



2024:DHC:6913



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:09.09.2024

+ CRL.REV.P. 790/2022

MS. XXXX

..... Petitioner

versus

THE STATE & ANR.

..... Respondents

+ CRL.REV.P. 724/2023

THE STATE (GNCT OF DELHI)

..... Petitioner

versus

DHARAMBIR SINGH

..... Respondent

Present: Mr. Ajay Vikram Singh, APP for the State alongwith Ms. Kanika Gupta, Mr. Ayesha Gupta, Ms. Kanishka & Ms. Aastha Srivastava, Advocates & SI Kunal Kishor (P.S. Roop Nagar).
Mr. Ravi Bassi, Advocate for Respondent

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

CRL.M.A. 17829/2023 in CRL.REV.P. 724/2023 (condonation of delay of 216 days in filing the present petition)

1. For the reasons mentioned in the application, the same is allowed, and the delay in filing the present petition is condoned.
2. The application stands disposed of.

CRL.REV.P. 790/2022 & CRL.M.A. 23934/2022
CRL.REV.P. 724/2023

3. The present petitions are filed challenging the order dated 08.09.2022 (hereafter '**the impugned order**') passed by the learned



Additional Sessions Judge (**ASJ**), Tis Hazari Courts, Delhi in SC No. 497/2010 arising out of FIR No. 413/2014 dated 26.09.2014, registered at Police Station Roop Nagar, for offence under Section 345A (1) of the Indian Penal Code, 1860 (**IPC**).

4. The learned ASJ, by the impugned order, had discharged the respondent/accused for the offences punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC/ST Act**).

Brief Facts

5. It is the case of the prosecution that the complainant had been employed as teacher at Dhanpat Virmani Senior Secondary School for seven years and the respondent/accused was the principal of the school. It is alleged that on 20.08.2014 at about 08:20 AM, the accused – Dharambir Singh called the complainant to his office, and directed her to sit down. When the complainant objected to this, the accused – Dharambir Singh held her hand. The complainant tried to free herself, and in the course of this scuffle, she fell on the floor. It is alleged that the complainant was six months pregnant at the time, and narrowly escaped a miscarriage. At this point, the respondent hurled abuses and uttered caste-specific remarks at her. The co-accused – Gyan Singh was alleged to be present in the room, and aided the accused – Dharambir Singh in committing the said acts.

6. Subsequently, other employees, namely Manoj Verma and Neelam Yadav arrived at the spot, and upon finding the complainant on the floor, moaning in pain, Manoj Verma advised to take her to the



hospital. The complainant was escorted to a nearby nursing home by Neelam Yadav where she was treated. The complainant made the complaint about the said incident on 28.08.2014. The FIR was registered on 26.09.2014 under Section 354(A)(1) of the IPC.

7. During the investigation, statements under Section 161 of the CrPC of the witnesses – Neelam Yadav and Manoj Verma were recorded. In their statements, they stated that they did not hear the respondent using casteist remarks against the complainant.

8. The complainant, thereafter, filed an application dated 10.10.2014 under Section 156(3) of the CrPC before the learned Trial Court seeking directions to the concerned SHO to add Sections 354/509/312/511 of the IPC and Sections 3/4 of the SC/ST Act. The said application was dismissed on 03.06.2015. However, the complainant was given an opportunity to lead pre-summoning evidence under Section 200 of the CrPC. In her statement, on 24.02.2016, the complainant as witness-1, stated that the accused – Dharambir Singh held her hand, and tried to hug her. As she tried to escape from his clutches, he continually touched her private parts. The complainant raised an alarm for help, but the accused pushed, causing her to fall. The accused then made caste-specific remarks at the complainant. At this time, the co-accused – Gyan Singh assisted him. She stated that upon hearing the complainant's plea for help, the other teacher, namely, Manoj Verma came to the principal's office, followed by Neelam Yadav. She further deposed that the accused – Dharambir Singh, during the alleged incident, used caste-based remarks and said



“tera jaise chure chamar mujhe roz milte hain, roz aate hain mere paas to mein kya karon, tere par dil aa gaya hai, tu saali churi har saal pet fula kar aa jaati hai aur mein kutch karun to bura lagta hai”.

9. The statement of the complainant was recorded under Section 164 of the CrPC on 23.04.2016 before the learned MM, wherein she supported her version during the pre-summoning evidence.

10. After conclusion of the investigation, charge sheet under Section 354A of the IPC was filed on 27.04.2016.

11. The learned ASJ, by order dated 15.05.2019 clubbed the complaint case being, CC No. 498/2018 and the case arising out of the FIR No.413/2014 for the purpose of trial.

12. The Investigating Officer also recorded supplementary statements under Section 161 of the CrPC of the witnesses, namely, Manoj Verma, Neelan Yadav and Archana on 01.02.2019. In the said statements, all the three corroborated the said supplementary statement of the complainant.

13. After completion of further investigation, supplementary charge sheet was filed on 07.03.2019 against the accused – Dharambir Singh for offences under Section 354A (1) of the IPC and Section 3(1)(w)(i) of the SC/ST Act.

14. The learned ASJ, by the impugned order, discharged the respondent for the offences punishable under the SC/ST Act. It was held as under:

“19. Thus, the said subsequent contradictory and improbable statements may give rise to suspicion but not to grave suspicion. It would be unsafe to make the subsequent



contradictory statements, the foundation for framing of the charge. In view of the subsequent contradictory and unbelievable statements of the complainant and the said witnesses coupled with absence of independent and impartial public persons at the time of alleged hurling of humiliating words by the accused Dharambir Singh, the essential ingredients of the offence punishable u/s. 3(1)(x) of the SC/ST Act are not fulfilled in this case. Consequently, the accused Dharambir is not liable to be charged for the offence u/s. 3(1)(x) of the SC/ST Act and accordingly, he stands discharged for the said offence.

xxxx

xxxx

xxxx

21. There is neither any averment nor any evidence on record that the accused allegedly committed the offence of intention outraging the modesty of the complainant only because of her caste. Therefore, the prosecution has failed to establish one of the essential ingredient for the offence u/s. 3(1)(xi) of the SC/ST Act and therefore, the accused Dharambir Singh is entitled to be discharged for the said offence. Accordingly ordered.

22. In view of the findings in the preceding paragraphs, both the accused persons have been discharged for the offences punishable under Scheduled Castes and the Scheduled Tribes Prevention of Atrocities) Act, 1989.”

15. Aggrieved by the aforesaid order, the State and the prosecutrix have preferred the present petitions seeking setting aside the impugned order.

Submissions

16. The learned Additional Public Prosecutor for the State and the learned counsel for the prosecutrix submitted that the impugned order passed by the learned ASJ is perverse, palpably wrong, manifestly erroneous and demonstrably unsustainable in the eyes of law.

17. It is submitted that the learned Trial Court disregarded the law with regard to framing of charge under Section 227 of the CrPC. The decision of this Court in ***Robin Sethi V/s State of NCT of Delhi***



(DHC) Crl. : MC No. 3846/2013 was cited to contend that at the stage of framing charges, the Court is required to judicially consider, whether on consideration of material placed on record, it can be said that accused has been reasonably connected with the offence charged against him being involved in the offence. Even, if there exists a ground for presuming the involvement of the accused in the commission of the offence, charge is made out against him.

18. The decision of the Hon'ble Apex Court in ***State of Tamil Nadu V/s N. Suresh Rajan and Ors. : (2014) SCC 709*** was cited to assert that the probative value of the materials produced by prosecution, must be gone into at this stage and the Court is not expected to go deep into the matter and hold that the material would not warrant conviction. It was further contended that the correctness or otherwise of the allegation in FIR has not to be seen by the Court.

19. It is submitted that the learned ASJ erred in not appreciating the complaint dated 28.08.2014, pre-summoning evidence recorded on 24.02.2016 and supplementary statements recorded under section 161 of the CrPC dated 31.01.2019 of the complainant, wherein the complainant categorically stated that accused Dharambir Singh passed castiest remarks upon her. The supplementary statements under section 161 of the CrPC (all dated 01.02.2019) of public witnesses Manoj Verma, Neelam Yadav and Archana Rana also clearly demonstrate that accused Dharambir Singh passed castiest remarks to complainant in their presence.



20. It is submitted that the learned Trial Court failed to appreciate the fact that even if the remark is made inside a building, and some members of public are there then also it would be an offence since it is in the public view. The learned counsel relied upon the judgment in the case of ***Swaran Singh & Ors. V/s State Tr. Standing Council &Anr. : (2008) 8 SCC 435*** to support this contention.

21. It is submitted that the learned Trial Court has erroneously adopted the prosecution case in bits & pieces and did not consider the whole evidence on record against the respondent since his involvement in the incident was beyond preponderance on probability.

22. The learned counsel for the respondent – Dharambir Singh, has filed his counter-affidavit countering the petitioners' arguments. The learned counsel for the respondent submitted that the complainant has improved her allegations pursuant to making the first complaint about the alleged incident on 28.08.2014 which have led to contradictions in her statements. He submitted that the supplementary statements of the witnesses Manoj Verma and Neelam Yadav are also improved and in contradiction to their previous statements recorded under Section 161 of the CrPC. He relied on ***Prashant Bhaskar v. State (Govt. of NCT of Delhi) : 2014 (1) JCC 750*** and ***Sunil Bansal v. State of Delhi : 2007 (2) JCC 1415*** to contend that a charge cannot be framed if two contradictory statements are present.

23. He submitted that neither the contents of the FIR No. 413/2014 nor the charge sheet discloses the precise content of abusive language



employed by the respondent so as to attract the provisions of section 3(1)(x) of the SC/ST Act.

24. He relied on the observation in ***Daya Bhatnagar & Ors. vs. State : 109 (2004) DLT 915***, to further contend that the offence can be termed under Section 3(1)(x) of the SC/ST Act, if the same occurs in “public view” i.e. in the hearing of persons who are not linked to the complainant. He submitted that the alleged offence was committed within the four walls of the respondent’s office, and the three public witnesses are admittedly the colleagues of the complainant, hence they cannot be considered as independent witnesses. He further submitted that the complainant’s statements prior to the supplementary statement recorded on 31.01.2019 are silent about the presence of the three witnesses at the time of uttering the caste-specific aspersions.

Analysis

25. Since the petitioner has assailed the impugned order whereby the learned ASJ discharged the respondents for the offence under the SC/ST Act, it will be apposite to succinctly discuss the law with respect to framing of charge and discharge under Sections 227 and 228 of the CrPC respectively. The statutory provisions are set out below:

“227. Discharge

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of Charge



(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of subsection (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

26. Before delving into the facts of the present case, it is important to note that it is a settled law that the scope of interference by High Courts while exercising revisional jurisdiction against order on charge is limited and ought to be exercised sparingly, in the interest of justice, so as to not impede the trial unnecessarily. In the case of **Amit Kapoor v. Ramesh Chander : (2012) 9 SCC 460**, the Hon’ble Apex Court, advertent to a catena of precedents, noted that the test for quashing of charge in the exercise of revisional jurisdiction is whether the allegations, as made from the record of the case, taken at their highest, constitute the offence or not.

27. It is also trite law that the trial court, at the stage of framing of charges, is not required to conduct a mini-trial and has to merely



weigh the material on record to ascertain whether the ingredients constituting the alleged offence are *prima facie* made out against the accused persons. The Hon'ble Apex Court, in the case of **Sajjan Kumar v. CBI : (2010) 9 SCC 368**, has culled out the following principles in regard to the scope of Sections 227 and 228 of the CrPC:

“21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.



(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

(emphasis supplied)

28. In a recent decision in ***State of Gujarat v. Dilipsinh Kishorsinh Rao*** : 2023 SCC OnLine SC 1294, the Hon’ble Apex Court has discussed the parameters that would be appropriate to keep in mind at the stage of framing of charge/discharge, as under :

“7. It is trite law that application of judicial mind being necessary to determine whether a case has been made out by the prosecution for proceeding with trial and it would not be necessary to dwell into the pros and cons of the matter by examining the defence of the accused when an application for discharge is filed. At that stage, the trial judge has to merely examine the evidence placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on basis of charge sheet material. The nature of the evidence recorded or collected by the investigating agency or the documents produced in which prima facie it reveals that there are suspicious circumstances against the accused, so as to frame a charge would suffice and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged, but if the court is of the opinion, after such consideration of the material there are grounds for



presuming that accused has committed the offence which is triable, then necessarily charge has to be framed.

xxx

xxx

xxx

12. The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 and the State of MP v. Mohan Lal Soni, (2000) 6 SCC 338 has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima-facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

29. In view of the above, it is clear that this Court, at this stage, is not required to evaluate the evidence or hold a mini-trial as the same would be tantamount to this Court assuming appellate jurisdiction. Thus, all that must be seen is whether the learned Trial Court has adequately appreciated the material on record and whether on the material placed before it, the Court could form an opinion that there is *grave suspicion* against the accused.

30. The SC/ST Act is a special legislation passed to check and deter crimes against scheduled castes and scheduled tribes. The legislative intent to implement a specialised law has been to curb the incidents of indignities, humiliation and harassment meted out to the members of these communities.

31. The impugned order passed by the learned ASJ is rooted in a



meticulous examination of the *prima facie* evidence, for the following reasons:

31.1 Discrepancies in the Statements of the Complainant

31.1.1 The cornerstone of the prosecution's case is the testimony of the complainant, which has undergone significant alterations and improvements over time. Initially, the complainant's allegations in the complaint dated 28.08.2014 were limited to accusations under Section 354A of the IPC. It was only during the pre-summoning evidence on 24.02.2016, and in her supplementary statement dated 31.01.2019 recorded much later under Section 161 of the CrPC before the police, that the complainant introduced the allegation of caste-specific remarks by the accused. This material improvement in the complainant's statements, particularly the delay in introducing such crucial allegations, severely undermines the credibility of her testimony.

31.1.2 A coordinate Bench of this Court in the case of ***Prashant Bhaskar vs. State (Govt. of NCT of Delhi): 2009: DHC: 4012***, relying upon the judgment passed by the Hon'ble Apex Court, in the case of ***Dilawar Balu Kurane v. State of Maharashtra: (2002) 2 SCC 135***, held that where there exist two contradictory statements in the record, a charge cannot be framed on such conflicting evidence. The Court observed that it is unsafe to rely on subsequent statements that contradict earlier ones without cogent reasons. The Court further held that when faced with two contradictory versions, it would be justified in preferring the version that supports the discharge of the accused,



especially when the subsequent statements appear to be an afterthought or are otherwise unreliable.

31.2 Delay in filing the complaint and subsequent lodging of the FIR

31.2.1 The timeline of events also raises substantial concerns regarding the veracity of the allegations. The alleged incident took place on 20.08.2014, but the complaint was made by the complainant on 28.08.2014. Thereafter, FIR was registered almost a month later, on 26.09.2014. The complainant's initial complaint did not include any mention of caste-based insults or the presence of three persons/alleged public witnesses during the alleged incident, the same were only introduced much later in her supplementary statement recorded on 24.02.2016 that is, after an inordinate delay of more than a year. The unexplained delay in lodging the FIR No. 413/2014 by the complainant and the subsequent embellishment of allegations severely impairs the prosecution's case.

31.2.2 It is well-established that the FIR in a criminal case serves as a crucial piece of evidence for corroborating the oral testimony presented during the trial. The primary purpose of requiring the prompt filing of an FIR is to secure early information about the circumstances of the crime, the identities of the perpetrators, the roles they played, and the names of any eyewitnesses present at the scene. It is also a settled legal principle that the initiation of a criminal investigation is not contingent upon the receipt and recording of the FIR by the police. Although the FIR under Section 154 of the CrPC is



not considered substantive evidence, it holds significant value when recorded promptly, before there is an opportunity for embellishment or fading of memory. Consequently, undue, or unreasonable delay in filing the FIR can raise suspicions, prompting the Court to examine the reasons for the delay and assess its impact on the reliability of the prosecution's version. [Ref : ***Sekaran v. State of T.N. : (2024) 2 SCC 176***]

31.3 Inconsistencies in the Statements of Public Witnesses

31.3.1 The testimonies of the public witnesses, namely Manoj Verma and Neelam Yadav, who were allegedly present at the time of the alleged incident, also suffer from material inconsistencies. These witnesses initially during the recording of the statements on 30.10.2014 and 01.01.2015 under Section 161 of the CrPC, denied having heard any caste-specific remarks by the respondent against the complainant. It was only in their supplementary statements, recorded much later, i.e. on 01.02.2019 during the investigation that these witnesses introduced the allegation of casteist abuse. Such belated improvements in witness testimonies are inherently suspicious and diminish the reliability of their statements.

31.3.2 It is suffice to point out that discrepancies and contradictions in witnesses' statements under Section 161 of the CrPC, especially those made at different stages of the investigation, can be grounds for questioning the credibility of the witnesses and, consequently, *prima facie*, case of the prosecution. When the witnesses' statements are riddled with inconsistencies, the Court is not



obligated to frame charges merely on the basis of such unreliable evidence. This Court in the case of **Deepa Bajwa v. State: 115 (2004) DLT 202** held that for ascertaining that a complaint on the basis of which the complainant seeks registration of FIR, must disclose essential ingredients of the offence and in case a complaint lacks or is wanting in any of the essential ingredients, the lacuna or deficiency cannot be filled up by obtaining additional complaint or supplementary statement and thereafter proceed to register the FIR. The relevant portion of the judgment is as under :

“After considering the submissions made by the learned counsel for the parties, this Court is of the considered view that a complaint, on the basis of which the complainant seeks registration of an FIR, must disclose essential ingredients of the offence and in case a complaint lacks or is wanting in any of the essential ingredients, the lacuna or deficiency cannot be filled up by obtaining additional complaint or supplementary statement and thereafter proceed to register the FIR. If such a course is permitted, it would give undue latitude as well as opportunity to unscrupulous complainants to nail others by hook or by crook in spite of the fact that their initial complaint does not make out the offence complained of. Such a course would be utter abuse of the process of law. First version as disclosed in a complaint is always important for adjudicating as to whether an accused has committed or not an offence. In the complaint dated 19th April, 2001, the Complainant himself alleged that the Councillor Chhannu Mal was introducing him to the petitioner. If that was the case, how could he say later that on that day the petitioner knew that he was a Scheduled Caste. This statement, therefore, was a crude falsity introduced at the behest of the police to implicate the petitioner under Section 3 of the Act. This effort on the part of the police to supply the deficiency and cover up a lacuna in the complaint in view of legal opinion was totally unwarranted and an abuse of the process of law.”



31.4 Application of the SC/ST Act

31.4.1 The prosecution's attempt to invoke the provisions of the SC/ST Act appears to be an afterthought. The SC/ST Act is a special statute aimed at protecting members of Scheduled Castes and Scheduled Tribes from atrocities and discrimination. For an offence under this Act to be made out, it must be established that the alleged insult or intimidation was on account of the victim's caste. The prosecution has failed to demonstrate that the accused's alleged actions were motivated by the complainant's caste or that the casteist remarks were made with the intent to humiliate her specifically because of her caste. It will be relevant to reproduce the erstwhile Section 3 of the SC/ST Act, prior to its amendment notified vide S.O. 152(E) dated 18th January, 2016 [Section 3(1)(x) and Section 3(1)(xi) of the pre-amended SC/ST Act] for the sake of convenience :

“3. Punishments for offences of atrocities. — (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, —

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty.”

31.4.2 In order to attract the aforesaid provisions of the SC/ST Act, following are the essential ingredients:

Section 3(1)(x)

i. Intentionally insults or intimidates.



ii. With intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe.

iii. In a place within public view.

Section 3(1)(xi)

i. Assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe.

ii. Intent to dishonour or outrage her modesty

31.4.3 It is trite that merely because the victim belongs to a scheduled caste does not automatically bring the case within the purview of the SC/ST Act. There must be clear and convincing evidence that the offence was committed on the ground of the victim's caste. The absence of such evidence in the present case renders the application of the SC/ST Act untenable.

31.4.4 Furthermore, the alleged casteist remarks were allegedly made within the confines of the accused's office, in the presence of colleagues who are not independent public witnesses. The Hon'ble Apex Court in the case of ***Hitesh Verma vs. State of Uttarakhand : AIR 2020 SC 5584***, held that for an offence under the SC/ST Act to be established, the casteist remarks must be made "within public view". If the remarks are made in a private setting, without independent public witnesses, the essential ingredients of the offence are not fulfilled. It is desirable that before an accused is subjected to a trial for alleged commission of offence under Section 3(1)(x) of the SC/ST Act, the utterances made by him in any place within public view are outlined, if not in the FIR (which is not required to be an



encyclopedia of all facts and events), but at least in the charge sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act.

31.4.5 Even otherwise, the statement of the complainant regarding the presence of the public witnesses suffers from infirmity and does not raise grave suspicion. The public witnesses, in their statements recorded under Section 161 of the CrPC on 30.10.2014 and 01.01.2015 had categorically denied having heard the respondent hurl any casteist remarks at the complainant. However, in the supplementary statements recorded on 01.02.2019, the witnesses stated totally contradictory statements alleging that they had heard humiliating and derogatory casteist remarks hurled by the respondent at the complainant.

32. The prosecution's case against the respondent rested primarily on the supplementary statements of the complainant and other witnesses, which were recorded after a delay of more than a year after the alleged incident and introduced his involvement at a much later stage. These statements were inconsistent and appeared to be an afterthought, raising significant doubts about their credibility.

33. In light of the above-discussed facts and legal principles, this Court finds that the learned ASJ correctly concluded that *prima facie* the evidence on record does not warrant the framing of charges under the SC/ST Act. The discrepancies in the complainant's statements, the



unexplained delay in lodging the complaint, the contradictions in the witnesses' testimonies, and the lack of evidence demonstrating the accused's intent to humiliate the complainant on the basis of her caste, all contribute to a conclusion that the prosecution's case lacks the necessary substance to proceed to trial under the SC/ST Act.

34. This Court relies upon the principle laid down in **Amit Kapoor v. Ramesh Chander** (*supra*), where the Hon'ble Apex Court emphasized that the test for framing charges is whether the material on record, taken at its face value, discloses the commission of an offence. If the material only gives rise to suspicion and not grave suspicion, the Court is justified in discharging the accused.

35. In view of the foregoing, the impugned order dated 08.09.2022, discharging the accused Dharambir Singh for offences under the SC/ST Act, is upheld. Consequently, the present petitions challenging the discharge for the offences under the SC/ST Act lack merit and are, therefore, dismissed. Pending application(s) also stand disposed of.

36. The matter shall proceed before the competent court on the remaining charges as ordered by the learned ASJ.

37. A copy of this judgment be placed in both the matters.

AMIT MAHAJAN, J

SEPTEMBER 9, 2024