

IN THE HIGH COURT AT CALCUTTA
(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1338 of 2020

With

CRAN 1 of 2020

Bidyut Chakrabarty

Vs

The State of West Bengal & Anr.

For the Petitioner : Mr. Jayanta Narayan Chatterjee,
Mr. Supreem Naskar,
Ms. Jayashree Patra,
Ms. Ritushree Banerjee,
Ms. Pritha Sinha.

For the State : Mr. Debasis Roy
Mr. Arijit Ganguly.

Hearing Concluded on : 07.02.2024

Judgment on : 05.03.2024

Shampa Dutt (Paul), J.:

1. The present revision has been preferred praying for quashing of First Information Report being Santiniketan Police Station Case No. 112 of 2020 dated August 01, 2020, under Sections 341/323/325/392/506/34 of the Indian Penal Code, 1860 pending before the Court of the Learned Additional Chief Judicial Magistrate at Bolpur, Birbhum and consequential proceeding emanating there from.
2. Though the opposite party no.2 was represented on earlier dates fixed for hearing, the opposite party no.2 has not been represented at the time of final hearing.
3. Learned Public prosecutor has represented the state and placed the case diary along with a memo of evidence.

FACTS:-

4. The petitioner's case is that the petitioner was discharging his duties as the Vice Chancellor of Viswa-Bharati at Santiniketan at the time of alleged incident.
5. In early 2020, the entire world was faced with an unprecedented medical crisis owing to the spread of Covid-19 virus and as such University Grants Commission, New Delhi as a preventive measure had made an official communication vide its letter D.O. No.F No. 1-14/2020(Website) dated 05.03.2020. In furtherance thereof the University had held a meeting chaired by the Vice Chancellor in presence of all directors,

principals of Bhavanas, Head of the Departments, Dean of Students Welfare, Proctor and other senior officials of the university had passed a notification being No. REG/Notify/156/COVID-19 dated 13.03.2020 which inter alia directed that the entire *ashrama* complex to be closed until further order.

6. The University had also passed a further notification being No. REG/Notify/156/90 dated 20.07.2020 inter alia directing that no mobile phone/camera shall be permitted in the Mandir premises during the prayer from July 22, 2020 onwards. The said notification was also uploaded in the University website on that very date itself. It is however stated in this context that it has always remained a convention and protocol of prohibiting the use of cameras and mobile phones in certain areas of the University including the *Upasana Griha* also known as the Mandir.
7. It is further stated by the petitioner that the opposite party no.2 claiming to be a freelance reporter had been trying to disturb the peace of the University with some vested interest and also indulged in various immoral and illegal activities.
8. *On July 31, 2000 the staff of the University including the petitioner had undertaken a sanitization drive to ensure that the University remains safe for its day to day functioning in case the same was so directed by the authorities concerned. The said sanitization process was a discreet affair where no one except the staff of the University were invited to be a part of*

and in fact the presence of outsiders was strictly restricted as per the general social distancing protocols. The opposite party no.2 was however spotted by the staff of the University within its premises at 'Siksha Bhavana' clicking photographs. There were lady staff present at the spot. The said opposite party no.2 was enquired regarding the purpose of his presence during the times of pandemic to which he could not give any plausible explanation. The opposite party no.2 although reprimanded was however let go with a warning of not indulging in such ill activities in future. The spirits of the opposite party no. 2 however did not seem to get dampened by such reprimand and rather he mistook the softness of the University authorities as their weakness. The opposite party no.2 on the very next morning, that is, on August 01, 2020, again entered the University premises without any justifiable reasons during the time of Covid 19 pandemic when even the regular academic activities/classes were suspended and he was found at the 'Mandir' taking photographs with his mobile phone. The carrying of mobile phones and cameras was strictly prohibited in the 'Mandir' (also known as Upasana Griha) premises and nearby areas of the ashrama and for the information of the general public, several permanent notice boards and also a large banner had been put up on the main gate and nearby places of the Visva-Bharati Mandir (Upasana Griha) forbidding the carrying of the mobile phones or cameras in the Mandir premises and the heritage ashrama area and taking snaps there. Nonetheless the opposite party no.2 continued clicking photographs

on his mobile phone. The illegal and immoral activities of the opposite party no.2 made the lady security staff in the vicinity highly uncomfortable and they protested to such activities of the opposite party no.2 taking photographs in spite of their objections. The professor-in-Charge (Security) of the University had also requested him to refrain from doing this but in vain. The opposite party no. 2 informed that he is a freelance reporter and has the authority to click pictures in defiance of the University rules or the law of the land. The opposite party no.2 also made certain derogatory remarks. It was under such premise that the university personnel including the lady faculty members were forced to take the mobile phone for the limited purpose of further prohibition of the offence and for preserving the evidence for it to be handed over to the police.

- 9.** The faculty/staff of the University then informed the opposite party no.2 of their intention of approaching the police. The opposite party no.2 had left the spot warning the persons present there that he would land them in trouble by filling multiple false cases and they should not forget that they were government employees. The then Registrar (Acting) of the University namely Prof. Asha Mukherjee who was present at the spot lodged a written complaint against the opposite party no.2 which was treated as a First Information Report.
- 10.** The officials of the University had reached the Police Station prior to the opposite party no.2, but was told to wait for some time. Soon thereafter

the official of the University was informed of the intention of the opposite party no.2 to lodge a counter First Information Report.

- 11.** The written complaint was submitted by the petitioner and a First Information Report being Santiniketan Police Station Case no. 113 of 2020 dated August 01, 2020, under Sections 354A/448 of the Indian Penal Code, 1860.
- 12.** The then Registrar (Acting) of the University namely Prof. Asha Mukherjee had in fact written to the Officer-in-charge, Santiniketan Police Station since the said police authorities had refused to accept the mobile phone lying in the custody of the University authorities.
- 13.** The instant proceeding being First Information Report being Santiniketan Police Station Case No. 112 of 2020 dated August 01, 2020, under Sections 341/323/325/392/506/34 of the Indian Penal Code, 1860 was lodged at the behest of the Opposite Party no.2 herein.
- 14.** The allegations brought about by the way of the written complaint lodged by the opposite party no.2 are inter alia to the effect that:-

“The opposite party no.2 was a freelance journalist and a local resident. Since the opposite party no.2 had been reporting certain internal matters of the University in Tara news channel that he had fallen in the bad books of the petitioner and others at the University. On August 01, 2020 at about 6.50 AM, the opposite party no.2 had gone to cover the prayer event at Upasana Griha and was clicking pictures from the adjoining government road. It was during that time that the opposite party no.2 found the petitioner approaching the spot in car driven by his son and it had been mentioned ‘Government of India’. The opposite party no.2 had clicked the pictures of the said vehicle and pursuant thereto as per the direction of the petitioner, five security guards had apprehended the

opposite party no.2 and tried to take away his mobile phone. As the opposite party no. 2 resisted such action, force was used against him which led him getting hurt on his left part of the body. The phone was thereafter taken away from him and the petitioner threatened the Opposite Party no.2 of implicating him in false cases. The opposite party no.2 also apprehended risk to his health owing to Covid-19 as multiple persons had accosted him in the entire process. The opposite party no. 2 further claimed to be a reputed media personnel based out of Visva Bharati with 12 years of experience and sought for justice.”

- 15.** The petitioner states that he is innocent and in no way connected with any offence far less the offences alleged herein.
- 16.** The petitioner states that the allegations levelled in the First Information Report do not make out any cause action giving rise to initiation of an investigation under Chapter XII of the Cr.P.C. The Petitioner submits that the charges under Sections 341/323/325/392/506/34 of the IPC are misnomer.
- 17.** The Petitioner submits that the in order to bring an act within the ambit of offences indicated in the Indian Penal Code, 1860 it was imperative to first lay the foundation by establishing that the accused acted beyond his rights and duties and then it has to meet the criterion of falling within the parameters of satisfying each particular ingredient of the cognizable offences. A bare reading of the written complaint shall reflect that such particulars are grossly absent for it to qualify for even the registration of a First Information Report.

FINDINGS:-

18. From the formal FIR it appears that the place of occurrence is in front of *Upasana Griha*, Viswa Bharati, Shantiniketan and the date of occurrence is 01.08.2020 (Covid Pandemic).
19. The contents in the written complaint show that the complainant is a reporter/journalist by profession. He has alleged that as he used to report about the university's functioning, the petitioner was aggrieved.
20. On the date of alleged incident when he was taking photographs, the complainant was allegedly assaulted and his phone was snatched away by the petitioner and his staff. The complainant also feared that he would be infected with Covid.
21. **From the materials on record and the case diary**, the following facts are evident:-
 - i) The proceedings in this case has been initiated by the complainant/opposite party no.2 against the petitioner (the then Vice Chancellor of Viswa Bharati) being Santiniketan Police Station Case No. 112 of 2020 dated August 01, 2020, under Sections 341/323/325/392/506/34 of the Indian Penal Code.
 - ii) **A counter case** has been initiated by the University being Shantiniketan P.S. case no.113/20 dated 01.08.2020 u/s 448/354. The written complaint by the University clearly states that the mobile phone of the accused, Indrajit Roy was taken away as he had violated the rules of the University and was taking photographs

in spite of it being prohibited (The accused has admitted taking photographs).

- iii) At page 28 of the Case Diary are the names of the security personnels deployed on the date and time of incident at the place of occurrence. It appears that **out of the eight persons in the list six of them were lady security staff.**
- iv) Page 130 and 131 are the medical papers in respect of the complainant in this case. The medical papers do not prima facie show any visible injury. The doctor also found the patient, alert, conscious & co-operative. Vitals stable.
- v) **The offences alleged in this case are under Sections 341/323/325/392/506/34 of the Indian Penal Code.**

22. Section 341 of I.P.C., lays down:-

“341. Punishment for wrongful restraint.-
Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Ingredients of offence.-*The essential ingredients of the offence under sec. 341 are as follows:-*

- (1) Accused obstructed a person;*
- (2) He did it voluntarily;*
- (3) It prevented such person from proceeding in certain direction in which he had the right to proceed.”*

23. The Supreme Court *N. S. Madhanagopal & Anr. vs K. Lalitha, Criminal Appeal No. 1759 of 2022 (arising out of SLP (Crl.) No. 6039 of 2022), decided on 10th October, 2022, held:-*

“.....Section 341 of the IPC talks about punishment for wrongful restraint. Section 341 reads thus:

"341. Punishment for wrongful restraint - Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extent to five hundred rupees or with both."

*The complaint also fails to disclose the necessary ingredients to constitute the offence of wrongful restraint. In order to attract application of Section 341 which provides for punishment for wrongful restraint, it has to be proved that there was obstruction by the accused; (ii) such obstruction prevented a person from proceeding in a direction to which he had a right to proceed; and (iii) the accused caused such obstruction voluntarily. **The obstructor must intend or know or would have reason to believe that the means adopted would cause obstruction to the complainant.***

The averments made in the complaint according to us are not sufficient to even constitute the offence of wrongful restraint. In the overall view of the case, we are convinced that no case is made out against the appellants herein as alleged by the complainant....."

24. The ingredients required to prima facie constitute said offence in present case are clearly absent. The complainant was restrained to take photographs as there was notice (page 123/124 of the case diary) put-up prohibiting photography. **So the restrain (if any) in this case cannot be said to be wrongful.**

25. Section 323 of I.P.C., lays down:-

***"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, extend both.

Ingredients of offence. *The essential ingredients of the offence under sec. 323 are as follows:-*

- (1) Accused voluntarily caused bodily pain, deceased or infirmity to the victim;*
- (2) The accused did so with intention of causing hurt or with the knowledge that he would thereby cause hurt to the victim.”*

26. Section 325 of I.P.C., lays down:-

“325. Punishment for voluntarily causing grievous hurt.- *Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

Ingredients of offence. *-The essential ingredients of the offence under sec. 325 are as follows:-*

- (1) Accused voluntarily caused hurt;*
- 2) Hurt was grievous within the meaning of sec. 320, IPC.”*

27. According to Section 325 I.P.C., the main ingredient of the offence is that **grievous hurt should be intended** to be caused or the offender should have knowledge that the hurt caused was likely to be grievous.

28. The medical papers at page 130 and 131 of the case diary does not show any ‘hurt’ or ‘injury’.

29. The injury reports/Medical papers thus clearly do not contain the ingredients required to prima facie constitute the said offences. There is also no other evidence or materials on record to support the said allegations of ‘hurt’ or ‘injury’.

30. Section 392 of I.P.C., lays down:-

“392. Punishment for robbery. - Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Ingredients of offence.- The essential ingredients of the offence under sec. 392 are as follows:-

- (1) Accused committed theft as defined in sec. 378 in the process;
- (2) Accused caused or attempted to cause to some persons-
 - (i) death, hurt or wrongful restraint;
 - (ii) fear of death or of instant hurt or instant wrongful restraint;
- (3) Accused did either act-
 - (a) in committing such theft, or
 - (b) in order to commit theft, or
 - (c) in carrying away or attempting to carry away the property obtained by such theft - *Venu v State* (2008)3 SCC 94: AIR 2008 SC 1199.
- (4) Accused acted voluntarily.”

31. The ingredients required to constitute said offence is also not present as the mobile taken/seized was handed over to the police by the university authorities while filing the complaint (counter case), on the same day immediately after the alleged incident. Prima facie there is no incident of death, hurt or wrongful restraint in the present case.

32. Section 506 of I.P.C., lays down:-

“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 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.

Ingredients of offence.- *The essential ingredients of the offence under sec. 506 are as follows:-*

- (1) The accused threatened someone with injury to his person, reputation or property, or to the person, reputation or property of another in whom the former was interested;*
- (2) The accused did so with intent to cause alarm to the victim of offence;*
- (3) The accused did so to cause the victim to perform any act which he was not legally bound to do.”*

33. The term Criminal intimidation has been defined under Section 503 of I.P.C.

34. Section 503 of I.P.C., lays down:-

“503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation."

35. In *Vikram Johar Vs The State of Uttar Pradesh & Anr.*, Criminal Appeal no. 759 of 2019, arising out of SLP (Crl.) no. 4820/2017, decided on 26 April, 2019, the Supreme Court held:-

"21. We need to notice Sections 503, 504 and 506 for appreciating the issues, which has come up for consideration, which are to the following effect:-

"503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.— A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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 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.”

22. Section 504 of I.P.C. came up for consideration before this Court in *Fiona Shrikhande Vs. State of Maharashtra & Another*, (2013) 14 SCC 44. In the said case, this Court had occasion to examine ingredients of Section 504, which need to be present before proceeding to try a case. The Court held that in the said case, the order issuing process was challenged by filing a criminal revision. This Court held that at the complaint stage, the Magistrate is merely concerned with the allegations made out in the complaint and has only to prima facie satisfy whether there are sufficient grounds to proceed against the accused. In paragraph No.11, following principles have been laid down:-

“11. We are, in this case, concerned only with the question as to whether, on a reading of the complaint, a prima facie case has been made out or not to issue process by the Magistrate. The law as regards issuance of process in criminal cases is well settled. At the complaint stage, the Magistrate is merely concerned with the allegations made out in the complaint and has only to prima facie satisfy whether there are sufficient grounds to proceed

against the accused and it is not the province of the Magistrate to enquire into a detailed discussion on the merits or demerits of the case. The scope of enquiry under Section 202 is extremely limited in the sense that the Magistrate, at this stage, is expected to examine prima facie the truth or falsehood of the allegations made in the complaint. The Magistrate is not expected to embark upon a detailed discussion of the merits or demerits of the case, but only consider the inherent probabilities apparent on the statement made in the complaint. In Nagawwa v. Veeranna Shivalingappa Konjalgi, (1976) 3 SCC 736, this Court held that once the Magistrate has exercised his discretion in forming an opinion that there is ground for proceeding, it is not for the Higher Courts to substitute its own discretion for that of the Magistrate. The Magistrate has to decide the question purely from the point of view of the complaint, without at all adverting to any defence that the accused may have.”

23. *In paragraph No.13 of the judgment, this Court has noticed the ingredients of Section 504, which are to the following effect:-*

“13. *Section 504 IPC comprises of the following ingredients viz. (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely*

that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC.”

24. *In another judgment, i.e., Manik Taneja and Another Vs. State of Karnataka and Another, (2015) 7 SCC 423, this Court has again occasion to examine the ingredients of Sections 503 and 506. In the above case also, case was registered for the offence under Sections 353 and 506 I.P.C. After noticing Section 503, which defines criminal intimidation, this Court laid down following in paragraph Nos. 11 and 12:-*

“11. *XXXXXXXXXXXXX A reading of the definition of “criminal intimidation” would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.*

12. *In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the*

accused that has to be considered in deciding as to whether what he has stated comes within the meaning of “criminal intimidation”. The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.”

25. *In the above case, allegation was that appellant had abused the complainant. The Court held that the mere fact that the allegation that accused had abused the complainant does not satisfy the ingredients of Section 506.*

26. *Now, we revert back to the allegations in the complaint against the appellant. The allegation is that appellant with two or three other unknown persons, one of whom was holding a revolver, came to the complainant’s house and abused him in filthy language and attempted to assault him and when some neighbours arrived there the appellant and the other persons accompanying him fled the spot. The above allegation taking on its face value does not satisfy the ingredients of Sections 504 and 506 as has been enumerated by this Court in the above two judgments. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The mere allegation that appellant came and abused the complainant does not satisfy the ingredients as laid down in paragraph No.13 of*

the judgment of this Court in Fiona Shrikhande (supra).

27. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande (supra) 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 ingredients which have to be proved by the prosecution? Ratanlal & Dhirajlal on Law of Crimes, 27th Edition with regard to proof of offence states 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 some one 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.”

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

36. In ***Mohammad Wajid & Anr. vs State of U.P. & Ors., Criminal Appeal No. 2340 of 2023 (arising out of SLP (Criminal) No. 10656 of 2022)***, on August 08, 2023, the Supreme Court held:-

“27. 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.”

37. In present case, the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a prima facie case to constitute the offence punishable under Section 506 of the IPC could not be said to have been disclosed. The allegations with respect to the offence punishable under Section 506 of the IPC can also be looked at from a different perspective. In the FIR, all that the first informant has stated is that he was stopped from taking photographs on his mobile (as prohibited) and his mobile had been taken away by the security personnels. One of the essential elements, as discussed above, constituting an offence under Section 506 of the IPC is that there should have been an act or conduct amounting to **intention to cause alarm**. Such an act as alleged does not show any intention to cause alarm. *(Mohammad Wajid & Anr. vs State of U.P. & Ors., (Supra))*. As such the ingredients required to constitute an offence under Section 506 of IPC are also prima facie not present against the petitioner.

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

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

“22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under Section 482 CrPC vested in the High Court. Section 482 CrPC saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

*23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated :*

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

inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.'

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

'102. (7) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.' Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 but did not advert to the relevant facts of the present case, materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings."

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

“102. *In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a

specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

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

39. The present case comes under clause 3 and 7 of **Para 102 of Bhajan Lal (Supra).**

40. Accordingly, as none of the ingredients required to constitute the offences alleged are even prima facie present, permitting the proceedings to continue would clearly amount to an abuse of the process of the Court.

41. The materials on record herein clearly do not make out a prima facie case under Sections 341/323/325/392/506/34 of the Indian Penal Code against the accused/petitioner as alleged and there are no materials in this case for proceeding against the accused/petitioner towards trial and this is a fit case where the inherent power of the court should be exercised.

42. CRR 1338 of 2020 is thus allowed.

43. The proceedings being Santiniketan Police Station Case No. 112 of 2020 dated August 01, 2020, under Sections

341/323/325/392/506/34 of the Indian Penal Code, 1860 pending before the Court of the Learned Additional Chief Judicial Magistrate at Bolpur, Birbhum and consequential proceeding emanating there from **is hereby quashed in respect of the petitioner namely Bidyut Chakrabarty.**

- 44.** All connected applications, if any, stand disposed of.
- 45.** Interim order, if any, stands vacated.
- 46.** Copy of this judgment be sent to the learned Trial Court for necessary compliance.
- 47.** Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)