against the complainant by petitioner no. 3 in which the complainant was released on bail and thereafter the complainant underwent medical treatment for injuries suffered by him.
- iii. On 20.11.2002, complainant demanded Rupees 20 Lakhs compensation from the government railway officials failing of which he threatened to go to Consumer Court and High Court and as a result of

that this false fabricated case was lodged by the complainant i.e Badri Narayan Adhikary.

- iv. The complaint itself showed that out of personal vendetta, the instant complaint was lodged and Learned Magistrate taken steps against petitioner without following the statutory provisions. The Learned Magistrate failed to take into consideration the fact that the petitioners were implicated in the instant case, while in discharge of their official duty and as per Section 188 of the Indian Railways Act, petitioners herein are public servants and prior sanction from a competent authority was required to prosecute against a government servant for initiating any criminal proceeding as act was done in discharge of their official duty. However, in the instant case, no sanction was obtained from the appropriate authority and the Learned Magistrate proceeded to take cognizance on Charge- Sheet submitted and issued summons.
- v. The Departmental Enquiry Report dated 15.12.2003 further reveals that the Complainant was i.e., Badri Narayan Adhikary was detained for not having a bona-fide ticket which enraged him.
- vi. The place of alleged incident was Kalyani GRPS, therefore the case should have been instituted at Kalyani GRPS and not Ranaghat GRPS. Although the incident took place on 17.11.2003 but the complaint was lodged on 06.01.2004 without any explanation of this indefinite delay. The complainant was in a habit of lodging complaint against the Railway Officials frequently. For the said reasons the petitioners deserves an order of discharge from Hon'ble high Court Calcutta.

10. The Learned Advocate for the State submitted that:-

- i. The instant revisional application was filed though for quashing of the proceeding but only FIR was annexed and there is no whisper regarding charge sheet and the order taking cognizance has not been challenged in the instant revisional application and therefore the revisional application should be rejected on the ground of suppression of material fact.
- ii. Though the petitioners are government officials but no sanction is required for their prosecution as they assaulted the defacto complainant which has no nexus with their official duty. The time of duty and the commission of the time of offence cannot be treated as nexus between the offence and official duty.
- iii. The petitioners tried to impress upon the Hon'ble Court ground of mala fide which cannot be the ground for quashing of the proceeding when the medical report of the petitioner and others shows the injury on their persons. on the
- iv. The delay of 49 days in lodging the complaint is not fatal for the prosecution as the date of incident, the defacto complainant treated as N. R. S. Medical College and Hospital wherein he mentioned the name of the assailants before the doctor. It is pertinent to mention herein that the name of the assailants mentioned in the document of N. R. S. Medical College and Hospital and the accused persons (petitioners) mentioned in the FIR are same.

- v. There are other witnesses who corroborated the statement of the defacto complainant and the seizure list showing the copy of the medical report of N. R. S. Medical College and Hospital, the copy of the discharge certificate of Gandhi Memorial Hospital supported the case of the defacto complainant.
- vi. During trial if the Learned Court comes to the conclusion that there is a nexus between the official work and the commission of the offence he can direct for taking sanction and therefore case cannot be quashed on the ground of sanction.
- vii. There are catena of decisions of the Hon'ble Apex Court that the case cannot be quashed on the ground of territorial jurisdiction and it should be transferred to the appropriate Court having jurisdiction and therefore the ground of territorial jurisdiction it cannot be quashed.
- viii. The allegation has been made out from the complaint as well as the evidence collected during investigation and therefore the instant case cannot be quashed at the threshold without giving the opportunity of the prosecution to prove the case during trial.
- ix. The Hon'ble Apex Court observed in various judgements that sitting in a revisional jurisdiction the Hon'ble Court cannot embark upon an enquiry as to the genuineness, probability and reliability of the allegation.
- x. Under such circumstances the revisional application should be rejected.

11. Learned Advocate for the State submitted at a preliminary stage the proceedings pending before the Trial Court shall not be quashed.
12. The following relevant Sections of the Indian Penal Code have been reproduced below:-

“143. Punishment.—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

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342. Punishment for wrongful confinement.—Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

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352. Punishment for assault or criminal force otherwise than on grave provocation.—Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

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323. Punishment for voluntarily causing hurt.—Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

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506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with

imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 8 [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

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309. Attempt to commit suicide.—*Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year 2 [or with fine, or with both.]”*

13. In **Vinubhai Ranchhodhai Patel v. Rajivbhai Dudabhai Patel**¹ the Hon’ble Supreme Court held the following:-

“25. Section 141 IPC declares an assembly of five or more persons to be an “unlawful assembly” if the common object of such assembly is to achieve any one of the five objects enumerated in the said section. [See *Yeshwant v. State of Maharashtra*, (1972) 3 SCC 639 : 1972 SCC (Cri) 684] One of the enumerated objects is to commit any offence. [**“40. “Offence”.**—Except in the Chapters and sections mentioned in clauses 2 and 3 of this section, the word “offence” denotes a thing made punishable by this Code.”] “The words falling under Section 141, clause third “or other offence” cannot be restricted to mean only minor offences of trespass or mischief. These words cover all offences falling under any of the provisions of the Penal Code or any other law.” [*Manga v. State of Uttarakhand*, (2013) 7 SCC 629 : (2013) 3 SCC (Cri) 621] The mere assembly of 5 or more persons with such legally impermissible object itself

¹(2018) 7 SCC 743

constitutes the offence of unlawful assembly punishable under Section 143 IPC. It is not necessary that any overt act is required to be committed by such an assembly to be punished under Section 143. [See Dalip Singh v. State of Punjab, (1953) 2 SCC 36 : AIR 1953 SC 364 : 1953 Cri LJ 1465]

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30. *It can be seen from the above, Sections 141, 146 and 148 create distinct offences. Section 149 only creates a vicarious liability. However, Sections 146, 148 and 149 contain certain legislative declarations based on the doctrine of vicarious liability. The doctrine is well known in civil law especially in the branch of torts, but is applied very sparingly in criminal law only when there is a clear legislative command. To be liable for punishment under any one of the provisions, the fundamental requirement is the existence of an unlawful assembly as defined under Section 141 made punishable under Section 143 IPC.*

31. *The concept of an unlawful assembly as can be seen from Section 141 has two elements:*

- (i) The assembly should consist of at least five persons; and*
- (ii) They should have a common object to commit an offence or achieve any one of the objects enumerated therein.*

32. *For recording a conclusion, that a person is (i) guilty of any one of the offences under Sections 143, 146 or 148 or (ii) vicariously liable under Section 149 for some other offence, it must first be proved that such person is a member of an “unlawful assembly” consisting of not less than five persons irrespective of the fact whether the identity of each one of the 5 persons is proved or not. If that fact is proved, the next step of inquiry is whether the common object of the unlawful assembly is one of the 5 enumerated objects specified under Section 141 IPC.”*

14. The Hon'ble Supreme Court observed the following in the case of **Akbar Sheikh v. State of W.B.**² :-

“19. Chapter VIII of the Penal Code, 1860 provides for the offences against the public tranquillity. Section 141 defines “unlawful assembly” to be an assembly of five or more persons. They must have a common object *inter alia* to commit any mischief or criminal trespass or other offence. Section 142 of the Penal Code postulates that whoever, being aware of facts which render any assembly an unlawful one, intentionally joins the same would be a member thereof.

20. Section 143 of the Penal Code provides for punishment of being a member of unlawful assembly. Section 149 provides for constructive liability on every person of an unlawful assembly if an offence is committed by any member thereof in prosecution of the common object of that assembly or such of the members of that assembly knew to be likely to be committed in prosecution of that object.

21. Whether an assembly is unlawful one or not, thus, would depend on various factors, the principal amongst them being a common object formed by the members thereof to commit an offence specified in one or the other clauses contained in Section 141 of the Penal Code. Constructive liability on a person on the ground of being a member of unlawful assembly can be fastened for an act of offence created (*sic* committed) by one or more members of that assembly if they had formed a common object. The distinction between a common object and common intention is well known.

22. In *Munna Chanda v. State of Assam* [(2006) 3 SCC 752 : (2006) 2 SCC (Cri) 43] this Court held as under: (SCC pp. 756-57, paras 10-13)

²(2009) 7 SCC 415

“10. The concept of common object, it is well known, is different from common intention. It is true that so far as common object is concerned no prior concert is required. Common object can be formed on the spur of the moment. Course of conduct adopted by the members of the assembly, however, is a relevant factor. At what point of time the common object of the unlawful assembly was formed would depend upon the facts and circumstances of each case.

11. Section 149 IPC creates a specific and distinct offence. There are two essential ingredients thereof:

- (i) commission of an offence by any member of an unlawful assembly, and*
- (ii) such offence must have been committed in prosecution of the common object of that assembly or must be such as the members of that assembly knew to be likely to be committed.*

12. It is, thus, essential to prove that the person sought to be charged with an offence with the aid of Section 149 was a member of the unlawful assembly at the time the offence was committed.

13. The appellants herein were not armed with weapons. They except Bhuttu were not parties to all the three stages of the dispute. At the third stage of the quarrel, they wanted to teach the deceased and others a lesson. For picking up quarrel with Bhuttu, they might have become agitated and asked for apologies from Moti. Admittedly, it was so done at the instance of Nirmal, Moti was assaulted by Bhuttu at the instance of Ratan. However, it cannot be said that they had common object of intentional killing of the deceased. Moti, however, while being assaulted could free himself from the grip of the appellants and fled from the scene. The deceased was being chased not only by the appellants herein but by many others. He was found dead the next morning. There is, however, nothing to show as to what role the appellants either conjointly or separately played. It is also not known as to whether if

one or all of the appellants were present, when the last blow was given. Who are those who had assaulted the deceased is also not known. At whose hands he received injuries is again a mystery. Neither Section 34 nor Section 149 of the Penal Code is, therefore, attracted. (See Dharam Pal v. State of Haryana [(1978) 4 SCC 440 : 1979 SCC (Cri) 61] and Shambhu Kuer v. State of Bihar [(1982) 1 SCC 486 : 1982 SCC (Cri) 264] .)”

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25. *The aforementioned observation in Baladin case [AIR 1956 SC 181] was, however, not accepted later by this Court as an absolute proposition of law and was held to be limited to the peculiar facts of the case in Masalti v. State of U.P. [AIR 1965 SC 202 : (1964) 8 SCR 133] in the following terms: (Masalti case [AIR 1965 SC 202 : (1964) 8 SCR 133] , AIR pp. 210-11, para 17)*

“17. ... What has to be proved against a person who is alleged to be a member of an unlawful assembly is that he was one of the persons constituting the assembly and he entertained along with the other members of the assembly the common object as defined by Section 141 IPC. Section 142 provides that however, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continue in it, is said to be a member of an unlawful assembly. In other words, an assembly of five or more persons actuated by, and entertaining one or more of the common objects specified by the five clauses of Section 141, is an unlawful assembly. The crucial question to determine in such a case is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects as specified by Section 141. While determining this question, it becomes relevant to consider whether the assembly consisted of some persons who were merely passive witnesses and had joined the assembly as a matter of idle curiosity without intending to entertain the common object of the assembly.”

15. In **Raju Pandurang Mahale v. State of Maharashtra**³the following was observed by the Hon'ble Supreme Court:-

“10. As observed by this Court in *Shyam Lal Sharma v. State of M.P.* [(1972) 1 SCC 764 : 1972 SCC (Cri) 470 : AIR 1972 SC 886] where a person is wrongfully restrained in such a manner as to prevent that person from proceeding beyond certain circumscribed limits, he is wrongfully confined within the meaning of this section. The essential ingredients of the offence “wrongful confinement” are that the accused should have wrongfully confined the complainant and such restraint was to prevent the complainant from proceeding beyond certain circumscribed limits beyond which he/she has a right to proceed....”

16. The following was observed by the Hon'ble Supreme Court in **Keshub Mahindra v. State of M.P.**⁴:-

“21. We may now turn to the charges framed against the accused-appellants concerned under Sections 324 and 326 of the IPC.....
For applicability of these sections the material relied upon by the prosecution in support of such charges must show that the accused concerned had committed the act complained of at least with the knowledge that by such act he was likely to cause hurt or grievous hurt to the victim.....”

17. In **Nanda Gopalan v. State of Kerala**⁵the Hon'ble Supreme Court held the following:-

“11.

12. Section 324 provides that

‘[w]hoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting,

³(2004) 4 SCC 371

⁴1996) 6 SCC 129

⁵(2015) 11 SCC 137

stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal'

can be convicted in terms of Section 324. The expression 'any instrument, which used as a weapon of offence, is likely to cause death' should be construed with reference to the nature of the instrument and not the manner of its use. What has to be established by the prosecution is that the accused voluntarily caused hurt and that such hurt was caused by means of an instrument referred to in this section.

13. The section prescribes a severer punishment where an offender voluntarily causes hurt by dangerous weapon or other means stated in the section. The expression 'any instrument which, used as a weapon of offence, is likely to cause death' when read in the light of marginal note to Section 324 means dangerous weapon which if used by the offender is likely to cause death.

14. Authors of IPC observed, as noted below, the desirability for such severer punishment for the following reasons:

'... Bodily hurt may be inflicted by means the use of which generally indicates great malignity. A blow with the fist may cause as much pain, and produce as lasting an injury, as laceration with a knife, or branding with a hot iron. But it will scarcely be disputed that, in the vast majority of cases, the offender who has used a knife or a hot iron for the purpose of wreaking his hatred is a far worse and more dangerous member of a society than who has only used his fist. It appears to us that many hurts which would not, according to our classification, be designated as grievous ought yet, on account of the mode in which are inflicted, to be punished more severely than many grievous hurts.'

18. The following was held by the Hon'ble Supreme Court in **Mohd. Wajid v.**

State of U.P.⁶:-

“30. A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.”

19. The following was held by the Hon'ble Supreme Court in **Vikram Johar v.**

State of U.P.⁷:-

“25. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande [Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715] has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under Section 506 IPC, what are the ingredients which have to be proved by the prosecution? Ratanlal&Dhirajlal on Law of Crimes, 27th Edn. with regard to proof of offence states the following:

“... The prosecution must prove:

(i) That the accused threatened some person.

(ii) That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested;

(iii) That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat.”

(emphasis supplied)

⁶2023 SCC OnLine SC 951

⁷(2019) 14 SCC 207

A plain reading of the allegations in the complaint does not satisfy all the ingredients as noticed above.”

20. The following was held by the Hon’ble Supreme Court in **A. Srinivasulu v. State**⁸, :-

*“36. Dr. Hori Ram Singh v. The Crown³ is a decision of the Federal Court, cited with approval by this court in several decisions. It arose out of the decision of the Lahore High Court against the decision of the Sessions Court which acquitted the appellant of the charges under Sections 409 and 477A IPC for want of consent of the Governor. Sir S. Varadachariar, with whose opinion Gwyer C.J., concurred, examined the words, “any act done or purporting to be done in the execution of his duty” appearing in Section 270(1) of the Government of India Act, 1935, which required the consent of the Governor. **The Federal Court observed at the outset that this question is substantially one of fact, to be determined with reference to the act complained of and the attendant circumstances.** The Federal Court then referred by way of analogy to a number of rulings under Section 197 of the Code and held as follows:—*

*“The reported decisions on the application of sec. 197 of the Criminal Procedure Code are not by any means uniform. In most of them, the actual conclusion will probably be found to be unexceptionable, in view of the facts of each case; but, in some, the test has been laid down in terms which it is difficult to accept as exhaustive or correct. Much the same may be said even of decisions pronounced in England, on the language, of similar statutory provisions (see observations in Booth v. Clive. **It does not seem to me necessary to review in detail the decisions given under sec. 197 of the Criminal Procedure Code which may roughly be classified***

⁸ 2023 SCC OnLine SC 900

as falling into three groups, so far as they attempted to state something in the nature of a test. In one group of cases, it is insisted that there must be something in the nature of the act complained of that attaches it to the official character of the person doing it : cf. In re Sheik Abdul Khadir Saheb; Kamisetty Raja Rao v. Ramaswamy, Amanat Ali v. King-emperor, King-Emperor v. Maung Bo Maung and Gurushidayya Shantivirayya Kulkarni v. King-Emperor. In another group, more stress has been laid on the circumstance that the official character or status of the accused gave him the opportunity to commit the offence. It seems to me that the first is the correct view. In the third group of cases, stress is laid almost exclusively on the fact that it was at a time when the accused was engaged in his official duty that the alleged offence was said to have been committed [see Gangaraju v. Venki, quoting from Mitra's Commentary on the (criminal Procedure Code). The use of the expression "while acting" etc., in sec. 197 of the Criminal Procedure Code (particularly its introduction by way of amendment in 1923) has been held to lend some support to this view. While I do not wish to ignore the significance of the time factor, it does not seem to me right to make it the test. To take an illustration suggested in the course of the argument, if a medical officer, while on duty in the hospital, is alleged to have committed rape on one of the patients or to have stolen a jewel from the patient's person, it is difficult to believe that it was the intention of the Legislature that he could not be prosecuted for such offences except with the previous sanction of the Local Government"

37. *It is seen from the portion of the decision extracted above that the Federal Court categorised in Dr. Hori Ram Singh (supra), the decisions given under Section 197 of the Code into three groups namely (i) cases where it was held that there must be*

something in the nature of the act complained of that attaches it to the official character of the person doing it; (ii) cases where more stress has been laid on the circumstance that the official character or status of the accused gave him the opportunity to commit the offence; and (iii) cases where stress is laid almost exclusively on the fact that it was at a time when the accused was engaged in his official duty that the alleged offence was said to have been committed. While preferring the test laid down in the first category of cases, the Federal Court rejected the test given in the third category of cases by providing the illustration of a medical officer committing rape on one of his patients or committing theft of a jewel from the patient's person.

38. In *Matajog Dobey v. H.C. Bhari*⁴ a Constitution Bench of this Court was concerned with the interpretation to be given to the words, “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty” in Section 197 of the Code. After referring to the decision in *Dr. Hori Ram Singh*, the Constitution Bench summed up the result of the discussion, in paragraph 19 by holding : **“There must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty.”**

39. In *State of Orissa through Kumar Raghvendra Singh v. Ganesh Chandra Jew*⁵, a two Member Bench of this Court explained that the protection under Section 197 has certain limits and that it is available only when the alleged act is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. The Court also explained that if in doing his official duty, he acted in excess of his duty, but there is a reasonable

connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection.

40. The above decision in *State of Orissa (supra)* was followed (incidentally by the very same author) in *K. Kalimuthu v. State by DSP*⁶ and *Rakesh Kumar Mishra v. State of Bihar*⁷.

41. In *Devinder Singh v. State of Punjab through CBI*⁸, this Court took note of almost all the decisions on the point and summarized the principles emerging therefrom, in paragraph 39 as follows:

“**39.** The principles emerging from the aforesaid decisions are summarised hereunder:

39.1. Protection of sanction is an assurance to an honest and sincere officer to perform his duty honestly and to the best of his ability to further public duty. However, authority cannot be camouflaged to commit crime.

39.2. Once act or omission has been found to have been committed by public servant in discharging his duty it must be given liberal and wide construction so far its official nature is concerned. Public servant is not entitled to indulge in criminal activities. To that extent Section 197 CrPC has to be construed narrowly and in a restricted manner.

39.3. Even in facts of a case when public servant has exceeded in his duty, if there is reasonable connection it will not deprive him of protection under Section 197 CrPC. There cannot be a universal rule to determine whether there is reasonable nexus between the act done and official duty nor is it possible to lay down such rule.

39.4. In case the assault made is intrinsically connected with or related to performance of official duties, sanction would be necessary under Section 197 CrPC, but such relation to duty should not be pretended or fanciful claim. The offence must be directly and reasonably connected with official duty

to require sanction. It is no part of official duty to commit offence. In case offence was incomplete without proving, the official act, ordinarily the provisions of Section 197 CrPC would apply.

....”

42. In *D. Devaraja v. Owais Sabeer Hussain*⁹, this Court explained that sanction is required not only for acts done in the discharge of official duty but also required for any act purported to be done in the discharge of official duty and/or act done under colour of or in excess of such duty or authority. This Court also held that to decide whether sanction is necessary, the test is whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty.”

21. In ***Shadakshari v. State of Karnataka***⁹, the following was held by the

Hon’ble Supreme Court:-

“20. As per sub section (1) of Section 197 where any person who is or was a judge or magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the Central Government or the State Government, as the case may be.

21. The ambit, scope and effect of Section 197 Cr. P.C. has received considerable attention of this court. It is not necessary to advert to and dilate on all such decisions. Suffice it to say that the object of such sanction for prosecution is to protect a public servant discharging official duties and functions from undue harassment by initiation of frivolous criminal proceedings.

⁹ 2024 SCC OnLine SC 48

22. *In State of Orissa v. Ganesh Chandra Jew, (2004) 8 SCC 40, this court explained the underlying concept of protection under Section 197 and held as follows:*

“7. The protection given under Section 197 is to protect responsible public servants against the institution of possibly vexatious criminal proceedings for offences alleged to have been committed by them while they are acting or purporting to act as public servants. The policy of the legislature is to afford adequate protection to public servants to ensure that they are not prosecuted for anything done by them in the discharge of their official duties without reasonable cause, and if sanction is granted, to confer on the Government, if they choose to exercise it, complete control of the prosecution. This protection has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection. The question is not as to the nature of the offence such as whether the alleged offence contained an element necessarily dependent upon the offender being a public servant, but whether it was committed by a public servant acting or purporting to act as such in the discharge of his official capacity. Before Section 197 can be invoked, it must be shown that the official concerned was accused of an offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties. It is not the duty which requires examination so much as the act, because the official act can be performed both in the discharge of the official duty as well as in dereliction of it. The act must fall within the scope and range of the official duties of the public servant concerned. It is the quality of the act which is important and the protection of this

section is available if the act falls within the scope and range of his official duty. There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down any such rule. One safe and sure test in this regard would be to consider if the omission or neglect on the part of the public servant to commit the act complained of could have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant. This aspect makes it clear that the concept of Section 197 does not get immediately attracted on institution of the complaint case.”

23. *This aspect was also examined by this court in Shambhu Nath Misra (supra). Posing the question as to whether a public servant who allegedly commits the offence of fabrication of records or misappropriation of public funds can be said to have acted in the discharge of his official duties. Observing that it is not the official duty to fabricate records or to misappropriate public funds, this court held as under:*

“5. *The question is when the public servant is alleged to have committed the offence of fabrication of record or misappropriation of public fund etc. can he be said to have acted in discharge of his official duties. It is not the official duty of the public servant to fabricate the false records and misappropriate the public funds etc. in furtherance of or in the discharge of his official duties. The official capacity only enables him to fabricate the record or misappropriate the public fund etc. It does not mean that it is integrally connected or inseparably interlinked with the crime committed in the course of the same transaction, as was believed by the learned Judge. Under these circumstances, we are of the opinion that the view expressed*

by the High Court as well as by the trial court on the question of sanction is clearly illegal and cannot be sustained.”

24. *Even in D. Devaraja (supra) relied upon by learned counsel for respondent No. 2, this court referred to Ganesh Chandra Jew (supra) and held as follows:*

“35. *In State of Orissa v. Ganesh Chandra Jew [State of Orissa v. Ganesh Chandra Jew, (2004) 8 SCC 40 : 2004 SCC (Cri) 2104] this Court interpreted the use of the expression “official duty” to imply that the act or omission must have been done by the public servant in course of his service and that it should have been in discharge of his duty. Section 197 of the Code of Criminal Procedure does not extend its protective cover to every act or omission done by a public servant while in service. The scope of operation of the section is restricted to only those acts or omissions which are done by a public servant in discharge of official duty.”*

25. *Thus, this court has been consistent in holding that Section 197 Cr. P.C. does not extend its protective cover to every act or omission of a public servant while in service. It is restricted to only those acts or omissions which are done by public servants in the discharge of official duties.”*

22. In **State of Haryana v. Bhajan Lal**¹⁰ the Hon’ble Supreme Court held the following:-

“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*

¹⁰1992 Supp (1) SCC 335

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.”

23. The following was held by the Hon’ble Supreme Court in **Ahmad Ali Quraishi v. State of U.P.**¹¹

“10. Before we enter into facts of the present case and submissions made by the learned counsel for the parties, it is necessary to look into the scope and ambit of inherent jurisdiction which is exercised by the High Court under Section 482 CrPC. This Court had the occasion to consider the scope and jurisdiction of Section 482 CrPC. This Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , had elaborately considered the scope and ambit of Section 482 CrPC/Article 226 of the Constitution in the context of quashing the criminal proceedings. In para 102, this Court enumerated seven categories of cases where power can be exercised under Article 226 of the Constitution/Section 482 CrPC by the High Court for quashing the criminal proceedings. Para 102 is as follows : (SCC pp. 378-79)

“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

¹¹(2020) 13 SCC 435

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 Act concerned (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 Act concerned, 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.”

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12. *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 [State of Karnataka v. L. Muniswamy, (1977) 2 SCC 699 : 1977 SCC (Cri) 404] , 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 : (SCC p. 703)*

“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.”

(emphasis supplied)

13. A three-Judge Bench in *State of Karnataka v. M. Devendrappa* [*State of Karnataka v. M. Devendrappa*, (2002) 3 SCC 89 : 2002 SCC (Cri) 539] , had the occasion to consider the ambit of Section 482 CrPC. By analysing the scope of Section 482 CrPC, this Court laid down that authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It further held that court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. The following was laid down in para 6 : (SCC p. 94)

“6. ... All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers

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

14. Further in para 8 the following was stated : (Devendrappa case [State of Karnataka v. M. Devendrappa, (2002) 3 SCC 89 : 2002 SCC (Cri) 539] , SCC p. 95)

“8. ... Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] .”

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16. After considering the earlier several judgments of this Court including the case of State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , in Vineet Kumar [Vineet Kumar v. State of U.P., (2017) 13 SCC 369 : (2017) 4 SCC (Cri) 633] , this Court laid down following in para

41 : *(Vineet Kumar case [Vineet Kumar v. State of U.P., (2017) 13 SCC 369 : (2017) 4 SCC (Cri) 633] , SCC p. 387)*

“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 [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] . 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 fide 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 [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , which is to the following effect : (SCC p. 379, para 102)

‘102. ... (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.’

Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court [Vineet Kumar v. State of U.P., 2016 SCC OnLine All 1445] has noted the judgment of State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , 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.”

24. The documents comprising the case diary primarily the statements recorded under Section 161 of the Code of Criminal Procedure did not attribute the commission of the alleged+ offence by the present petitioners against the complainant. The petitioners at the relevant time were discharging their duties and the duty register had been seized by the Investigating Officer. Moreover, the witnesses namely Ratan Das, Ramkumar Sarkar and others vividly narrated the role of the complainant in obstructing the petitioners and the T.T.E. in discharging their official duties.
25. The instant complaint filed by the complainant is a sheer depiction of vengeance and grudge against the present petitioners without an iota of element to constitute the alleged offences mentioned in the charge-sheet.
26. In view of the above discussions, the entire proceedings of the Complaint Case No. 144C/2004 pending in the Court of the Learned Judicial Magistrate, 1st Class, in-charge of the Court of Sub-Divisional Judicial Magistrate, Kalyani, Nadia, the entire proceedings of Complaint Case No. 81C of 2003 pending in the Court of Learned Sub-Divisional Judicial Magistrate, Kalyani, Nadia and the proceedings being Ranaghat G.R.P.S. Case No. 2 dated 06.01.2004 under Sections 143/ 342/ 352/323/506/309 of the Indian Penal Code, pending in the Court of Learned Additional Chief Judicial Magistrate, Ranaghat, Nadia are quashed.
27. Under such circumstances, CRR 1353 of 2005, CRR 1432 of 2003 and CRR 2591 of 2005 are allowed.

28. Accordingly, CRR 1353 of 2005, CRR 1432 of 2003 and CRR 2591 of 2005 stand disposed of. Connected applications, if there be any, also stand disposed of.

29. There is no order as to costs.

30. Trial Court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.

31. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)