

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1790 of 2022

SUSMITA MAITY JANA & ANR.
VS.
THE STATE OF WEST BENGAL & ANR.

For the Petitioners	: Mr. Anirban Dutta, Mr. Sujit Banerjee.
For the State	: Mr. Madhusudan Sur, Mr. Manoranjan Mahata.
Hearing concluded on	: 10.12.2024
Judgment on	: 08.01.2025

SHAMPA DUTT (PAUL), J. :

1. The present revisional application has been preferred praying for quashing of **Debra PS FIR no.181 of 2022** dated 18th April, 2022 under Sections 409/427/323/325/307/506 of the Indian Penal Code, 1860 read with Section 3(e)(s)(h) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
2. **The petitioners' case in short is as follows:-**

- i. The petitioner no.2 is the husband of the petitioner no.1 and is involved in cultivation activities.
- ii. In the year 2003, the petitioner no.1 joined as an assistant teacher in Morunia Primary School at Sankrail Jhargram.
- iii. In the year 2006, the petitioner no.1 became a head mistress of the said school and thereafter in the year 2012, she was transferred to Chaksahapur Primary School under the Debra east circle.
- iv. After joining in the said school, she came to know that the head mistress of Chaksahapur Primary School is also holding and/or responsible as one of the cheques issuing authority for a nearby hostel for primary girls under the name and style of Lodha Hostel. Another person for cheque signing authority for hostel was the superintendent of that school. Such responsibility was by way of default under the scheme of the Government of West Bengal.
- v. Thus, whenever caretaker of the hostel used to come with an estimate and cheque for signing, the petitioner no.1 used to sign the cheques as one of the signatories thereof for said Lodha Hostel.

- vi. From 2012 to 2017 one Smt. Nanu Singh was caretaker of the girls hostel and still continuing with the same. She is the supporter of one local Panchayat Member Mr. Sanjay Mallick and Mr. Shib Shankar Adhikary.
- vii. The petitioner no.1 noticed that the students who attended the school were not wearing new uniforms and suffering from skin diseases though State Authorities were providing the said facilities to the hostel girls. The petitioners on finding that the hostel superintendent was not providing the same, lodged complaints on 2nd June, 2017, 5th June, 2017 and 19th June, 2017 with the local BDO, Additional District Magistrate, Paschim Midnapore against the aforesaid activities of the then hostel superintendent.
- viii. As the petitioner no.1 stopped signing the cheques for the hostel, the opposite party no.2 started a false propaganda against the petitioner no.1 about misappropriation of food items along with Mr. Sanjay Mallick, Ex-Panchayat.
- ix. The then elected Panchayat Member Mr. Samar Bhokta, after investigation of whole allegations and

counter allegations filed a report with the local BDO Authority disclosing inter alia the nexus between the erstwhile Gram Pradhan (Mr. Shib Sankar Adhikary) and said Sanjay Mallick and the then hostel superintendent, Mrs. Nanu Singh and it was clearly indicated that due to the syndicate and nexus between the aforesaid persons, children of the hostel were suffering.

- x. The Chairman of District Primary Council, Paschim Midnapore, arranged a hearing on the basis of said complaint. On the date of hearing on 27th July, 2017 aforesaid political persons not only personally appeared but they also arranged their blind supporters who started shouting against the petitioner no.1 at the indication of those two political persons before the said Chairman of District Primary Council, Paschim Midnapore.
- xi. On 20th January, 2018, the petitioner no.1 was temporarily transferred to one Paramhansa Part Basic Primary School which is situated 9 Kms from Balichak.
- xii. On or about 27th December, 2021, the petitioner no.1 received a letter from the office of the Chairman

of District Primary Council, Paschim Midnapore directing the petitioner no.1 to join in her mother school, Chaksahapur Primary School.

xiii. Unfortunately, on 30th December, 2021 when the petitioner no.1 went to join in the aforesaid mother school, the said persons of the political party restrained her to enter into the teachers' room of the said school. Mr. Sanjay Mallick was now elected Panchayat Member and he was making hue and cry against her so that she cannot assume the charge as the head mistress of that school. She thereafter reported the said facts to the school authority vide her letter dated 30th December, 2021 and also the higher authorities.

xiv. Finding no other alternative, the said higher school authorities allowed her to join on notional basis asking her to sign the acknowledgement of joining in his office itself which was continued from 30th December, 2021 to 3rd January, 2022.

xv. On 13th January, 2022, she again attempted to enter in the said school but the aforesaid Mr. Sanjay Mallick personally started restraining her to enter in the teachers' room. He locked the teachers' room

from outside when other teachers were all in the said teachers' room. He again instigated their few henchmen to gherao the car of the petitioner no.1 by taking law in his hand. She also requested the local police authority to provide the necessary police help but they refused.

3. The petitioner no.1 then filed WPA 1116 of 2022 wherein relief was granted to the petitioner to join the school and the respondents therein were stopped from restraining the petitioner from joining the school.
4. The complainant in the present case is a supporter of Mr. Sanjay Mallick and Mr. Shib Shankar Adhikary. Since the year 2012, the opposite party no.2 was the caretaker of the adjacent boys hostel. At no point of time, there was any interaction with said opposite party no.2 during the service of the petitioner no.1 in between the year 2012 to 2017 as the petitioner no.1 was the disbursing officer as well one of the cheque signing authorities for the girls hostel for which said Mrs. Nanu Singh was the caretaker. Both Mrs. Nanu Singh and the opposite party no.2 were instrumental in corruption with said Mr. Sanjay Mallick and Mr. Shib Shankar Adhikary and through them used to misappropriate the Government funds for the children for their personal wrongful gain.

5. A Public Interest Litigation being WPA(P) 11 of 2022 was filed against the petitioner no.1. The said writ petition was disposed of with the direction that the petitioners would be at liberty to approach the appropriate forum. The opposite party no.2 then filed WPA 1639 of 2022 praying for departmental enquiry against the petitioner no.1. The Court directed the District Primary Council to enquire into the matter as to the allegations and if found true, necessary steps to be taken.
6. On an appeal by the petitioner no.1, the Hon'ble Division Bench directed that the enquiry may be conducted but only the complainant should be allowed during the enquiry. On 11th February, 2021, the petitioner no.1 again tried to enter the school when Mr. Sanjay Mallik was present with 20 to 25 persons and they started assaulting the petitioner no.1
7. The de facto complainant then lodged a complaint which gave rise to Debra PS case no.181 of 2022 on 18.04.2022 under Sections 409/427/323/325/307/506 of the Indian Penal Code, 1860 read with Section 3(e)(s)(h) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, on the allegations in respect of the offences alleged therein.
8. On 18.04.2022 at 15:25 hrs O.C. Debra P.S. received a Court complaint from one Gangaram Hembram S/O-Birendra Nath Hembram of Antala, PS- Debra, Dist- Paschim Medinipur duly

forwarded by the Court of Ld. CJM, Paschim Medinipur vide MP Case No. 147/2022 to the effect that the complainant is the member of ST community and aged person. The accused person namely (1) Susmita Maity W/O Soumendra Prasad Jana of Vill+P.O- Maligram, PS- Pingla, Dist- Paschim Medinipur A/P C/O Manas Kumar Dey of Vill+PO- Saintol, PS- Debra, Dist- Paschim Medinipur is the head teacher of Chaksahapur Primary School. She along with her husband namely Soumendra Prasad Jana threatened the complainant and the witnesses mentioned in the court complaint on 20.01.2021 when the complaint protested about not serving proper mid day meal to the students of Chaksahapur Lodha Balak and Balika Asram and selling the govt provided food in lieu of money. On 13.02.2022 the accused persons abused the complainant by uttering 'Saotaler Bachha Nichu Jatir Bachha' 'Harh er Bachha' and also with some other filthy languages due to the previous grudge. Then the accused person started assaulting the complainant by fists and blows and spit on him. They also threw away his bag and destroyed some important paper which was in the bag. When the complainant tried to escape from the accused person to save himself the accused persons tried to kill him by strangulation. When the local people came to the spot the accused persons repulsed him from there and again abused the complainant by uttering 'Saotaler Bachha', 'Nichu Jater Bachha', 'Harh o Itorer

Bachha'. After that the complaint anyhow came at his home and treated himself by a private doctor.

9. In **Hitesh Verma vs The State of Uttarakhand & Anr., Criminal Appeal No. 707 of 2020, on 05.11.2020**, held:-

“14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as **Swaran Singh & Ors. v. State through Standing Counsel & Ors.,(2008) 8 SCC 435.**

The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view. The Court held as under:

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an

offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered “in any place within public view” is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in **Swaran Singh**, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.”

- 10.** The Supreme Court in **Ramawatar vs State of Madhya Pradesh** reported in **AIR 2021 SC 5228**, wherein the Court categorically held:-

“16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its power to quash the proceedings. On similar lines, when considering a prayer of quashing

on the basis of compromise/settlement, if the Court is satisfied that the underlying objection of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Code of Criminal Procedure."

11. The Supreme Court in ***Ramesh Chandra Vaishya vs. The State of Uttar Pradesh & Anr. in Criminal Appeal No...../2023 (arising out of SLP(CRL) No. 1249 of 2023)*** in

which Paragraph 18 reads as follows:-

"18. *That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by use of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not*

be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks. Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under Section 438, Cr.P.C. and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognizance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial."

12. In *Randheer Singh vs The State of U.P. & Ors., Criminal*

Appeal No. 932 of 2021, on September 02, 2021, the

Supreme Court held:-

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

33. *In this case, it appears that criminal proceedings are being taken recourse to as a weapon of harassment against a purchaser. It*

*is reiterated at the cost of repetition that the FIR does not disclose any offence so far as the Appellant is concerned. There is no whisper of how and in what manner, this Appellant is involved in any criminal offence and the charge sheet, the relevant part whereof has been extracted above, is absolutely vague. There can be no doubt that jurisdiction under Section 482 of the Cr.P.C. should be used sparingly for the purpose of preventing abuse of the process of any court or otherwise to secure the ends of justice. Whether a complaint discloses criminal offence or not depends on the nature of the allegation and whether the essential ingredients of a criminal offence are present or not has to be judged by the High Court. There can be no doubt that a complaint disclosing civil transactions may also have a criminal texture. The High Court has, however, to see whether the dispute of a civil nature has been given colour of criminal offence. In such a situation, the High Court should not hesitate to quash the criminal proceedings as held by this Court in *Paramjeet Batra (supra)* extracted above.”*

13. Case diary has been placed by the State.
14. It appears that prima facie there are no materials in the case diary to support the allegations against the petitioner herein.
15. 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.***"

16. The present case falls under clause 1, 3 and 7 of **Para 102 of Bhajan Lal (Supra).**
17. Thus, continuing with the present criminal proceeding, shall be an abuse of the process of law.
18. **CRR 1790 of 2022 is thus allowed.**
19. The proceedings being Debra PS FIR no.181 of 2022 dated 18th April, 2022 under Sections 409/427/323/325/307/506 of the Indian Penal Code, 1860 read with Section 3(e)(s)(h) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, **is hereby quashed in respect of the petitioners namely Susmita Maity Jana and Soumendra Prasad Jana.**
20. All connected Applications, if any, stand disposed of.
21. Interim order, if any, stands vacated.
22. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
23. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

[Shampa Dutt (Paul), J.]