

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Jay Sengupta

WPA 11803 of 2021

IA No: CAN 1 of 2022

With

CRR 2703 of 2022

With

WPA 25522 of 2022

IA No: CAN 3 of 2024,

CAN 4 of 2024

Suvendu Adhikari

Vs

The State of West Bengal &Ors.

For the petitioner : Mr. Billwadal Bhattacharyya
Mr. Moyukh Mukherjee
Ms. Aishwarya Bazaz
Ms. Sagnika Banerjee

.....Advocates

For the State : Mr. Kalyan Bandopadhyay
Mr. Kishor Dutta, Ld. AG
Mr. Rudradipta Nandy
Ms. Amrita Panja Moulick
Mr. Debangsu Dinda

.....Advocates

**For the CBI in
WPA 11803 of 2021** : Mr. Dhiraj Trivedi
Mr. Arun Kumar (Mohanty)
.....Advocates

**For the CBI in
WPA 25522 of 2022** : Mr. Dhiraj Trivedi, Ld. DSGI
Mr. Sukanta Chakraborty
Ms. Oisani Mukherjee
.....Advocates

**For the respondent no.12
in WPA 11803 of 2021** : Mr. Sabyasachi Banerjee
Mr. Ayan Poddar
Ms. Syed Kishwar
.....Advocates

**For the respondent no.21
in WPA 25522 of 2022** : Mr. Agnish Basu
Mr. Vipul Vedant
.....Advocates

Heard lastly on : 06.05.2025

Judgment on : 24.10.2025

Jay Sengupta, J:

1. The two writ petitions being WPA 11803 of 2021 and WPA 25522 of 2022 and the Criminal Revisional Application being CRR 2703 of 2022, after assignment, were taken up together as connected matters. In all these applications, it is the prime contention of the petitioner, the Leader of the Opposition in the State that he has been falsely implicated in all these cases as he had shifted his allegiance from the ruling party in the State to the party in opposition.

1.1. While WPA 11803 of 2021 was filed challenging four distinct criminal proceedings either praying for quashing or seeking transfer of investigation to

the CBI, similar prayers were made in WPA 25522 of 2022 in respect of eleven distinct criminal proceedings. On the other hand, the revisional application being CRR 2703 of 2022 was filed challenging a single criminal proceeding. After certain orders had been passed, the matters were assigned to this Court for hearing.

1.2. In WPA 11803 of 2021, the following four criminal proceeding were challenged namely, i) Manicktala Police Station Case No. 28/2021, dated 27.02.2021, ii) Nandigram Police Station Case No. 110/2021, dated 18.03.2021, iii) Tamluk Police Station Case No. 595/2021, dated 19.07.2021, iv) Contai Police Station Case No. 248/2021, dated 07.07.2021. In WPA 25522 of 2022 eleven proceedings came under challenged being (v) Nandigram Police Station Case No. 705/2021, dated 23.10.2021, (vi) Kulti Police Station Case No. 77/2022, dated 04.02.2022, vii) Contai Police Case No. 73/2022, dated 17.02.2022, viii) Contai Police Case No. 74/2022, dated 17.02.2022, ix) 75/2022, dated 17.02.2022, x) Contai Police Station Case No. 83/2022, dated 19.02.2022, xi) Durgachak Police Station Case No. 29/2022, dated 16.03.2022, xii) Amherst Street Police Station Case No. 176/2022, dated 24.07.2022, xiii) Jadavpur Police Station Case No. 178/2022, dated 08.09.2022, xiv) Nandakumar Police Station Case No. 390/2022, dated 28.10.2022, xv) Nandigram Police Station Case No. 1453/2022, dated 11.11.2022. In CRR 2703 of 2022, the petitioner assailed the proceeding in (xvi) Pandeveswar Police Station Case No. 85, dated 16.07.2022.

Submissions advanced on behalf of the parties:

2. Learned counsel appearing on behalf of the petitioner has submitted and has relied on the written notes as follows.

2.1. The petitioner is the current Leader of Opposition in the West Bengal Legislative Assembly. The petitioner was initially a member of the Trinamool Congress (the present Ruling Party). On 19.12.2020 the petitioner joined the Bhartiya Janta Party (the present Party in Opposition). On 02.05.2021 the petitioner defeated the incumbent Chief Minister of West Bengal in the Nandigram assembly seat. The change of political party in the month of December 2020 at the behest of the petitioner, is taken amiss by the Ruling Party, and consequentially the petitioner is being made to face a barrage of false criminal cases, as a punishment for joining a rival political party and the rights and liberties of the petitioner are being trampled over by the Ruling Party, by misusing its powers over the police machinery. Thus, the petitioner is left with no other option other than to come before this Hon'ble Court and pray for quashing of the FIRs that are initiated against him with malicious intent by the State Government with the help of Police machinery.

2.2. The Respondent State at this final stage of hearing cannot plead rejection of Writ Petition on the ground of misjoinder of cause of action. Initially when the Writ Petition came up for preliminary hearing, and even before notice was issued in the petition, the Advocate General had raised two primary objections while addressing this Hon'ble Court on behalf of the Respondent State, but the same were rejected and notice was issued after extensive hearing and the Writ

Petition was held to be maintainable. The said objections have been recorded by this Hon'ble Court in order dated 06.09.2021 in WPA No. 11803 of 2021. "In view of the above, this Court is of the view that the writ petition and the prayers made thereunder are eminently maintainable." A plain reading of order dated 06.09.2021 passed in WPA No.11803 of 2021 would show that the present objection of misjoinder of cause of action has never been raised before this Hon'ble Court by the Respondent State and is wrongly being raised at this later stage of arguments. The Hon'ble Court again reiterated its stand on maintainability of the present Writ Petition vide order dated 08.12.2022 passed in WPA No. 25522 of 2022. Thus, raising this plea again at this final stage of hearing is inappropriate since the maintainability of the Writ Petition has already been upheld by this Hon'ble Court and affirmed by the Hon'ble Supreme Court. If the objection of misjoinder of cause of action was taken by the Respondent State at the initial stage of hearing and the same was upheld by this Hon'ble Court, then the Petitioner would have withdrawn the present petition and would have filed separate petitions challenging the legality of each FIR. It is important to note that even though two separate Writs have been filed by the present Petitioner challenging legality of 24 FIRs, the petitioner has argued each and every FIR separately to demonstrate how each one of them is not maintainable and is liable to be quashed.

2.3. This contention of the Respondent State is not maintainable since the FIRs have been maliciously instituted with ulterior motive for wreaking vengeance and havoc on the petitioner. As per the law laid down by the Hon'ble

Supreme Court a malicious prosecution is different from a *mala fide* in law. A malicious prosecution is action initiated by the State against an individual without probable cause and is driven by wrongful intention to cause harm, damage reputation or take away their fundamental rights. If the Hon'ble Court finds that the prosecution is malicious then that itself is a valid ground to quash the FIRs. In such a situation the person who is at the receiving end of the wrath of the State does not have to individually name persons on whose instructions such malicious prosecution is executed because in most cases such as the present one the entire State machinery is working hand in gloves with the Ruling Party to wreak vengeance on the petitioner. In the present petition also the FIRs have been filed in different Police Stations throughout the State of West Bengal and the same is only possible because the ruling party is misusing their power to control the State machinery. The present Petition is a classic example of Malicious Prosecution due to political hostility. Such vindictive and malicious prosecution against a political representative who changes his allegiance is not new for the current ruling party of the State. The same strategy of filing multiple FIRs against a member who switches allegiance was also used against Mr. Mukul Roy who was once a member of the present ruling party (Trinamool Congress) and had subsequently joined The Bhartiya Janta Party, soon thereafter the ruling party, through the police machinery, started registering multiple FIRs against Mr. Mukul Roy, one such FIR was accusing Mr. Roy of conspiring to extort huge sums of money from individuals on the pretext of providing jobs at the Railways Department (Mr. Roy was the

Minister of Railways at that point of time). Such an allegations were perceptibly, fallacious and vexatious and was merely a tool of political harassment and humiliation, however, it required the intervention of this Hon'ble Court as well as the Hon'ble Apex Court, to lay bare the frivolity of such cases. The Hon'ble Courts were pleased to quash some of the cases and pass interim orders of no coercive measures in respect of the others. **[Mukul Roy v. State of W.B., 2018 SCC OnLine Cal 4861].** Similar FIR No. 28 of 2021 dated 27.02.2021 was filed against the present petitioner after a delay of almost 2 years, wherein it was insinuated that the petitioner demanded money and promised to secure Government job for the complainant in the Department of Transport, Irrigation and Water Resources (The petitioner was the Minister in Charge for the Department of Transport, Irrigation and Water Resources during the said period). Another specimen of malicious prosecution at the behest of the ruling party of the State with the support of the police machinery is sudden withdrawal of Petitioners security cover. Soon after the declaration of the results of the West Bengal Assembly Elections on 02.05.2021 (the petitioner defeated the incumbent Chief Minister of West Bengal in the Nandigram assembly seat), the security cover, which was being provided to the petitioner, being the Leader of the Opposition by the State Police was arbitrarily withdrawn on 18.05.2021. The petitioner through his Ld. Advocate sent a notice to the Superintendent of Police, Purba Medinipur, and on receipt of the same the security cover was again reinstated, as the illegality was apparent on the face of it. The petitioner also filed W.P.A. No.10597 of 2021 before this

Hon'ble Court, and the Hon'ble Court vide order dated 02.07.2021, was pleased to find merit in the contentions raised by the petitioner and made observations against the State. Another such act of malicious prosecution can be seen from FIR No. 248 of 2021 dated 07.07.2021 filed at Contai Police Station under sections 302/120B of IPC. The said case was lodged by the wife of the deceased, namely, Subarna Kanjilal Chakraborty wherein which she specifically names the present petitioner. The date of incident of suicide was 13.10.2018, but the case was filed by the wife of the deceased on 07.07.2021 i.e., after a delay of almost 3 years. The victim, Late Suvabrata Chakraborty was in the security team, which was assigned to the petitioner by the State police, when he was a part of the Ruling party. It is important to note that proper investigation was done by the Police in 2018 before closing the case. A General Diary was registered at the Contai Police Station being Contai Police Station GDE No. 696 dated 13.10.2018 at 10.55 hrs., as per which the victim died by committing suicide with the help of his service revolver. On 15.10.2018, the Phoolbagan Police Station initiated an Unnatural Death case being Inquest No. 71 dated 15.10.2018. On 15.10.2018, postmortem was conducted on the body of the deceased person, and it was opined that the death was due to gunshot injury, which was ante mortem in nature as well as suicidal in nature. Thereafter in accordance with the medical evidence the said case was closed. The then Superintendent of Police, Purba Medinipur, who was the superior of the deceased victim, during a TV interview, clearly stated that after investigation it was found that the death of the deceased was suicidal in

nature. Thus, reviving of a closed case after almost 3 years shows the lengths to which the state police as well as the Ruling Party would traverse to ensure that the petitioner is roped in a false and vexatious case, and to ensure that the petitioner does not raise his voice against the Ruling Party. The atrocious and over-eagerness conduct of the police authorities, especially when the said police officials attached to Contai Police Station were well aware about the nature of death of the victim being suicidal in nature, yet they chose to register the above captioned case as a murder, creates a grave shadow of doubt on the veracity of the case. It is important to note that the above-mentioned cases were filed after 2-3 years delay but still the Police registered an FIR on the very same day when the complaint was made without any preliminary inquiry. Such action of the Police goes against the law laid down by the Hon'ble Supreme Court in Lalita Kumari v. Govt.of Uttar Pradesh (2014)2 SCC1, which clearly states that preliminary inquiry must be done in cases where there is abnormal delay/laches in initiating criminal prosecution before registering a FIR. In another case the police registered FIR No. 85 of 2022 dated 16.07.2022 filed at P.S. Pandaveswar. The main accused Mr. Sanjay Kumar was arrested by the police on 17.07.2022. The allegation against him were that Mr. Sanjay Singh had made a phone call to Mr. Narendranath Chakraborty, Member of Legislative Assembly, West Bengal (also a Member of Trinamool Congress) on his personal number on 14.07.2022 on instructions of Suvendu Adhikari i.e., the petitioner herein and tried to offer bribe to Mr. Narendranath Chakraborty in return for his vote in favour of the presidential candidate of BJP and was

threatened when he refused to accept the same. On 20.07.2022 the ACJM, Durgapur granted Mr. Sanjay Kumar bail. In a similar manner, several other fictitious and frivolous cases have been registered against the petitioner at the behest of members of the ruling dispensation in order to wreak vengeance against the petitioner for changing his political allegiance. A plain reading of all the FIRs registered against the petitioner demonstrate the malicious intention of the *defacto* complainants, who are hand in glove with the ruling dispensation and state machinery. All the FIRs have been carefully and meticulously curated using legal terminologies to make sure that a cognizable offense is made out so that there is no room left for the petitioner to defend himself. Thus, in the present circumstances this Hon'ble Court owes a duty to look into other attending circumstances emerging from the case records and try to read in between lines to find out the reality behind registration of such FIRs against the petitioner. The proposition that malicious prosecution is different from a *mala fide* in law as has been reiterated by several judgments passed by the Hon'ble Supreme Court starting from *State of Haryana v. Bhajan Lal* (1992 Supp (1) SCC 335). The Courts have time and again held that the High Courts can exercise their extraordinary power under Article 226 of the Constitution and/or their inherent powers under Section 482 of the IPC to quash FIRs that were initiated with malicious intent. Reliance was placed on – **(i) Baijnath Jha v. SitaRam, (2008) 8 SCC 77; (ii) Vineet Kumar v.State of U.P., (2017)13SCC369; (iii) Haji Iqbal v. State of U.P., 2023 SCC OnLine SC 946; (iv) Musstt Rehana Begum v. State of Assam, 2022 SCC OnLine SC 82.**

2.4. The petitioner firstly wishes to rely on the very strong observations made by this Hon'ble Court in 2 different interim orders dated 06.09.2021 passed in WPA No. 11803 of 2021 and order dated 08.12.2022 passed in WPA No.25522 of 2022. That the Hon'ble Court while passing these interim orders was convinced that *prima facie* there was an attempt at implicating and victimizing the petitioner and his associates by filing false and fictitious criminal cases against the man that there was a scheme and/or conspiracy devised to entrap the petitioner and his associates to ensure their incarceration and custody inter alia to embarrass them. These interim orders were passed after detailed hearing of parties, spread over number of days and it was only thereafter that this Hon'ble Court not only stayed prosecution in all the FIRs but also restrained the Police from filing any further FIRs without the leave of the Court. These interim orders were challenged before the Hon'ble Supreme Court by the Respondent State but the same were dismissed. The various orders passed by this Hon'ble Court and the Hon'ble Supreme Court. That the findings noted above may kindly be taken into account while deciding the outcome of the present petition since the same were made after appraisal of various documents and after hearing both the sides extensively. It should also be noted that the observations made by this Hon'ble High Court were not altered or interfered with by the Hon'ble Supreme Court. It is also important to note that recently the petitioner had to file W.P.A. No.16201 of 2024 against the State of West Bengal because the State machinery filed as many as 47 FIRs within a span of 34 days against the petitioner and other members and supporters of

Bhartiya Janta Party. The FIRs were lodged by the State machinery between 08.05.2024 to 12.06.2024 to put pressure on members and supporters of Bhartiya Janta Party right before the General Elections (The 2024 Indian General Election was held in West Bengal between 19.04.2024 till 01.06.2024). That this Hon'ble Court after perusal of all the FIRs stayed further investigation of all 47 FIRs vide order dated 02.07.2024 passed in W.P.A. No. 16201 of 2024.

2.5. The Petitioner was initially a member of the Trinamool Congress (the current Ruling Party). On 19.12.2020 the petitioner joined The Bhartiya Janta Party (the present Party in Opposition). On 02.05.2021 the petitioner defeated the incumbent Chief Minister of West Bengal in the Nandigram assembly seat. The petitioner is the current Leader of Opposition in the West Bengal Legislative Assembly. All the FIRs were filed soon after the Petitioner changed his political allegiance. The ruling party has since then left no stone unturned to bring down the petitioner and to show him the consequences of campaigning for arrival political party. To suppress any voice of dissent, the present Ruling Party, in a very calculated and pre- determined manner has devised a malicious plan for initiating a number of false criminal cases one after the other against the Petitioner/Leader of Opposition. Even though the present ruling party is well aware that no crime has been committed by the petitioner, it is still using its influence over the State machinery to wrongfully prosecute and incarcerate the Petitioner in order to harasses him and take away his personal liberty. The petitioner has unlawfully been accused of committing crimes that can cost him his reputation, his career, and most importantly his

personal liberty as indicated by this Hon'ble Court vide order dated 06.09.2021 and 08.12.2022 mentioned above. It is important to note that the allegations in all the FIRs are principally related to how the Petitioner is exploiting his powers to cause public nuisance but the same is not supported by any evidence. A plain reading of the FIRs would show that most of the FIRs are related to petty violence done by a third party or group of people on orders of the Petitioner. The structure of all the FIRs is such that they do not directly indict the petitioner but still leave enough space for doubt, for the investigating authority to criminally charge the Petitioner or harass him for allegedly playing some farfetched role in the execution of the crime. The manner in which the state machinery has registered multiple FIRs against the petitioner within a span of less than 2 years clearly establishes the fact that the petitioner is being targeted and harassed. The intention behind the same is to curtail his fundamental rights and to make him experience hardship for shifting his allegiance from the ruling dispensation to the party in opposition in the State of West Bengal. The common thread that runs through all the FIRs is that the petitioner is portrayed as the leader on whose instructions his supporters have committed the alleged offences, several of which are petty in nature, and have punishment of less than 7 years. It is mandatory under law to serve notice under Section 41A of Cr.P.C if the punishments for which the petitioner is implicated is below 7 years. The manner of lodging the successive FIRs, shows that the intention of the state is to frustrate the petitioner personal liberty by forcing him to comply with all the notices served under section 41A of Cr.P.C in

24 cases registered against him and to further frustrate the protection granted to the petitioner by this Hon'ble Court in W.P.A. No. 11803 of 2021, since in order to comply with the notices served under section 41A of Cr.P.C, the petitioner will have to leave all his public duties and visit the respective Police Station on 24 out of 30 days of the month. This clearly brings out the hidden agenda behind filing of the FIRs by the State machinery at the behest of the ruling party. Furthermore, a bare perusal of the allegations leveled against the petitioner would prove that no specific case is made out against the petitioner, but the allegations are just enough to hound him.

2.6. It is important to note that the State during arguments before this Hon'ble Court has consciously chosen to not oppose the petitioner's prayer of quashing in as many as 11 FIRs out of the 24 FIRs registered against the petitioner. This is good enough reason to establish the fact that even the State is conscious that the FIRs are false and thoughtless and that though the allegations constitute an offence but still there is no legal evidence to prove the charges. The FIRs are being filed by the State with malicious intent, these motives are improper and not in furtherance of justice.

The List of 11 FIRs are:-

WPA No. 11803 of 2021

S r . N o .	FIR No.	Date	Allegations	Similar to:
1	Nandigr	18.03.	When a procession of BJP members was	Speech

	am PSCase No. 110/20 21	2021	travelling through Sonachura Bazar, the husband of the informant shouted “Joy Bangla” after he saw the petitioner, as a result of which the BJP members who were present allegedly assaulted the said victim, and a fight broke out between the party workers of TMC and BJP.	During rally. (FIR No. 705/2022; 1453/2022; 346/2022; 130/2022)
2	Tamluk PS Case No. 595/21	19.07. 2021	Suo Moto complaint by Inspector in Charge regarding speech made by the petitioner at a political rally which hurts religious feelings as well as sent a threatening message to the Superintendent of Police, Purba Medinipur.	Speech During rally. (FIR No. 705/2022; 1453/2022; 346/2022; 130/2022)

WPA No. 25522 of 2022

S r . N o .	FIR No.	Date	Allegations	Similar to:
1	Kulti PS Case No. 77/20 22	04.02. 2022	Suo Moto complaint by Inspector in Charge related to political meeting.	Written Complaint not annexed
2	Contai PS Case	17.02. 2022	Complaint by Jarina Khatun. During Municipal Elections, he was campaigning in front of the informant’s house and gave	Threatened locals while campaignin

	No.73 /2022		directions to a group of persons to threaten her to vote for BJP.	g.
3	Contai PS Case No.74 /2022	17.02. 2022	Complaint by Avaya Maity. During Municipal Elections, he was campaigning in front of the informant's house and gave directions to a group of persons to threaten her to vote for BJP.	Threatened locals while campaignin g.
4	Contai PS Case No.75 /2022	17.02. 2022	Complaint by Kanai Pradhan. During Municipal Elections, he was campaigning in front of the informant's house and gave directions to a group of persons to threaten her to vote for BJP.	Threatened locals while campaignin g.
5	Contai PS Case No. 83/22	19.02. 2022	Complaint by Surajit Nayak for vandalising the party office & outraging modesty of female supporter during Contai Municipal Elections.	Disrupted political meeting.
6	Durga chak PS Case No. 29/22	16.03. 2022	Complaint by ASI Nirmal Banerjee against BJP members for forcefully taking out rally/procession without prior permission.	Against200-250persons for taking out political rally.
7	Jadav pur PS Case No. 178/2 022	08.09. 2022	Complaint by Jayashree Deb.	Illegible copy annexed.

8	Nanda kumar PS Case No. 390/2 022	28.10. 2022	Complaint by Abu Sohel against Petitioner for statements made during inauguration programme of Kali Puja.	Defamatory Speech (FIR No. 705 of 2021 1453 of 2022)
9	Amhe rst PS Case No. 176/2 022	24.07. 2022	Complaint regarding certain tweets.	Other case Filed against petitioners tweet on 16.11.2022.

2.7. FIR No. 130 of 2022 dated 17.11.2022 and FIR No. 346 of 2022 dated 17.11.2022 were wrongfully made into a case against scheduled caste and scheduled tribe. Two criminal cases were initiated against the petitioner under the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989* at the behest of Mr. Birbaha Hansda (Member of Trinamool Congress and also a Member of Legislative Assembly) and Mr. Debnath Hansda (Member of Trinamool Congress and a Member of Legislative Assembly) on the ground that derogatory remarks were made against them by the petitioner at a public gathering. That the transcription is reproduced herein below: -

Bengali Transcription

‘Eigulo sishu, ei je Debnath Hansda, Birba Hansda, je gulo boshe ache shei gulo
sishu amar jutor tolay thake’

English Transcription

‘These people, sitting here are children, this Debnath Hansda and Birbaha Hansda, their place is below my shoes’

A plain reading of the above-mentioned sentence would show that no statement was made by the petitioner against Mr. Debnath Hansda and Mr. Birbaha Hansda’s Caste or Tribe but still the State machinery intentionally registered a FIR against the petitioner under the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989* making it a cognizable and non-bailable offence. That CAN No.1 of 2023 was filed in WPA No. 25522 of 2022 by Mr. Birbaha Hansda, pleadings of which would show that no allegations were made against the petitioner asserting that the petitioner had passed comments related to Mr. Birbaha Hansda’s Schedule Caste or Schedule Tribe status. This again shows how the ruling party is using its party members and the State machinery to lodge false and misleading cases against the petitioner. It is important to note that the complainant did not just lodge a false and frivolous case against the Petitioner but also tried to conceal important information from the Hon’ble Supreme Court while filing SLP (Crl.) Diary No. 40675 of 2022 *‘Birba Hansda vs. Suvendu Adhikari & Ors’* after being aggrieved by the order dated 08.12.2022 passed by this Hon’ble Court in WPA No.25522 of 2022. The petitioner Mr. Birba Hansda intentionally concealed the fact that he was a Member of Legislative Assembly in the SLP. Recently, the Hon’ble Supreme Court in the case of *Shajan Skaria vs The State Of Kerala C.A.N No.2622 of 2024* observed that recently several complaints are being lodged

under the Act, 1989 out of personal and political vendetta and that all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe.

2.8. Additional 47 FIRs filed within a span of 34 days against the petitioners associates and petitioner during the pendency of the present writ petition - That recently the petitioner had to file W.P.A. No. 16201 of 2024 against the State of West Bengal because the State machinery filed as many as 47 FIRs within a span of 34 days against the petitioner and other members and supporters of Bhartiya Janta Party. The FIRs were lodged by the State machinery between 08.05.2024 to 12.06.2024 and the same was done to put pressure on members and supporters of Bhartiya Janta Party right before the General Elections (The 2024 Indian general election was held in West Bengal between 19.04.2024 till 01.06.2024). This Court after perusal of all the FIRs stayed further investigation of all 47 FIRs vide order dated 02.07.2024 passed in W.P.A. No. 16201 of 2024.

2.9. Cases ought to be transferred to CBI for investigation if not quashed on grounds of malicious prosecution. In terms of the submissions made above the petitioner prays that the present petition be allowed and the FIRs filed against the petitioner be quashed. However, if this Hon'ble Court comes to the conclusion that any of the FIRs need further investigation than it is prayed that

the same be sent to an independent agency for further investigation in order to ensure free and fair prosecution and therefore it is prayed that the same be sent to The CBI. Reliance was placed on - (i) K.V. Rajendran v. CBCID, (2013) 12 SCC 480; (ii) Dharam Pal v. State of Haryana, (2016) 4 SCC 160; (iii) Bharati Tamang v. Union of India, (2013) 15 SCC 578. The Hon'ble Supreme Court in various judgments has allowed transfer to CBI for further investigation in similar cases as the present petition and also held that even an accused has a right to pray for transfer of investigation.

2.10. The Respondent State chose not to address any submissions before this Court in FIRs mentioned at serial no. 2, 5, 9, 10, 11, 12, 13, 14, 17, 18, 19. The submissions of petitioner for quashing each and every FIR is again submitted below in tabular form, the same are: -

Sr . No .	DATE	FIR NO.	GIST OF FIRs/ALLIGATIONS	POINTS CONSIDERATION
1.	27.02.2021	28/2021 P.S. Manik tala	• U/s 120B/460/467/488/34 of IPC • Date of Incident- July- Sept 2019. • Accused persons (close associates of Petitioner) demanded money and promised to secure Government Job for the complainant in the Department of Transport, Irrigation and Water Resources. • The petitioner was the Minister in Charge for the Department of Transport, Irrigation and Water Resources during the said period. • <u>FIR was registered after an</u>	• The principle of Lalita Kumari vs State of UP reported in (2014) 2 SCC 1 has been blatantly violated in the instant case. • In spite of there being an apparent delay of more than one and half years, the investigating agency in an over-zealous manner proceeded to register the case. As per the FIR itself the bribe was paid in September 2019, but the FIR was lodged in

			<u>inordinate delay of 1 year 5months.</u>	February 2021 i.e., after 1 ½ years. • As per the seizure list a copy of the application was seized from someone who worked for the Minister in Charge of the Department of Transport, Irrigation and Water Resources i.e., the Petitioner. This was intentionally done since the end target was the petitioner. • In the present case the petitioner is the end target, and the present case is an example of malicious prosecution, falling under para 102 sub-para (1), (5) and (7) of <i>State of Haryana vs. Bhajanlal</i> (1992 Supp (1) SCC 335). • That the present FIR is similar to the one filed against Mr. Mukul Roy when he quit TMC in 2017. (Ref: Judgment dated 20.07.2018 @P/1). This Hon'ble Court was pleased to quash the cases pending against Mr. Mukul Roy on the grounds of malicious prosecution and false allegations. That once Mr. Mukul Roy joined back TMC the State stopped contesting the cases filed against him.
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2.	18.0 3.20 21	110/2 021 PS. Contai	When a procession of BJP members was travelling through Sonachura Bazar, the husband of the informant shouted “Joy Bangla” after he saw the petitioner, as a result of which the BJP members who were present allegedly assaulted the said victim, and a fight broke out between the party workers of TMC and BJP.	• There are many such similar FIRs filed against the petitioner for simply taking part in a political rally with no specific allegations against him. • There is no role ascribed to the petitioner in the present case, but still strangely enough the investigating agency chose to implicate the petitioner as an accused. • Thus, the instant case is liable to be quashed as the same falls under para 102 sub-para (1), (5) and (7) of <i>State of Haryana vs. Bhajanlal</i> (1992 Supp(1) SCC 335)
3.	01.0 6.20 21	193/2 021 PS. Contai	U/s 448/379/409/120-B IPC 51/53 DM Act • Allegedly, on instructions of Suvendu Adhikari and his brother Soumendu Adhikari, tarpaulin sheets were stolen from the office of Contai Municipality on 29.05.2021. • Note: Two days prior to registration of this FIR, Chairman of board of administrators of Municipality had complained of attempt by certain persons to steal tarpaulins. No allegations of theft in the said complaint.	• The FIR was lodged under strange circumstance, on 29.05.2021 a GD entry was made by the Police at the behest of Municipality Chairman that there was an attempt to ‘loot’ some tarpaulins but then just after 2 days on 01.06.2021 an FIR was lodged by a different person that an actual theft had taken place. • A coordinate bench of this Hon’ble Court examined the FIR and after a detailed hearing stayed further proceedings. (Order dt:

				04.10.2021in C.R.R. No.1352 of 2021). The following observations were made by a coordinate bench of this Hon'ble Court: The circumstances under which the FIR was lodged were unusual and suspicious. The modified version of the FIR lodged on 01.06.2021 was questionable since on 29.05.2021 no specific role was attributed to the Petitioner. c) No evidence found against the Petitioner. There were only some chance witnesses or rather tutored witnessed who overheard somebody's conversation and therefore gave statement to implicate the Petitioner. The political overtones of the FIR cannot be brushed aside. The proceedings were initiated soon after there was a shift in Petitioners political affiliations.
4.	07.07.2021	248/2021 PS. Contai	U/s302/120BIPC Date of incident: 13.10.2018 Delay:2 yrs11 months The complainant alleged that her husband was shot in spite of being a part of the security team of Suvendu Adhikari and	That the instant case is a prime example of malicious proceeding, and the allegations enshrined the FIR are so absurd and inherently improbable that no prudent person

			subsequently there was a significant delay in getting the ambulance staff. After almost 3 years, a case under 302 IPC was registered against the Petitioner in relation to the death of his security personnel. AUD case being in quest no 71/2018dt15.10.2018was Initiated by PS. Phoolbagan. <u>Post mortem report indicated suicide as the cause of death. Statement of erstwhile SP Medinipur stating suicide as the cause of death.</u>	can reach a just ground for proceeding against the petitioner. • That there is a delay of almost 3 years in filing the FIR. The date of suicide was 13.10.2018 and the FIR was lodged on 07.07.2021. • The Superintendent of Police during a press conference stated that the deceased victim depressed, and his demeanor was suicidal in nature. • The petitioner though not named in the formal portion of the FIR yet is a palpable target as would be evident from the body of the written complaint. The absurdity of the allegations is that an admitted case of suicide is being registered as a FIR for murder after almost three years. Thus, the same falls under para 102 sub-para (5) and(7) of State of Haryana vs Bhajanlal (1992Supp(1)SCC 335). • The principle of <i>Lalita Kumari vs State of UP</i> reported in (2014)2SCC1hasbeenblatantly violated in the instant case.
5.	19.0 7.20 21	595/2 021 P.S.	U/s. 341/186/187/188/263/270/ 295A/506/120B of IPC	• Another FIR filed against the petitioner for simply taking part in

		Tamluk	Suvendu Adhikari in the course of political rally made derogatory speeches and sent a threatening message to SP, Purba Medinipur.	• a political rally with no specific allegations against him. • The exaggeration of the instant case is shocking to state the least. • FIR lodged Suo Moto without giving any specific detail as why the same was being filed. • The allegations taken on its face value fail to constitute any cognizable offence whatsoever. • Requisite permissions were taken on 17.07.2021, and the same was approved by P.S. Tamluk on 18.07.2021.
6.	24.08.2021	375/2021 P.S. Panskura	u/s 341/323/325/379/ 506/34 IPC. Miscreants on instructions from Suvendu Adhikari assaulted the complainant and stole Rs. 5,000/- along with gold chain.	• The allegations enshrined in the FIR are so absurd and inherently improbable that no prudent person can come up with any rational excuse to initiate proceedings against the petitioner. • Though the Petitioner is not named in the FIR but there are clear insinuations to rope him in. • The preposterousness of the story is evident on a bare reading of the allegations. Thus, the same falls under para 102 sub-para (5) and (7) of State of Haryana vs Bhajanlal (1992 Supp (1) SCC 335).

7.	24.0 8.20 21	376/2 021 P.S. Pansk ura	u/s 341/323/325/354 /379/506/34IPC. Miscreants/ supporters of Suvend Adhikari assaulted the complainant and stole Rs. 2,650/-.	The allegations enshrined in the FIR are again so absurd and inherently improbable that no prudent person can come up with any rational excuse to initiate proceedings against the petitioner. Though the Petitioner is not named in the FIR but there are clear insinuations to rope him in. The preposterousness of the story is evident on a bare reading of the allegations. Thus, the same falls under para 102 sub-para (5) and (7) of State of Haryana vs Bhajanlal (1992 Supp (1) SCC 335).
8.	23.1 0.20 21	705/2 021 PS. Nandi gram	U/s 153A/153B/295 A/298/504/505/120B/34 IPC. Accused of making offensive statements to provoke breach of peace in the State.	Another FIR filed against the petitioner for simply taking part in a political rally with no specific allegations against him. The present case is an attempt to stifle the freedom of speech and expression of the petitioner as envisaged under the Constitution of India so as to prevent him from propagating the ideologies of his political party. The said case fails to mention the portions of the speech which the complainant feels would be of such nature which

				would attract the alleged offences. The investigating agency without even perusing the speech in question proceeded to register the present FIR. No preliminary investigation done before lodging the FIR. Thus, the same falls under para 102 sub-para (5) and (7) of <i>State of Haryana vs Bhajanlal (1992 Supp(1) SCC 335)</i>.
9.	04.02.2022	77/2022 P.S. Contai	U/s 143/149/188/186/189/114/353/500/504/506 IPC; & U/s 32 of Police Act, & 51(b) of Disaster Management Act.	Another Suo Moto FIR filed against the petitioner for simply taking part in a political rally with no specific allegations against him. A copy of the complete FIR was not given to the Petitioner.
10 .	17.02.2022	73/2022 PS. Contai	U/s 341/506/509/34 IPC Date and Time: 17.02.2022 at <u>22.57 hrs.</u> Threatened complainant after being refused to vote and participate in his campaign	These three cases clearly reflect the mode and manner in which the puppets of the ruling administration are being set up to register false and frivolous cases against the petitioner being hand in glove with the state police administration. In all three FIRs the incident took place on 15.02.2022 and all three FIRs were registered on 17.02.2022 with an exact ten-minute interval from each other at the Contai Police

				Station as can be seen from the date and time of FIR. Information was received by the PS on that very day and again on the very same day the FIR was lodged without any preliminary enquiry. The three written complaints though have three different informants are absolutely identical one another. This FIR clearly reflects the mode and manner in which the petitioner is being targeted by the state administration.
11 .	17.0 2.20 22	74/20 22 PS Contai	U/s 34/341/506 IPC Date and Time:17.02.2022 <u>at 23.07 hrs.</u> Threatened complainant after being refused to vote and participate in his campaign.	
12 .	17.0 2.20 22	75/20 22 PS Contai	34/341/506 IPC Date and Time:17.02.2022 <u>at 23.17 hrs.</u> Threatened complainant after being refused to vote and participate in his campaign	
13 .	19.0 2.20 22	83/20 22 PS. Contai	U/s 307/323/25/34/341/354/427/506 IPC Attack and vandalization of party office, assault with the intent to kill complainant and threat to female supporters.	There is no role over ascribed to the petitioner in the present case. The name of the petitioner is added solely to harass him. Thus, the same falls under para 102 sub-para (5) and (7) of <i>State of Haryana vs</i>

				<i>Bhajanlal(1992Supp(1)S CC335).</i>
14 .	16.0 3.20 22	29/20 22 PS. Durga chak	U/s143/186/188/269/270/283 IPC Party rally/procession without prior permission	• The only role ascribed to the petitioner is that he participated in a political rally. • FIR lodged against 200-250 unknown persons. • Once again, the present complaint falls short of disclosing any cognizable offence. • Information was received by the PS on that very day and again on the very same day the FIR was lodged without any preliminary enquiry.
15 .	17.0 3.20 22	53/20 22 PS. Hare street	Threat of dire consequences, criminal intimidation, intentional restraint.	• The instant case is regarding an incident which took place during the Budget Session of the West Bengal Legislative Assembly regarding which no FIR can be registered in the first place. • The same has already been challenged by the petitioner by way of a revisional application being CRR 2442 of 2022.
16 .	16.0 7.20 22	85/20 22 PS. Panda veswa r	166A/171F/189/387/ 389/506/109/120BIPC Bribe offered to the complainant to vote in favour of the presidential candidate of BJP. Threatened when bribe was refused.	• The present case is another glaring example of a cock and bull story and there is no legally admissible material which would implicate the petitioner. • Information was received by the PS on that very day and again on the very same day

				the FIR was lodged without any preliminary enquiry. • The allegations enshrined in the FIR is so absurd and inherently improbable that no prudent person can come up with any rational excuse to initiate proceedings against the petitioner. • One of the accused was granted bail by ACJM, Durgapur on 20.07.2022(pg256), the Ld. Court observed that sections 387/389 of IPC were intentionally added to make it a non-bailable offence. • Thus, the same falls under para 102sub-para(5)and(7) of <i>State of Haryana vs Bhajanlal (1992 Supp (1) SCC 335)</i>.
17 .	24.0 7.20 22	176/2 022 PS. Amher st Street	U/s 120B/469/465/471/ 501/505(1)(c)/153 IPC and 66 – CIT Act Criminal conspiracy to tarnish the reputation of the current ruling party in the State of West Bengal via Twitter	• The present case is the result of an overreaction by the informant towards a twitter post purportedly made by the petitioner, which once again fails to constitute any cognizable offence. • The petitioner is accused of forgery for posting a picture on twitter and therefore it is insinuated that such an act would lead to breach of public peace. • Information was received by the PS on

				that very day and again on the very same day the FIR was lodged without any preliminary enquiry. Thus, the same falls under para 102 sub-para(5) and (7) of <i>State of Haryana vs Bhajanlal</i> (1992 Supp (1) SCC 335).
18 .	08.0 9.20 22	178/2 022 PS. Jadav pur	U/s 341/324/506/ 427/34 IPC Threat and assault on complainant and other supporters of the current ruling party in the State of West Bengal.	There is no overt role ascribed to the petitioner in the present case, and the instant case is an example of malicious proceeding, falling under para 102 sub-para (5) and (7) of <i>State of Haryana vs Bhajanlal</i> (1992 Supp (1) SCC 335).
19 .	28.1 0.20 22	390/2 022 PS. Nanda kumar	U/s 153A/295A/505(2) IPC Accused of making offensive statements to provoke breach of peace on the State, targeting majority communities, and stating that the Hindus in the State are endangered.	The present case is an attempt to stifle the freedom of speech and expression of the petitioner as envisaged under the Constitution of India so as to prevent him from propagating the ideologies of his political party. The said case fails to mention the portions of the speech which the complainant feels would be of such nature which would attract the alleged offences. The investigating agency without even perusing the speech in question proceeded to register the present FIR.

				Thus, the same falls under para 102sub-para(5)and(7) of <i>State of Haryana vs Bhajanlal (1992 Supp (1) SCC 335)</i> .
20 .	11.1 1.20 22	1453/ 2022 PS. Nandi gram	U/s 341/323/326/307/ 435/427/504/506/120B IPC, U/s 25/27Arms Act 1959 and 3/4 ES Act 1908 Allegations of breach of peace caused by fire arms and explosives. Attack, threat and assault on members of BUPC.	Information was received by the PS on that very day and again on the very same day the FIR was lodged without any preliminary enquiry. There is no overt role ascribed to the petitioner in the present case, and the instant case is an example of malicious proceeding, falling under para 102sub-para(5)and(7) of <i>State of Haryana vs Bhajanlal (1992 Supp (1) SCC 335)</i> .
21 .	16.1 1.20 22	144/2 2 P.S. Beleggh ata	U/s 153/500/501/504/505(II)/120B of IPC and under section 23 of POCSO Act. Complaint regarding a Tweet being posted on the twitter handle of the petitioner which were inflammatory in nature and was made to malign the reputation of the State of West Bengal, Mr. Abhishek Banerjee, his child, Chief Minister of West Bengal and the State police force	The present case is the result of an overreaction by the informant towards a twitter post purportedly made by the petitioner, which once again fails to constitute any cognizable offence. Information was received by the PS on that very day and again on the very same day the FIR was lodged without any preliminary enquiry. The allegations enshrined in the FIR is so absurd and inherently improbable that no prudent person

				can come up with any rational excuse to initiate proceedings against the petitioner. The same falls under para 102 sub-para (5) and (7) of <i>State of Haryana vs Bhajanlal</i> (1992 Supp (1) SCC 335).
22 .	17.1 1.20 22	346/2 022 P.S. Jhargram	U/S 34/120B/153A/354A/500/504/505/506/507/509 of IPC and U/s 3(1)(r)(1)(u)/3(1)(w)(ii)/3(2)(vii) of the SC and ST Act (PREVENTION OF ATROCITIES) Act. Complaint regarding a video which has gone viral on social media in which the petitioner made certain hateful and casteist remarks in January 2022 allegedly against the complainant Birbaha Hansda, MLA Jhargram AC.	This is an example of malicious proceeding, falling under para 102 sub-para (5) and (7) of <i>State of Haryana vs Bhajanlal</i> (1992 Supp(1) SCC 335), as in the speech the petitioner does not make any reference to "ST or SC" status of the complainant, yet the same is stated in the FIR. Furthermore, inspite of being a Cabinet Minister of the Ruling administration, the same was suppressed by the informant. The said complaint is false and can be proved from the reading out the reply filed by the complainant wherein she admits that no reference was made related to caste of a person. NO preliminary enquiry before lodging the FIR.
23 .	17.1 1.20 22	130/2 022 PS	U/s 153A/500/504/505/506/507 of IPC with sections 3(1)(r)/(1)(u)/3(1)(w)(ii)/3(2)(vii) of the SC and ST Act (PREVENTION	This is an example of malicious proceeding, falling under para 102 sub-para (5) and (7) of

		Jamboni	OF ATROCITIES) Act. Complaint regarding a video which has gone viral on social media in which the petitioner made certain hateful and casteist remarks in January 2022 in Netai against the complainant Debnath Hansda, MLA Binpur Constituency, Jhargram.	<i>State of Haryana vs Bhajanlal (1992 Supp (1) SCC 335)</i>, as in the speech the petitioner does not make any reference to “ST or SC” status of the complainant, yet the same is stated in the FIR. Furthermore, inspite of being a Cabinet Minister of the Ruling administration, the same was suppressed by the informant before the Hon’ble Apex Court. The said complaint is false and can be proved from the reading out the reply filed by the complainant wherein she admits that no reference was made related to caste of a person. NO preliminary enquiry before lodging the FIR.
24 .	23.1 1.20 22	1178/ 2022 P.S. Sankr ail	U/s509 IPC Some supporters of TMC had sent the petitioner a picture on Whatsapp wishing him good health and speedy recovery and in reply he abused and defamed a female worker of the party. He also defamed Mr. Abhishek Banerjee on Facebook.	The victim is unknown in the present case. The particulars of the incident are vague, and there is no explanation how supporters of the TMC are able to send Whatsapp messages on the phone number of the petitioner being a Z category security holder. The complaint looks like it was already typed out by someone and that a random complainant was picked

				up by the State machinery to fill their name in the blank parts of the complaint. The ludicrous nature of allegations is absurd to state the least.
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3. Learned senior counsel representing the State has submitted and has relied on the written notes of arguments as follows.

3.1. The petitioner has invoked the writ jurisdiction of the High Court at Calcutta under Article 226 of the Constitution of India, by way of filing two writ petitions being W.P.A. No. 11803 of 2021 and W.P.A. No. 25522 of 2022. The petitioner has also preferred a criminal revision application under Section 482 of the Code of Criminal Procedure, 1973, before this Court, being C.R.R. No. 2703 of 2022. The petitioner has assailed a total of 23 FIRs lodged by the State Police in various geographical location in the State of West Bengal, by way of the aforementioned petitions/application, thereby praying for quashing of the FIRs or in the alternative transfer of investigation of the FIRs assailed to the Central Bureau of Investigation.

3.2. The FIRs assailed in W.P.A. No. 11803 of 2021 is tabulated herein below:

Sl . N o.	Police Station, FIR Number and Sections	Complainant	Nature of Allegations	SUBMISSIONS OF THE STATE RESPONDENTS
1.	Manicktala Police	Mr. Sujit Dey	Sometime between July 2019 and September 2019 the FIR named	The allegations made in the

	Station bearing case number 28/2021 dated 27.02.2021 u/s 120B/420/467/468/ 471 of IPC.	accused persons namely (1) Rakhal Bera, (2) Chanchal Nandi and others entered into a criminal conspiracy and pursuant to such conspiracy they organized a fake Government job campaign at Flat-24, Block-2, Saha Institute of Nuclear Physics Cooperative Housing Society Ltd. situated at 108, Manicktala Main Road, Kolkata-700054. On getting such information, the complainant, being a jobless youth went to the above mentioned place for a Govt. job and the accused persons allured and deceitfully induced the complainant to provide him with a job at Irrigation and Waterways Department, Government of West Bengal as a Group D staff, in lieu of money. As per the demand of the accused persons the complainant paid a sum of Rs. 2,00,000/- to the accused persons for getting the job. On getting the aforesaid money, the accused persons handed over forged documents and assured him for his job at the above	complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Petitioner ought not to have challenged the said FIR in the writ, as he is not an FIR named accused. If the name of the Petitioner is wrongly used, then more the reason for it to be investigated. Malafide can be no ground to seek quashing
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			mentioned department. Neither any job was arranged nor his money was returned. On the basis of the above complaint Manicktala Police Station/DD Case No-28 dated 27/02/2021 under Section 120B/420/467/468/471 IPC was registered. The Petitioner is not an FIR named accused.	of the FIR.
2.	Nandigram Police Station bearing case number 110/21 dated 18.03.2021 u/s 147/148/149/323/325/307/352/379/ 506 of IPC.	Smt. Shefali Shil	On 18.03.21 at about 18.15 hrs, Nandigram Police Station received a written complaint from the complainant namely Shefali Shil wife of Khokan Shil of Sonachura Police Station – Nandigram, Dist – Purba Medinipur who alleged that on 18.03.21 at about 11.30 hrs there was a procession of a political party passing through Sonachura Bazar under Nandigram Police Station. The husband of the complainant was standing there and shouted with “Joy Bangla”. Noticing the same the persons from the said procession became very agitated and assaulted her husband with fist and blows and also by their stick of flag. As a result her	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. The truthfulness of the complaint cannot be

			husband received grievous injury on his head. When the others came to the spot to rescue the victim then they were also assaulted with bamboo sticks, iron rod and other deadly weapons. When complainant and other women rushed to the spot then the accused persons outraged her modesty and also took away some gold ornaments from their possession. Her husband and other injured persons were referred to Kolkata P.G. Hospital from Nandigram SS Hospital for their better treatment. Over this complaint, Nandigram Police Station Case No.- 110/21 dated 18/03/21 under Sections 147/148/149/323/325/307/ 354/379/506 of Indian Penal Code, 1860 (in short IPC) was registered. The Petitioner is an FIR named accused.	ascertained by the State Police without conducting an investigation. The veracity of the complaint cannot be looked upon at this stage. If anything is to be considered, it is the disclosure of offences in the complaint.
3.	Tamluk Police Station bearing case	Suo Moto Complaint	On 19.07.2021 at 15.30 hrs, the karyakartas of BJP would give a deputation before Superintendent of Police, Purba Medinipur at Nimtouri and in that deputation	The allegations made in the complaint discloses commission of

number 595/21 dated 19.07.21 u/s 341/ 186/ 187/ 188/ 189/ 269/ 270/ 295A/ 506/ 120B of IPC read with 51(b) of Disaster Managem ent Act, 2005 and Section 5 of the Official Secrets Act, 1923.	program, the writ petitioner would remain present. The matter was conveyed to superior officers and as per their instructions, an assessment has been made and as per source information, it came to be learnt that huge number of supporters of a political party might take part in that deputation program and may create chaos there. On 19.07.21 the complainant noticed that one Ashish Mandal, Vice President of Tamluk Sangathanik Zilla along with some MLAs and approx 100-150 unknown male and female party supporters started to assemble themselves on the road by obstructing the same which hampered the smooth movement of vehicles as well as the common people who were going to different offices for their personal work. Thereafter, they gathered at the north east corner of the office of the Superintendent of Police, Purba Medinipur inside the Nimtouri Administrative building campus. A BJP festoon (Tamluk	cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. The statements made by the Petitioner against the officials of the State Police are egregious and in violation with the provisions of the Official Secrets Act, 1923.
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			SP Office Cholo Aviyan, Obosthan Bikhhov O Deputation) clad vehicle with public address system was present as well. Later, all of them started to deliver their respective speeches against police and on several other political agendas. In that situation, the complainant asked the above noted MLAs and others political leaders to disassemble themselves as the above noted political gathering is in violation of the recent order of the Govt. of West Bengal vide Order No-753/III-ISS/2M-22/2020, Dt-14.07.2020. They were not maintaining the social distance norms which may spread COVID-19 and endanger human life. Being a public servant, the complainant directed them to disassemble, but they refused the direction and continued their program. In the meantime, the petitioner arrived there with approximately 50 supporters and started to deliver his speech in which some objectionable speeches were	
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			delivered targeting Shri K. Amarnath, SP, Purba Medinipur and Shri Sayed Mohammed Mamdoodul Hasan, Addl. SP (HQ), Purba Medinipur. His speeches were quite demeaning & threatening to the superior officers of police and also those speech were intentional and deliberately made to outrage and insult the religious feelings/belief of others. He also threatened the on duty police personnel in public domain. The complainant repeatedly asked them to discontinue such an act and to disperse, but they responded vehemently, and also started to threaten the on duty police personnel, that if they make any attempt against their activities, they will attack the police. The Petitioner is an FIR named accused.	
4.	Contai Police Station bearing case number	Smt. Suparna Kanjilal Chakraborty	On 07.07.21 at 21:05 hrs a written complaint was lodged by the complainant namely Suparna Kanjilal Chakraborty, Wife of Late Subhbrata Chakraborty of Sarberia, Post Office: Madhya	The allegations made in the complaint discloses commission of cognizable

	248/21 dated 07.07.202 1 u/s 302/120 B of IPC.		Hingli, Police Station: Mahisadal, Dist.-Purba Medinipur, to the effect that the complainant's husband namely Subhabrata Chakroborty was engaged as a security guard of the petitioner herein and he resided at Contai. On 13.10.18, a telephonic conversation took place between the complainant and her husband at 10:16 hrs and her husband informed her that he would be coming home. At about 11:20 hrs the complainant came to know from her sister-in-law that, her husband was admitted to Contai SD Hospital for medical treatment. Following which the complainant's relatives had left for Contai SD Hospital and on arriving there, she came to learn from them that an arrangement of ambulance has been made for shifting her husband to Kolkata for undergoing better treatment as per direction of Suwendu Adhikary. On the same day, her husband had been transferred to Apollo Hospital, Kolkata at about 19:00 hrs. On 14.10.2018 at	offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Petitioner has invoked the writ jurisdiction and has approached this Hon'ble Court with unclean hands. Petitioner is not an FIR named accused. Petitioner has not disclosed his whereabouts at the relevant point of time when the victim got shot. The complainant
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			17:00 hrs, her husband had expired. Based on the facts, a suspicion aroused on the part of the complainant questioning the delay in arranging the ambulance for shifting his husband from Contai SD Hospital to Kolkata despite being a security guard of the writ petitioner and the reason for her husband being shot. The de facto complainant also alleged that on account of influence of the writ petitioner, she was initially scared to disclose anything to anyone. As per the de facto complainant, as far as the present situation is concerned, she feels that she may get justice in this regard. On the basis of this written complaint, a case vide Contai Police Station Case No. 248/21 date- 07.07.21 under Section 302/120B IPC was started. Petitioner is not an FIR named accused.	has substantiated in her written complaint on the point of delay in lodging the complaint. Alleged delay, if any, may be taken into consideration by the Trial Court at the time of trial. There is no allegation against the Petitioner in the complaint. This Hon'ble Court should evaluate the interest of the Petitioner, who is trying to stall the investigation. It is the fundamental right of the wife
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				of the deceased to seek justice and the same cannot be confronted by another third person whose alleged fundamental rights are infringed. . This Hon'ble Court ought to intervene when there is a conflict arising between fundamental rights of two individuals, moreso when the complainant is a victim.
5.	Panskura Police Station bearing case number	Mr. Sk. Murshed Ali	During the convoy of the petitioner, complainant was assaulted by accused persons. Further, accused persons snatched complainant's gold chain and Rs. 5000/- from him.	The allegations made in the complaint discloses commission of cognizable

	375/21 dated 24.08.202 1 u/s 341/ 323/ 325/ 379/ 506/ 34 of IPC.		Petitioner is not an FIR named accused.	offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR.
6.	Panskura Police Station bearing case number 376/21 dated 24.08.202 1 u/s 341/ 323/ 325/ 354/ 379/ 506/ 34 of IPC.	Mr. Pratik Pakhira	The complainant was assaulted by the accused persons. Petitioner is not an FIR named accused.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR.

Important dates and events on and from 06.09.2021 to 08.12.2022 - Order dated 06.09.2021 in WPA 11803 of 2021- By an order dated 06.09.2021, the High Court was pleased direct the following:

- a) Stay of all proceedings in 4 FIRs:
 - i) Nandigram Police Station bearing case number 110/21 dated 18.03.2021,
 - ii) Contai Police Station bearing case number 248/21 dated 07.07.2021,
 - iii) Panskura Police Station bearing case number 375/21 dated 24.08.2021,
 - iv) Panskura Police Station bearing case number 376/21 dated 24.08.2021.
- b) Investigation to continue but no-coercive action to be taken against the petitioner and petitioner to co-operate with the investigation in 2 FIRS:
 - i) Manicktala Police Station bearing case number 28/2021 dated 27.02.2021,
 - ii) Tamluk Police Station bearing case number 595/21 dated 19.07.21.
- c) State to furnish information as regards any further FIR registered against the petitioner.
- d) State to obtain leave of this Court before arresting the petitioner or taking any coercive steps against the petitioner.

MAT 970 of 2021- State of West Bengal vs. Suvendu Adhikari &Ors.- Being aggrieved by and dissatisfied with the Order dated September 6, 2021, passed by the High Court, State Respondents herein preferred an appeal before the Division Bench of this Court which was registered as MAT No.970 of 2021. The said appeal was heard along with other appeals preferred by the private respondents herein when after hearing, vide Judgment and Order dated November 17, 2021, the Division Bench of this Court was inter alia pleased to hold that the appeal so preferred against the Order dated September 6, 2021

was not maintainable in the eye of law in view of the law laid down by the Hon'ble Supreme Court of India in *Ram Kishan Fauji -vs- State of Haryana and Others* reported in (2017) 5 SCC 533.

SLP (Criminal) No. 9251 of 2021 – State of West Bengal vs. Suvendu Adhikari & Ors.- Thereafter, the State Respondents filed a special leave petition before the Hon'ble Supreme Court of India being SLP (Criminal) No. 9251 of 2021 against the Order dated September 6, 2021 passed in WPA No. 11803 of 2021, when after hearing vide Judgment and Order dated December 13, 2021, the Hon'ble Supreme Court of India was pleased to dispose of the same thereby granting liberty to the State Respondents to file application seeking modification of the interim order based on material which was produced by the Investigating Officer in the Affidavit in Opposition.

SLP (Civil) No. 20586 of 2021- State of West Bengal vs Suvendu Adhikari & Ors.- The State Respondents also filed a special leave petition before the Hon'ble Supreme Court of India being SLP (Civil) No. 20586 of 2021 against the Order dated November 17, 2021 passed by the Division Bench in MAT No. 970 OF 2021, when after hearing vide Judgment and Order dated January 3, 2022, the Hon'ble Supreme Court of India was pleased to dispose of the same in line of the Order dated December 13, 2021 passed by the Hon'ble Supreme Court of India in SLP (Criminal) No. 9251 of 2021.

CAN No. 1 of 2022 in WPA 11803 of 2021- Pursuant to the liberty granted by the Hon'ble Supreme Court vide its order dated 13.12.2021 in SLP (Criminal)

No. 9251 of 2021, the State Respondents filed an application, being CAN No. 1 of 2022, thereby praying for modification and/or vacating of the interim order dated 06.09.2021 passed by the High Court in WPA 11803 of 2021.

CAN No. 2 of 2022 in WPA 11803 of 2021 By its order dated 06.09.2021 in WPA 11803 of 2021, the High Court had directed the investigation to continue but no-coercive action to be taken against the petitioner and petitioner to co-operate with the investigation in 2 FIRS, being Manicktala Police Station bearing case number 28/2021 dated 27.02.2021 and Tamluk Police Station bearing case number 595/21 dated 19.07.21. Notices under Section 160 of the Code of Criminal Procedure, 1973 was issued upon the petitioner in Manicktala Police Station bearing case number 28/2021 and notices under Section 41A was issued upon the petitioner in Tamluk Police Station bearing case number 595/21 dated 19.07.21 by the respective Police seeking his attendance for the purpose of investigation at a time and place convenient to him. However, the petitioner miserably failed to co-operate with investigation by making frivolous demands. Due to the non-cooperation in investigation and wilful disobedience of the directions passed by the High Court in its order dated 06.09.2021, the State Respondents filed an application, being CAN No. 2 of 2022, thereby praying for modification and/or vacating of the order dated 06.09.2021 passed by the High Court in WPA 11803 of 2021.

In the interregnum, the State Police Authorities had registered multiple FIRs against the petitioner and others, upon receipt of various complaint lodged by distinct individuals from time to time and on disclosure of commission of

cognizable offences by the Petitioner. The Investigating Officers, in multiple FIRs, issued numerous notices under Section 41A of the Code of Criminal Procedure, 1973 upon the petitioner seeking his attendance for the purpose of investigation at a time and place convenient to him. However, the petitioner, time and again, has miserably failed to co-operate with the investigation by making frivolous demands.

In absolute obedience of the directions passed by the High Court in its order dated 06.09.2021, the State Respondents, by filing supplementary affidavits before the High Court in WPA 11803 of 2021, furnished information as regards to each and every FIR registered against the petitioner.

3.3. The FIRs assailed in W.P.A. No. 25522 of 2022 are tabulated herein below:

Sl . N o.	Police Station, FIR Number and Sections	Complainant	Nature of Allegations	SUBMISSION S OF THE STATE RESPONDENTS
1.	Kulti P.S. Case No. 77/2022 dated 04.02.2022 u/s 143/ 149/ 188/ 186/ 189/ 114/ 353/ 500/ 504/	Suo- motu complaint by Krishne ndu Dutta, being I/C, Kulti	On 04.02.2022 at 00:15 hours, a suo-moto complaint had been lodged against the petitioner, one Ajay Poddar, one Abhijit Acharjee @Bappa and others on the basis of information that, on 03.02.22 at 15:00 hours, the programme of the petitioner, at Subhash More, Ward No. 104 and 105, Sanctoria under Kulti P.S. was scheduled for door-	The allegations in the complaint discloses commission of cognizable offences. The veracity of the complaint

	506 of the IPC read with Section 32 of the Police Act and Section 51 (b) of the Disaster Management Act.	P.S.	to-door campaigning as alleged. To maintain Law and Order and public tranquility at the area, adequate Police Force being SI Sandip Das, IC Sanctoria IC, SI Amit Halder, IC Neamatpur IC along with force, SI Sital Nag, IC Barakar PP, SI Pranim Tamang, IC Chowrangi OP along with force were deputed and Mobile officer ASI Rakesh Kumar Singh of Kulti PS, ASI Abdul Mannaf of Sanctoria IC and ASI Raghunath Sau of Sanctoria was introduced and/or deployed to upkeep the Law and Order during such programme. Officers and forces from RI ADPC were also deputed for the said Law and Order duty. At about 16.15 hours, the petitioner reached at Subhash More Sanctoria under AMC Ward No. 104 along with escort and security coverage. All of a sudden due to the indulgence of the petitioner and others, a large number of supporters of BJP assembled there and formed an unruly crowd. The petitioner and other concerned were repeatedly	cannot be looked upon at this stage. If anything is to be considered, it is the disclosure of offences in the complaint.
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			requested to obey the State Election Commission Guidelines but they did not pay heed but rather got excited. The Petitioner started to deliver his speech and made defamatory speech against Police Officers. The concerned officers tried to pacify the supporters but all in vain as the said supporters led by the petitioner and others started a big procession on the plea of door-to-door campaign and violated the existing guidelines.	
2.	Contai P.S. Case No. 83/22 dated 19.02.202 2 u/s 341/323/3 25/307/35 4/427/506 /34 of the IPC	Complainant made by Surajit Nayak.	On 18.02.22 in between 18:00 hours to 18:30 hours, the complainant, along with his maternal brother and others were having a meeting in a temporary party office beside Supermarket Kaluraymandir, and at that time the accused persons i.e. the petitioner and his security persons and others FIR named accused persons suddenly attacked the said party office of a particular Political Party and vandalized the said party office and security personnel of the petitioner and others accused	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound

			persons assaulted the complainant's maternal brother and throttled his neck with intent to kill him. The accused persons also outraged of modesty of other female supporters and assaulted the other associates of the complainant's maternal brother. It had further been stated that as a result of the aforesaid, the complainant's maternal brother received severe injuries and was shifted to Contai SD Hospital and thereafter he was referred to a different hospital for better treatment.	to register an FIR.
3.	Contai P.S. Case No. 73/22 dated 17.02.2022 u/s 341/ 506/ 509/ 34/120B of the IPC.	Complainant made by Jarina Khatun.	On 15.02.2022 at 13:30 hours, the petitioner along with 50/60 others during party campaigns told her to cast her vote to BJP and participate in their campaign. When the complainant refused, the accused persons threatened her with dire consequences and used words and gesture against her with the intention to outrage her modesty.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the

				State Police is duty bound to register an FIR. Upon prayer made by the Investigating Officer, the Learned Magistrate, by using its judicial mind, has allowed the addition/inser tion of Section 120 B of the Indian Penal Code, 1860.
4.	Contai P.S. Case No. 74/22 dated 17.02.2022 u/s 341/506/34/120B of the IPC.	Complain t made by Avaya Maity.	On 15.02.2022 at 13:00 hours, the petitioner along with 50/60 others during party campaigns told him to cast his vote to BJP and participate in their campaign. When the complainant refused, the accused persons threatened him with dire consequences.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint

				discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Upon prayer made by the Investigating Officer, the Learned Magistrate, by using its judicial mind, has allowed the addition/insertion of Section 120 B of the Indian Penal Code, 1860.
5.	Contai P.S. Case No. 75/22 dated 17.02.2022 u/s 341/506/	Complaint made by Kanai Pradhan	On 15.02.2022 at 11:45 hours, the petitioner along with 50/60 others during party campaigns told him to cast his vote to BJP and participate in their campaign. When the complainant refused, the accused persons threatened him	The allegations made in the complaint discloses commission of cognizable

	34/120B of the IPC.		with dire consequences.	offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Upon prayer made by the Investigating Officer, the Learned Magistrate, by using its judicial mind, has allowed the addition/inse-rtion of Section 120 B of the Indian Penal Code, 1860.
6.	Nandigram P.S. Case No.	Complai- nt made by	On 23/10/21 at 21:35 hours, Nandigram Police Station received a written complaint from the	The allegations made in the

	705/21 dated 23.10.202 1 u/s 153A/ 153B/ 295A/ 298/ 504/ 505/ 120B/ 34 of the IPC.	Kamal Kumar Jana.	complainant namely Kamal Kumar Jana S/O Ramprasad Jana of Vill – ‘D’ Jamtala, P.O. Tajpur, P.S. Nandigram, Dist. Purba Medinipur against the petitioner, and other participants who were present, participated as chief guest in the rally and street corner meeting held from Haripur Bus stand to Tengua More organized by Hindu Jagaran Mancha and thereafter street corner meeting at Tengua more on 23/10/21 in between 11:45 hours to 12:15 hours. The complainant, as stated, happened to attend the said rally and street corner meeting where the petitioner made communally charged statements with the intention to instigate hatred amongst people belonging to different religions/ communities in the State of West Bengal.	complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR.
7.	Durgachak P.S. Case No. 29/22 dated 16.03.202 2 u/s 143/ 188/ 186/	Suo- motu complai nt by Nirmal Banerjee , being	Suo-motu against the petitioner and others. On 16.03.2022, around 200/250 unknown persons unlawfully assembled at Durgachak Super Market for taking out a rally procession over the victory of BJP in other States	The allegations in the complaint discloses commission of cognizable offences.

	269/ 270/ 283 of the IPC.	A.S.I., Durgachak P.S.	of India. Despite repeated requests made by the policemen deployed there, the said accused persons did not pay any heed to the requests made by the police. After the arrival of the petitioner, the said mob forcefully and unlawfully took out a rally and moved up to Girish More through Haldia Mechada Road by using loudspeakers.	As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR.
8.	Hare Street P.S. Case/Kolkata Police Case No. 53/22 dated 17.03.2022 u/s 166/ 189/ 341/ 506 (Second Proviso) of the IPC.	Supratim Bhattacharya, Secretary of West Bengal Legislative Assembly.	On 16.03.2022, the petitioner intentionally restrained, criminally intimidated other MLAs, being public servants, with dire consequences inside Assembly House during the session. The instant FIR has been assailed by the petitioner in CRR 2442 of 2022 before a coordinate bench of this Hon'ble Court. Pursuant to the order dated 13.07.2022 passed by the Hon'ble High Court in CRR 2442 of 2022, the proceedings in the said FIR has been stayed.	
9.	Amherst P.S. Case No.	Complaint made by	The petitioner and other accused persons entered into criminal conspiracy and posted a fake and	The allegations made in the

	176/22 dated 24.07.2022 u/s 120B/ 465/ 469/ 471/ 501/ 505(1)(c)/ 153 of the IPC R/W Section 66(c) of the IT Act.	Avishek Roy Chowdhury	forged photo in his twitter handle, misrepresenting a mass programme with an intention to damage the reputation of the ruling party in WB with an intention to provoke people and which may lead to breach of peace.	complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR.
10 •	Jadavpur P.S. Case No. 178/2022 dated 08.09.2022 u/s. 341/ 324/ 506/ 427/ 34 of the IPC	Complainant made by Jayashree Deb.	The complainant namely one Jayashree Deb, inter alia, to the effect that on 07.09.2022 at about 20:25 Hours, the petitioner while on a procession from Garia to 8B bus stand, threatened the complainant and other persons. On protest, the petitioner and others assaulted the complainant and other persons, as a result of which the complainant and others incurred bodily injuries.	The allegations in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound

				to register an FIR.
11	Nandakumar P.S. Case No. 390/2022 dated 28.10.2022 u/s. 153A/295A/505(2) of the IPC	Complaint made by Abu Sohel.	On 28.10.2022, Nandakumar Police Station received a complaint from one Abu Sohel S/o. Sk Ahmed Hossain of village Gimageria, PS – Contai, Dist- Purba Medinipur through E-Mail to the effect that during an inauguration programme of Kali Puja on 20/10/2022 at Nunimore, Asansol and on 24/10/2022 at Nandakumar, Purba Medinipur, the petitioner, made deliberate provoking statements to jeopardize the communal harmony in the State where he alleged that the Hindus living in West Bengal are not safe. The petitioner further instigated the Hindus living in the State of West Bengal against one minority community by relying upon the facts and/or incident that happened at Mominpur at Kolkata and Ramnagar under Diamond Harbour Police District. It was further complained that such comment against different communities of this Country has created ripples across the Society.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. The statements made by the petitioner discloses out an offence under Section 153 A of the Indian Penal Code,

				1860. The statements made as to Hindus have been killed at Mominpur is a matter of investigation. The veracity of the statements made by the Petitioner needs to be ascertained by the Investigating Agency or those statements were sheerly made for the purpose of spreading rumours. The statements made by the petitioner are
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				dangerous and have massive repercussions considering his position as a political leader. The adjudication of this writ petition ought to be made as to whether the statements made by the petitioner discloses commission of cognizable offences.
12 •	Nandigram P.S. Case No. 1453/2022 dated 11.11.2022 u/s. 341/ 323/	Complaint made by Sitaram Karan.	On 11.11.2022 at 18:45 hours, a written complaint has been received at the concerned police station from the complainant namely Sitaram Karan S/o- Late Nitai Karan of Jambari, P.S.- Nandigram, Dist- Purba Medinipur who alleged that on 10.11.22,	The allegations made in the complaint discloses commission of cognizable offences.

	326/ 307/ 435/ 427/ 504/ 506/ 120B of the IPC r/w Section 25/27 of the Arms Act and Section 3/4 of the Explosive Substance s Act.		Sahid Dibas was observed by Gokulnagar Bhumi Ucched Pratirodh Committee (BUPC) at Gokulnagar Kar Polly and on the same day after the programme got over, the petitioner came at the spot with numerous miscreants and showed disrespect towards the Martyr's altar by throwing away garland, dhoop sticks & candle which were offered to it. He also gave provocative speech there and as a result this his followers got excited and made the environment of Nandigram noxious, by using firearms, bombs, setting fire in the stage and assaulted supporters of a particular political party.	As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. If the State Police doesn't take any step/investigate, the complainant will allege the inaction of Police Authorities.
13	Beliaghata P.S. Case No. 144/2022 dated 16.11.2022 u/s. 153/ 500/ 501/ 504/ 505	Complainant made by Tirtha Ghosh.	On 13.11.2022, the petitioner made derogatory statements (tweets) against Shree Abhishek Banerjee, MP, his minor son and the State Police on Twitter with an intention to malign the image of the minor child and infringing upon the child's privacy with an intention to instigate and promote riot amongst the common mass.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint

	(2)/120B of IPC r/w Section 23 of the POCSO.			discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR.
14 •	Jamboni P.S. Case No. 130/2022 dated 17.11.202 2 u/s. 153A/ 500/ 504/ 505/ 506/ 507 of the IPC r/w Section 3 (1) (r)/ 3(1) (u)/3 (2) (7) of the Scheduled Caste and Scheduled Tribes (Prevention	Complai nt made by Debnath Hansda.	On 17.11.2022 at 20.15 hours, Jamboni Police Station received a written complaint from Sri Debnath Hansda to the effect that he has come across a video on social media wherein petitioner is seen to be making disgusting & heinous comments against him and Smt. Birbaha Hansda in a public gathering on or about January, 2022 at Netai. It has further been alleged that the petitioner has deliberately passed such hateful, derogatory and nasty comments against the said persons publicly with a view to cause embarrassment, shame and humiliation to the said persons and all the members of the Scheduled Tribes and that such comments were made towards the	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Mere mentioning or non-

	of Atrocities) Act.		complainant's entire community. The complainant is an elected member of Legislative Assembly of the State of WB.	mentioning of the word "Scheduled Tribe" does not make any difference. The name of the complainant is taken in a casteist manner, who belongs to Scheduled Tribe Caste. Section 15 of the the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, envisages rights of the victim and witnesses. No notice was issued upon
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				the complainant, the petitioner assailed the FIR by way of a supplementary affidavit and the investigation in the FIR was stayed. There is no scope of preliminary enquiry, if there is commission of offence under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.
15 •	Jhargram P.S. Case No. 346 of	Complaint made by	On 16.11.2022 at 13:35 hours, Inspector-in-charge Jhargram P. S. received a complaint from one	The allegations made in the

	2022 dated 17.11.2022 u/s. 34/120B/153A/354A/500/ 504/505/ 506/507/ 509 of the IPC r/w Section 3(1) (r)/ 3(1) (u)/ 3 (1) (w) (ii)/3(2) (vii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.	Birbaha Hansda.	Smt. Birbaha Hansda, daughter of Late Naren Hansda wherein it has, inter alia, been alleged that solely for the reason of being a member of scheduled tribe community, she had been subjected to casteist slurs by the petitioner and others in public. It has further been alleged that it was brought to her notice that a video is doing rounds on social media, where the petitioner and others can be seen of making derogatory, hateful and casteist remarks against the complainant in front of gathered persons and media. It was alleged that such statements were made with the sole intention to humiliate and degrade the complainant publicly. The complainant is an elected member of Legislative Assembly of the State of WB.	complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Mere mentioning or non-mentioning of the word "Scheduled Tribe" does not make any difference. The name of the complainant is taken in a casteist manner, who
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				belongs to Scheduled Tribe Caste. Section 15 of the the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, envisages rights of the victim and witnesses. No notice was issued upon the complainant, the petitioner assailed the FIR by way of a supplementary affidavit and the investigation in the FIR was stayed.
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				There is no scope of preliminary enquiry, if there is commission of offence under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.
16 •	Sankrail P.S Case No. 1178 of 2022 dated 23.11.2022 u/s 509 of the IPC.	Complaint made by Ankita Adak	The petitioner herein made indecent remarks in respect to the complainant, who happens to be a lady as well.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is

				duty bound to register an FIR.
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3.4. The FIR assailed in C.R.R. No. 2703 of 2022 is tabulated herein below:

Sl . N o.	Police Station, FIR Number and Sections	Complainant	Nature of Allegations	SUBMISSIONS OF THE STATE RESPONDENTS
1.	Pandaveswar P.S. Case No. 85/2022 dated 16.07.2022 u/s 166A/ 171F/ 189/ 387/ 389/ 506/ 109/ 120B of IPC.	Complaint made by Narendranath Chakraborty, MLA, Pandaveswar AC.	On 14.07.2022, the accused person, on instructions of the petitioner, called the complainant and offered to bribe him with an intention to influence the outcome of the presidential election which was held in 2022.	The allegations made in the complaint discloses commission of cognizable offences. As the complaint discloses commission of cognizable offence(s), the State Police is duty bound to register an FIR. Merely because some observations have been made

				by the Learned Magistrate, while granting bail to the accused person arrested, does not make out sufficient grounds for quashing of the FIR.
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3.5. The contentions and/or pleadings made by the writ petitioner alleging mala fide against the State Police is palpably without any materials and/or evidence in support thereof. It is alleged that the State machinery is acting against the petitioner on the whims and fancies of their alleged political masters. The allegations are purely on the basis of surmises, prejudice and conjectures. It is argued that if a point/fact is being raised, the same has to be pleaded and proved by evidence which must appear from the writ petition. If the facts are not pleaded and the evidence in support of such facts thereof is not annexed to the writ petition, the Court shall refrain from entertaining such point/contention/fact. In the instant case, pleadings of mala fide are without any basis of foundational facts. [Bharat Singh v. State of Haryana reported in AIR 1988 SC 2181; State of Chhattisgarh & Anr. v. Aman Kumar Singh &Ors. reported in (2023) 6 SCC 559].

3.6. It is contended that the petitioner has made bald and baseless allegations against the ruling party dispensation in the State of West Bengal sheerly on the basis of surmises and conjectures and without any iota of proof. The petitioner has alleged that he is facing a barrage of criminal cases at the behest of the ruling party without making the ruling party or any member thereof as a party in the writ petition. It is contended that since they have not been made a party in the writ petitions, any allegation made by the writ petition against the ruling party dispensation is frivolous, baseless and merit no indulgence by this Hon'ble Court.

3.7. The writ petitioner has conveniently clubbed multiple criminal proceedings in two writ petitions by invoking the jurisdiction of the Hon'ble High Court under Article 226 of the Constitution of India. A total of 23 FIRS have been clubbed together, the cause of action of which are separate and distinct. Clubbing of different cause of action is erroneous in law. The aggrieved/complainant in the criminal proceedings are all distinct and separate. It casts a huge question on the maintainability of the writ petitions as the same is bereft of law and suffers from misjoinder of cause of action [*Shivnarayan vs. Maniklal reported in (2020) 11 SCC 629*].

3.8. Parameters of quashing under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 –

- a. The power of quashing a criminal proceeding should be exercised very sparingly and with circumspection, reserved for the rarest of rare cases. The extraordinary or inherent powers under Article 226 or Section 482 of CrPC do

not confer an arbitrary jurisdiction on the court to act according to its whim or caprice. The court will not be justified in embarking upon an enquiry into the reliability or genuineness of the allegations made in the FIR or the complaint. The High Court can exercise its extraordinary power under Article 226 or inherent powers under Section 482 CrPC to prevent abuse of the process of any court or to secure justice in various situations. Although precise guidelines cannot be rigidly defined, the following cases illustrate where such power can be used:

1. Allegations in the FIR or complaint, even if taken at face value, do not prima facie constitute any offence or make out a case against the accused.
2. FIR allegations and accompanying materials do not disclose a cognizable offence justifying police investigation under Section 156(1) of the Code, except under the Magistrate's purview within Section 155(2).
3. Uncontroverted FIR or complaint allegations and supporting evidence do not disclose the commission of any offence or make out a case against the accused.
4. FIR allegations constitute only a non-cognizable offence, requiring a Magistrate's order for investigation under Section 155(2).
5. FIR or complaint allegations are so absurd and inherently improbable that no prudent person could conclude there is sufficient ground for proceeding against the accused.

6. There is an express legal bar in the Code or the concerned Act against the institution and continuance of the proceedings, or there is a specific provision providing efficacious redress for the grievance.
7. The criminal proceeding is manifestly attended with mala fide or is malicious with an ulterior motive for vengeance due to a personal grudge. In the present case, the allegations made in the FIR against the petitioner clearly constitute cognizable offences justifying the registration of the cases and investigation thereon, and do not call for the exercise of extraordinary or inherent powers of the High Court to quash the FIRs. [*State of Haryana & Ors vs Bhajanlal & Ors (1992) Supp (1) SCC 335*].
- b. Even otherwise, it is a settled position of law that while exercising powers under Section 482 CrPC, the High Court is not required to conduct a mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR prima facie disclose the commission of a cognizable offence or not. (*State Represented by the Inspector of Police vs Maridoss & Anr (2023) 4 SCC 338*). In the petitioner's case, the FIRs lodged in various locations across West Bengal indicate the commission of cognizable offenses. The primary concern at this stage is not to determine the guilt or innocence of the petitioner but to assess whether the FIRs contain sufficient allegations that prima facie discloses the commission of a cognizable offense [*S.M Dutta vs State of Gujarat & Anr (2001) 7 SCC 659*].

- c. The High Court must bear in mind that judicial intervention at the threshold of the legal process initiated against an accused person is highly detrimental to the larger public and societal interest. Quashing of an FIR should be an exception rather than an ordinary rule. The functions of the judiciary and police are complementary, not overlapping. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the court to act according to its whims and caprice. The FIR is not an encyclopaedia that must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegation. It is intellectual truancy to avoid the precedents and issue directions which are not in consonance with law. It is the duty of the Judge to sustain the judicial balance and not to think of an order which can cause trauma to the process of adjudication. [*Neeharika Infrastructure Pvt Ltd vs State of Maharashtra &Ors*(2021) SCC OnLine SC 315], [*Veena Mittal vs State of Uttar Pradesh &Ors*, Order dated 24.01.2022, passed by Hon'ble SC in CA No. 122 of 2022] and [*State of Telangana vs Habib Abdullah Jeelani & Ors* (2017) 2 SCC 779].
- d. The law is well settled that the courts should not thwart any investigation except when no cognizable offence or any offence is disclosed in the FIR. If a perusal of the first information report leads to the disclosure of an offence even broadly, courts are barred from usurping the jurisdiction of the police, since the two organs of the State

operate in two specific spheres of activities and one ought not to tread over the other sphere [Skoda Auto Volkswagen (India) Pvt Ltd vs State of U.P &Ors, (2021) 5 SCC 795]. In the instant case, all the FIRs lodged against the petitioner reveal the commission of cognisable offences.

- e. The High Court should be loath to interfere by exercising its inherent power under Section 482 CrPC or under Articles 226 and 227 of the Constitution to interfere at the threshold to thwart the prosecution as the case may be and should allow the law to take its own course. [*State of Uttar Pradesh vs O.P Sharma (1996) 7 SCC 705*]. However, by an order dated 06.09.2021 in WPA 11803 of 2021, the High Court directed a stay of investigation in 4 FIRs and by an order dated 08.12.2022 in WPA 25522 of 2022, the High Court was, inter alia, pleased to stay of investigation in each and every FIRs referred in the writ petition and further directed the State Police not to register any more FIRs against the petitioner, without the leave of the Court.
- f. Criminal proceedings, in the normal course of events ought not to be scuttled at the initial stage, unless the same amounts to an abuse of the process of law. There are no definitive guidelines to determine which investigations should be stopped early. The first information report needs to be considered and if the answer is found on a perusal thereof which leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police since the two organs of the State operate in two specific spheres of activities and one ought not to tread

over the other sphere. [*S.M Dutta vs State of Gujarat & Anr (2001) 7 SCC 659*]. While adjudicating an application to quash an FIR under Section 482 of the CrPC, the High Court should not assume the role of an investigating agency or act as an appellate court.

3.9. If information disclosing a cognizable offence is presented to a police officer satisfying Section 154(1) of the Code, the officer must enter it in the prescribed form and register a case, regardless of the information's reasonableness or credibility. The legislature intentionally used "information" in Section 154(1) without qualifiers like "reasonable complaint" or "credible information" [*State of Haryana & Ors vs Bhajanlal & Ors, 1992 Supp (1) SCC 335*].

3.10. Conditions for commencement of investigation by police officer –

- a) The commencement of investigation by a police officer is subject to two conditions, firstly, the police officer should have reason to suspect the commission of a cognizable offence as required by Section 157(1) of CrPC and secondly, the police officer should subjectively satisfy himself as to whether there is sufficient ground for entering on an investigation even before he starts an investigation into the facts and circumstances of the case as contemplated under clause (b) of the proviso to Section 157(1) of the Code. [*State of Haryana & Ors vs Bhajanlal & Ors (1992) Supp (1) SCC 335*].
- b) The information disclosing the commission of a cognizable offence initiates the investigative machinery to collect necessary evidence and

take subsequent legal action. The key test is whether the information provides a reason to suspect the commission of an offence, which the police officer is empowered to investigate under Section 156 of the CrPC. If it does, the officer must record the information and investigate or assign a competent officer to do so. The report's truthfulness, the completeness of details about the occurrence, the naming of the accused, and the sufficiency of evidence are irrelevant in determining if a cognizable offence is disclosed. Regardless of the information, the investigating officer must investigate and uncover the true facts [*State of Chhattisgarh & Anr. vs Aman Kumar Sinha & Ors, 2023 6 SCC 559*].

3.11. Allegation of Mala fide Intention -

- a. Mala fides means a lack of good faith, personal bias, grudge, improper motive, or ulterior purpose. Mere assertions of mala fides are insufficient; it must be proven with facts and circumstances. [***State of Bihar & Anr vs. P.P Sharma & Anr, 1992 Supp (1) SCC 222***].
- b. In this case, all the FIRs are at a premature stage and the investigation has not at its nascent stage. The evidence has to be gathered after a thorough investigation and placed before the court on the basis of which alone the court can come to a conclusion one way or the other on the plea of mala fides. If the allegations are bereft of truth and made maliciously, it is stated that the investigation will reflect so. At this stage, when there are only allegations and recriminations but no evidence, this court cannot anticipate the result of the investigation and

render a finding on the question of mala fides on the materials at present available. Therefore, there is no force in the contention that the complaint should be thrown overboard on the mere unsubstantiated plea of mala fides. [***State of Haryana & Ors vs Bhajanlal & Ors (1992) Supp (1) SCC 335***].

- c. It is well established proposition of law that a criminal prosecution, if otherwise justifiable and based upon adequate evidence does not become vitiated on account of mala fides or political vendetta of the first informant or the complainant. [***The view by C.J Bhagwati in State of Haryana & Ors vs Bhajanlal & Ors (1992) Supp (1) SCC 335***].
- d. The question of whether the FIR is the outcome of mala fide is of secondary importance. If sufficient materials are gathered to proceed with a trial, any prima facie allegations of mala fide would become insignificant. Therefore, the plea of mala fide alone may not be sufficient to quash the FIR. [***State of Chhattisgarh & Anr. vs Aman Kumar Sinha & Ors, 2023 6 SCC 559***].
- e. It is trite law that the burden of proof is on the party alleging mala fide and the burden is “very heavy”. The presumption is always on the administration to prove that the power has been exercised bonafide and in good faith. It is more often than not that the allegations of mala fide is easily made than made out and the very seriousness of such allegation demands proof of a high degree of credibility. Mala fide needs to be proved.

- f. The principles to be borne in mind in cases of malicious prosecution are as follows: Malice is not merely the intentional commission of a wrongful act but must be established that the defendant was actuated by malus animus, meaning spite, ill will, or any indirect or improper motive. However, if the defendant had reasonable or probable cause for launching the criminal prosecution, no amount of malice will make him liable for damages. Reasonable and probable cause must be such as would influence the mind of a discreet and reasonable person. The terms 'malice' and 'want of reasonable and probable cause' refer to the defendant's state of mind at the initiation of the criminal proceedings, and the burden of proof rests on the plaintiff to establish these elements. **[Ravinder Singh vs Sukhbir Singh &Ors (2013) 9 SCC 245].**
- g. It is important to note that the question of mala fide exercise of power becomes significant only if an authority acts for an unauthorized purpose. The proper test in such a case is to determine the dominant purpose for which the power is exercised. In the present case, the dominant purpose of registering the case and the intended follow-up action is solely to investigate the allegations and present a case before the court, if sufficient evidence supporting those allegations is collected, and not to engage in any ill motive to hamper the name and reputation of the petitioner. Therefore, there is no substance in this submission.

[State of Haryana & Ors vs Bhajanlal & Ors (1992) Supp (1) SCC 335].

- h. When information is lodged at the police station and an offence is registered, the informant's mala fides are of secondary importance. The investigation material and evidence presented to the court determine the accused's fate. Allegations of the informant's mala fides are inconsequential and cannot alone justify quashing the proceedings. The law is clear that at the stage of quashing an FIR or complaint, the High Court should not conduct an enquiry into the probability, genuineness, and reliability of the allegations made **[State of Maharashtra vs Ishwar Piraji Kalpatri & Ors, (1961) 1 SCC 542].**

3.12. Delay in lodging of FIR -

- i. The act of quashing an FIR due to delay in lodging has become obsolete in criminal cases. It is pertinent to mention that no fixed time has been specified in the law for lodging an FIR. Therefore, a delayed FIR cannot be deemed illegal in the eyes of the law. Various circumstances may cause an FIR to be lodged belatedly, but this alone cannot legally invalidate it. **[Ravinder Kumar & Anr vs. State of Punjab (2001) 7 SCC 690].** Mere delay in lodging the FIR is not necessarily fatal to the prosecution case **[Edmund S. Lyngdoh v. State of Meghalaya, (2016) 15 SCC 572, Mukesh vs. State (NCT of Delhi) (2017) 6 SCC 1].**
- ii. In the FIR being Contai P.S. Case 248 of 2021, Late Subhbrata Chakroborty, resident of Sarberia, Post Office: Madhya Hingli, Police

Station: Mahisadal, Dist.-Purba Medinipur who was working as a security guard to the petitioner was admitted to a hospital at Contai on 13.10.2018 at around 11:20 AM. On reaching the hospital at Contai on the same day, the wife of Late Subhbrata was informed that her husband is required to be transferred from Contai to Kolkata for better treatment and that the petitioner i.e. Mr. Suvendu Adhikari would do the needful. However, the petitioner made an undue delay in arranging the ambulance. Subsequently, Late Subhbrata was transferred to Kolkata at about 19:00 hrs on 13.10.2018. On the next day i.e. 14.10.2018, Late Subhbrata died at about 17:00 hours. The wife went into a deep shock and due to the fact that the petitioner was an influential person, she couldn't lodge an F.I.R in due time. The wife lodged an FIR on 07.07.2021 at the Contai Police Station which was registered as Police Station Case No. 248/21 dated- 07.07.21 under Section 302/120B IPC. Furthermore, all the reasons for the delay was substantiated by the informant in the written information on the point of delay in lodging the complaint. Hence, delay in lodging the FIR is not a ground to quash it. Moreover, the petitioner is not an FIR named accused. By merely being issued a notice under Section 160 of the Code of Criminal Procedure, 1973, doesn't confer the right upon the petitioner to pray for quashing of the said FIR.

- iii. In the FIR being Manicktala P.S. Case 28 of 2021, the allegations in the complaint envisages unlawful means adopted by accused persons in

lieu of providing government jobs i.e. in the Department of Irrigation and Waterways, Government of West Bengal and thereafter duping the complainant of his hard earned money. The point of contention herein is whether the complaint discloses commission of cognizable offences. Merely because the complaint was lodged at a belated stage doesn't undo the unlawful acts perpetrated by the accused persons. It is pertinent to mention that the petitioner is not an FIR named accused in the said FIR. By praying for quashing of the FIR, the petitioner is conveniently trying to shield accused persons with the reasons best known to him and to deprive the investigating agency from unearthing the truth.

3.13. It is trite in law that the Constitutional Court despite having wide powers conferred by Article 32 & 226 of the Constitution of India, must be cautious in exercising them. No inflexible guideline has been laid down for transfer of case to CBI, however, it is not to be issued as a matter of routine on the basis of some unsubstantiated wild allegation. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights (***State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571***) and ***Bimal Gurung v. Union of India, (2018) 15 SCC 480***). In this case, the petitioner has failed to provide

any substantial grounds to justify the transfer of the case to the Central Bureau of Investigation (CBI). The reasons presented are insufficient and do not meet the criteria necessary for such a transfer. As a result, the prayer lacks the necessary justification and evidence to warrant the involvement of the CBI in this matter.

3.14. Right of the accused to select investigating agency -

- i. In numerous judicial decisions, it has been established that an accused person has no right to dictate the manner and method of investigation, nor do they have a right to participate in the investigation until its conclusion with the filing of the final report based on a police report. Any dissatisfaction expressed by the accused regarding the investigation's progress or unsubstantiated allegations of a conflict of interest against the investigating police should not impede the lawful process or justify invoking the court's extraordinary power to transfer the case to another investigating authority. It cannot dictate the authorities to maintain a particular manner of investigation or mode of prosecution. The accused cannot demand to be heard during investigation as a matter of right. Importantly, the accused cannot demand that the crime in which they are interested may be investigated by a particular investigating agency. (***Kushal Agarwal vs Mahendra Kumar Jain &Ors (2022) SCC OnLine Cal 4445***, ***Union of India & Anr vs. W.N Chadha, (1993) Supp 4 SCC Online Cal 4445***)

and Arnab Ranjan Goswami v. Union of India, (2020) 14 SCC 12, Romila Thapar v. Union of India, (2018) 10 SCC 753).

- ii. In light of the above decisions, it is clear that the petitioner cannot demand the transfer of the case to the Central Bureau of Investigation (CBI), as he has no right to do so. The petitioner does not have the authority to dictate the mode or manner of the investigation.

3.15. On preliminary investigation -

- i. The preliminary inquiry mentioned in the Lalita Kumari case is not mandatory for all cases. In the Lalita Kumari judgement, it was held that registration of FIR is mandatory under Section 154 of the Cr.P.C., if the information discloses commission of cognizable offence, then no preliminary inquiry is permissible under such situation. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence. The Court has consistently stated that there are no fixed parameters for conducting such an inquiry. If a police officer receives any formal or informal information indicating the commission of a cognizable offence, it is sufficient to register an FIR. The Lalita Kumari case, mandates the police to lodge an FIR but also directs them to conduct a preliminary inquiry in certain cases, such as matrimonial disputes/ family disputes, commercial offences, medical negligence cases, corruption cases, and cases where there is abnormal delay/ laches in initiating criminal prosecution. This judgment must be

read in conjunction with the State of Telengana v. Managipet judgment, which clarifies that conducting a preliminary inquiry is not mandatory in all cases. (***Charan singh v. State of Maharashtra, (2021) 5 SCC 469***), (***State of Telengana v. Managipet, (2019) 19 SCC 87***), (***Lalita Kumari v. Govt. of Uttar Pradesh, (2014) 2 SCC 1***).

- ii. In the present case, the allegations made in the complaint disclose the commission of cognizable offenses. Hence, no preliminary inquiry is required.

3.16. Section 153-A, 295-A & 505 (2) of Indian Penal Code, 1860 - There are multiple FIRs that has been lodged against the petitioner under Sections 153A, 295A & 505 of Indian Penal Code, 1860.

- i. Essential ingredients of the **Section 153-A** are as follows:
 - (1) whoever by (a) words, either spoken or written; or (b) by signs; or (c) by visible representations; or (d) otherwise;
 - (2) Promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-will;
 - (3) between different religious, racial, language or regional groups or castes or communities;
 - (4) on grounds of religion, race, place of birth, residence, language, caste or community or any other ground; or
 - (5) The act may be prejudicial to the maintenance of harmony between different groups as outlined above, and which disturbs or is likely to disturb public tranquillity [section 153A(1)(b)]; or

- (6) Organises any exercise, movement, drill or other similar activities in order to train for use of force or violence against any of the groups.
- ii. **Section 295A** Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- iii. **S 505 (2).** Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both. The common factor of these sections is the promotion of feelings of enmity, hatred, or ill-will between different religious, racial, linguistic, or communal groups or castes. Therefore, it is necessary that at least two such groups or communities should be involved. (*Patricia Mukhim vs. State of Meghalaya &Ors (2021) 15 SCC 35.*)

- iv. A speech by a person of influence, such as a top government or executive functionary, opposition leader, or political or social leader, carries far more credibility and impact than a statement made by a common person on the street. A person of influence owes a duty to be more responsible. (***Amish Devgan v. Union of India &Ors (2021) 1 SCC 1***).Section 153A of the Penal Code uses the words "promotes" and "likely" respectively. Similarly, Section 295A uses the word "attempts" and sub-section (2) of Section 505 uses the words "create or promote." The chance of the event occurring needs to be real and not fanciful or remote. An attempt is short of actual causation of the crime and more than mere preparation. An attempt is punishable because every attempt, although it falls short of success, must create alarm, which by itself is an injury, and the moral guilt of the offender is the same as if he had succeeded. For deciding speech as hate speech or not, there are three considerations: what are the contents of the article, what is intent in that article and whether it is going to cause any harm to anyone. What is important is there is reference of at least religion. (***Amish Devgan v. Union of India &Ors (2021) 1 SCC 1***) and (***Amol Kashinath Vyavhare vs Purnima Chaugule Shrirangi & Ors (2022) SCC OnLine Bom 1000***).
- v. The petitioner has repeatedly made communal statements, incited hatred and creating social turmoil. This pattern of behaviour is evident in several FIRs lodged against him. One notable incident is detailed in

Nandigram P.S. Case No. 705/21 dated 23.10.2021 under sections 153A, 153B, 295A, 298, 504, 505, 120B, and 34 of the IPC. The complainant, Kamal Kumar Jana, alleged that the petitioner made communally charged statements during a rally, intending to instigate hatred among different religious communities in West Bengal.

- vi. Another significant case is Nandakumar P.S. Case No. 390/2022 dated 28.10.2022 under sections 153A, 295A, and 505(2) of the IPC. Abu Sohail complained that during a Kali Puja inauguration on 20/10/2022 in Nunimore, Asansol, and on 24/10/2022 in Nandakumar, the petitioner made provocative statements jeopardizing communal harmony by alleging that Hindus in West Bengal are unsafe. These incidents are a few examples among many, demonstrating a repeated pattern of the petitioner making inflammatory statements, highlighting the gravity of the situation and the need for court intervention.
- vii. The petitioner has repeatedly made inflammatory statements at public gatherings, intending to incite hatred among people of different religions or communities in the State of West Bengal. As a public figure, the petitioner has a duty and responsibility to exercise caution when making comments about various communities and religious groups. These statements have caused significant social unrest.

3.17. Rights of the victim -

- i. A "victim" under the meaning of the CrPC cannot be required to wait for the trial to begin to assert their right to participate in the proceedings.

They have a legally vested right to be heard at every stage following the occurrence of an offence. Such a "victim" has comprehensive participatory rights from the investigation stage until the culmination of the proceedings, including appeals or revisions. Any undue delay in concluding a criminal trial has a profoundly deleterious effect on society and the parties involved. It is a grave mistake to assume that trial delays do not cause significant suffering and anguish to the victim, who may suffer even more than the accused. Thus, there is no justification for granting all the benefits of trial delays to the accused while denying justice to the victim. (***Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321*** and ***Mangal Singh v. Kishan Singh, (2009) 17 SCC 303***).

- ii. In multiple instances, the petitioner has used delaying tactics to hinder the trial, adversely affecting the rights of various victims:
 - a. Contai Police Station Case No. 248/21- A complaint was lodged by Smt. Suparna Kanjilal Chakraborty at Contai Police Station, which was registered as Contai P.S. Case No. 248/21 on 07.07.2021 under sections 302 and 120B of the IPC. The petitioner is not named as an accused but has not disclosed his whereabouts during the victim's alleged incident. The complainant explained the delay in lodging the complaint. The trial court should consider any alleged delay during the trial. There are no direct allegations against the petitioner, yet he seems to be obstructing the investigation, infringing on the fundamental rights of the deceased's wife to seek justice.

- b. Jhargram P.S. Case No. 346/2022- A complaint was lodged by Smt. Birbaha Hansda on 17.11.2022 and by virtue of which Jhargram P.S. Case No. 346 of 2022 was registered under sections 34, 120B, 153A, 354A, 500, 504, 505, 506, and 509 of the IPC and relevant sections of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Smt. Birbaha Hansda reported that the petitioner made derogatory casteist remarks against her, a member of the scheduled tribe community, in public. The delay in investigation and initiation of trial adversely affects the victim from getting justice.
- A. Jamboni P.S. Case No. 130/2022- A complaint was lodged by Shri Debraj Hansda dated 17.11.2022, which was registered as Jamboni P.S. Case No. 130/2022 u/s. 153A/ 500/ 504/ 505/ 506/ 507 of the IPC r/w Section 3 (1) (r)/ 3(1) (u)/3 (2) (7) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, alleging that the petitioner made derogatory casteist remarks against him, a member of the scheduled tribe community, in public. The delay in investigation and initiation of trial adversely affects the victim from getting justice.
- B. Nandigram Police Station Case No. 110/21-A complaint was lodged at Nandigram Police Station by Smt. Shefali Shil, which was registered as Nandigram P.S. Case No. 110/21 dated 18.03.2021 under sections 147, 148, 149, 323, 325, 307, 352, 379, and 506 of the IPC. Her husband was grievously injured during a political procession after shouting "Joy Bangla." Others who tried to rescue him were also assaulted, and the

complainant and other women were outraged and robbed. The investigation stalled due to stay of investigations passed by his Hon'ble High Court vide its order dated 06.9.2021, significantly affecting the victims' rights.

- C. Contai Police Station Case No. 83/22- A complaint was lodged at Contai Police Station by Surajit Nayak, which was registered as Contai P.S. Case No. 83/22 dated 19.02.2022 under sections 341, 323, 325, 307, 354, 427, 506, and 34 of the IPC. The petitioner and his associates attacked a party office, assaulted the complainant's maternal brother with intent to kill, and outraged the modesty of female supporters, causing severe injuries.

These cases highlight the petitioner's recurring pattern of delaying tactics and procedural irregularities, necessitating court intervention to protect the victims' rights and ensure timely justice.

3.18. Judgements relied upon by the petitioner and State respondents counter thereof - S-482 CR.PC- When can be quashed by High Courts-Malice -

i. State of Haryana vs Bhajan Lal (AIR 1992 SC 604)

- a. The learned counsel of the petitioner refers to paragraphs 1 to 10, providing an introductory note based on the rule of law, Justice Edward Coke's reply to Henry Bracton, the ambiguity of corruption, and the historical backgrounds and targets of corruption. From paragraphs 11 to 18, as referred to by the counsel of the petitioner, the facts of the judgment are stated.

- b. **Paragraph 81** cites Justice Madholkar's opinion in the case of *State of Uttar Pradesh vs. Bhagwant*, which states that in the absence of any prohibition in the Code, either express or implied, it is permissible for a police officer to make preliminary inquiries before registering an offence and conducting a full-scale investigation.
- c. **In paragraphs 86-89**, the case of *King Emperor vs. Khwaja Nazir Ahmed* is referred, which strongly observed that the judiciary should not interfere with the police in matters within their jurisdiction. It expressly stated, "*No doubt, if no cognizable offence is disclosed, and still more, if no offence of any kind is disclosed, the police would have no authority to undertake an investigation.*" In the present case, FIRs related to cognizable offences have been registered against the petitioner.
- d. The learned counsel of the petitioner referred to **paragraph 98** of the case, mentioning the case of *Kurukshetra University vs. State of Haryana*, which discusses the quashing of FIRs at a premature stage. The views expressed were as follows: "*It surprises us that the High Courts, in the exercise of its inherent powers under Section 482 of the CrPC, could quash a First Information Report. The police had not even commenced the investigation... It is ought to be realised that inherent powers do not confer arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in rarest of rare cases.*"

- e. In the present matters, by an order dated 06.09.2021 in WPA 11803 of 2021, the Hon'ble High Court directed a stay of investigation in 4 FIRs and by an order dated 08.12.2022 in WPA 25522 of 2022, the Hon'ble High Court was, inter alia, pleased to stay of investigation in each and every FIRs referred in the writ petition and further directed the State Police not to register any more FIRs against the petitioner, without the leave of the Hon'ble Court. These orders contrasts sharply with previous precedents referred to by the learned counsel of the petitioner.
- f. Time and again, the court has reiterated that the jurisdiction under Section 482 of the Code must be exercised sparingly and with circumspection. The High Court should not embark upon an enquiry into whether the allegations in the complaint are likely to be established by evidence.
- g. In the *Bhajan Lal judgment* as referred by the learned Counsel of the Petitioner, the Supreme Court set aside the High Court's judgment. It was decided that quashing the FIR by the High Court was not valid because it was not legally and factually sustainable. This part of the High Court judgment was set aside. However, the commencement and the entire investigation were also quashed. The court mentioned that the third appellant lacked valid authority under Section 5A(1) of the Prevention of Corruption Act, 1988, which states that only an officer of the rank of an inspector or above can investigate an offence under Clause (e) of Section 5(1).

- h. In the same *Bhajan Lal* judgment the court had held that it is important to note that the question of mala fide exercise of power becomes significant only if an authority acts for an unauthorized purpose. The proper test in such a case is to determine the dominant purpose for which the power is exercised. In the present case, the dominant purpose of registering the case and the intended follow-up action is solely to investigate the allegations and present a case before the court, if sufficient evidence supporting those allegations is collected, and not to engage in any ill motive to hamper the name and reputation of the petitioner. Therefore, there is no substance in this submission. **[State of Haryana & Ors vs Bhajanlal & Ors (1992) Supp (1) SCC 335].**
- i. It is stated on behalf of the State Respondents that in coherence with the legal proposition that the Hon'ble Court, exercising extraordinary jurisdiction and inherent powers, can quash proceedings on the ground that the allegations made in the complaint or FIR do not constitute an offence. However, in the present case, the FIRs registered against the petitioner disclose commission of offences which are cognizable in nature.
- j. In the present writ petitions, the investigations of the FIRs are at a premature stage. The State Police was in the process of collating evidence. Evidence must be gathered after a thorough investigation and presented to the court, based on which the court can conclude one way or the other on the plea of mala fides.

ii. **Bajinath Jha vs Sita Ram & Anr (2008) 8 SCC 77**

- a. Summarizing the facts of the referred case: The prayers were made to quash the criminal proceedings on the vague assertion that they were due to a private and personal grudge held by Respondent 1 (complainant) against the appellant-accused. Respondent 1 was arrested following an FIR lodged by the appellants for the theft of electricity. After being released on bail, Respondent 1 instituted a bribery complaint against the raiding party members (appellants) of the Bihar State Electricity Board as an act of vengeance. Notably, Respondent 1 did not specify the date when the bribe was allegedly demanded by the appellants and did not proceed against one of the four co-accused (appellants) initially named.
- b. ***In paragraph 6***, in the case of *R.P. Kapur vs. State of Punjab*, the Court had summarized some categories of cases where inherent power can and should be exercised to quash the proceedings: a) where it manifestly appears that there is a legal bar against the institution or continuance, such as want of sanction; b) where the allegations in the FIR or complaint, taken at face value and accepted in their entirety, do not constitute the offence alleged; c) where the allegations constitute an offence, but there is no legal evidence adduced, or the evidence adduced clearly or manifestly fails to prove the charge.
- c. ***In paragraph 8***, as referred to by the learned counsel of the petitioner, it is stated that the judicial process should not be an instrument of

oppression or needless harassment. The court should be circumspect and judicious in exercising discretion, taking all relevant facts and circumstances into consideration before issuing a process, lest it becomes an instrument for a private complainant to unleash vendetta and harass any person needlessly. It also refers the case of *Bhajan Lal* which states that the High Court can exercise its extraordinary power under Article 226 or inherent powers under Section 482 CrPC to prevent abuse of the process of any court or to secure justice in various situations. Although precise guidelines cannot be rigidly defined seven illustrations were provided where such power can be used.

- d. In the referred judgment i.e. *Bajinath Jha vs Sita Ram*, the background clearly shows that the proceedings instituted were mala fide based on vague assertions and were initiated with mala fide intention which constitutes sheer abuse of process of law. No reason was shown before the Court as to why the complainant chose not to proceed against one of the four persons initially named. The facts of this referred case fit in with Category (7) of *Bhajan Lal* Case.
- e. However, in the present case, it is stated that the allegations made in the FIRs against the petitioner clearly constitute cognizable offences, justifying the registration of the FIRs and the subsequent investigation.

iii. Vineet Kumar vs State of Uttar Pradesh 13 SCC 369

- a. In the referred judgment, it was reiterated that the inherent power of the High Court under Section 482 CrPC is intended to advance justice.

Where evidence indicates that criminal proceedings were manifestly attended with mala fides and maliciously instituted with ulterior motives, the High Court, in the exercise of its power under Section 482 CrPC, should quash such proceedings. Furthermore, it was held that while a statement by the prosecutrix under Section 164 CrPC alleging rape should not be lightly dismissed, it must be considered along with antecedents and other evidence on record.

- b. In the instant case, there was sufficient material on record to establish that there were financial transactions between the accused and the complainant/prosecutrix, her husband, and her son. Proceedings under Section 138 NI Act were initiated against the complainant, her husband, and her son by the accused. The brother of the complainant's husband and his wife, who were residing in the same house, denied the alleged occurrence of rape by the accused but admitted the fact of monetary transactions. The complainant refused a medical examination on the date of the incident and even the following day. A medical examination was done about 13 days after the alleged occurrence, which was totally irrelevant. Thus, the case was fit for the High Court to have exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings.
- c. ***In paragraph 23***, as referred by the learned counsel of the petitioner, it was noted that the Court has repeatedly examined the High Court's jurisdiction under Section 482 CrPC, establishing several guiding

principles. The case of ***State of Karnataka v. L. Muniswamy*** is mentioned, affirming that the High Court may quash proceedings if continuing them would be an abuse of court process or if justice demands their quashing. The High Court's inherent powers, preserved for both civil and criminal matters, aim to prevent court proceedings from becoming tools of harassment or persecution. Specifically, in criminal cases, factors such as the ulterior motive behind a prosecution and the nature of the evidence may justify quashing proceedings to serve justice, which is paramount over mere legal formality. The provision preserving the High Court's inherent powers is crucial for balancing justice between the State and individuals.

- d. In the present case, the allegations in the FIR against the petitioner clearly constitute cognizable offences, justifying the registration and subsequent investigation. Therefore, there is no basis for the High Court to use its extraordinary or inherent powers to quash the FIRs. The petitioner's claims of mala fides against the State Police lack material evidence and are based on mere speculation and conjecture..
- e. ***In paragraph 28***, the case of ***Sunder Babu v. State of Tamil Nadu*** is discussed, involving charges under the Dowry Prohibition Act, 1961. An application was filed under Section 482 CrPC to quash criminal proceedings under Section 498-A IPC and Section 4 of the Dowry Prohibition Act, arguing the complaint was an abuse of the legal process. The Court, referring to category 7 of the **Bhajan Lal** case,

upheld the application and quashed the proceedings. **Paragraph 29** refers to a similar case of dowry and **Paragraph 41** enumerates category 7 as laid in **Bhajan Lal** case, but it is stated that this precedent is not relevant to the current facts of the case under discussion.

- f. In the present writ petitions filed before the Hon'ble Court and the FIRs that have been registered so far, there are no indications of rivalry or disputes that could suggest any vendetta or personal grudge prompting the initiation of criminal proceedings against the petitioner.
- g. Without clear and specific evidence of malicious intent or personal vendetta, the allegations made by the petitioner remain unsupported and do not provide a sufficient basis to question the legality or integrity of the criminal proceedings initiated.

iv. Kartik Chandra Majee vs State of Jharkhand & Anr, (2018) 13 SCC 747

- a. Briefly summarising the facts of the case, the complainant married R-6, the son of Appellant 1, after his father had severed all relations with him. Several years after the marriage, the complainant filed a vague complaint against nine accused without specifying their roles, making it impossible to establish an offence under Section 498-A. Additionally, the complainant compromised with her husband before the Magistrate but continued to prosecute the appellants (the husband's father, brothers, and uncles). This clearly indicates that the proceedings were

initiated to pressure the appellants due to a personal grudge over the son being disinherited. Consequently, the proceedings under Section 498-A of the Indian Penal Code were quashed.

- b. It is submitted on behalf of the State Respondents that the facts of the judgment referred do not align with facts of the instant writ petitions. Multiple FIRs have been lodged against the petitioner disclosing commission of cognizable offences, and the circumstances do not fit within the criteria outlined in category 7 of the *Bhajan Lal* case. In contrast, in the present case, the police investigation has been hindered, and no further FIRs could be registered against the petitioner. Therefore, quashing the proceedings at this initial stage would result in a miscarriage of justice.

v. Ahmad Ali Quraishi & Anr vs State of U.P & Anr, (2020) 13 SCC 435

- a. The appellant-accused and the R-2 complainant are family members and neighbours. The accused's father filed a pending suit for property partition against the complainant, leading to frequent altercations. On July 19, 2016, a quarrel occurred, prompting the police to initiate proceedings under Sections 151, 107, and 116 CrPC to maintain peace.
- b. On August 29, 2016, the complainant filed an application under Section 156(3) CrPC against the accused, their father, and three brothers, alleging that on July 19, 2016, the accused made indecent gestures and beat his daughters near a public handpump. He further alleged that the accused's family forcibly entered his house, abused, and physically

assaulted his daughters. Allegations were under provisions of IPC and the POCSO Act. The court rejected the application due to insufficient grounds.

- c. The complainant's revision in the High Court was dismissed, suggesting alternative remedies. Following an NHRC directive, an SP-led enquiry found the allegations unsubstantiated. On October 4, 2017, the complainant filed a new complaint, repeating previous allegations.
- d. The accused sought to quash the proceedings under Section 482 CrPC in the High Court, which was dismissed on February 21, 2018. The court noted the property dispute predating the July 19 incident and the lack of evidence in the enquiry. The complaint was deemed an abuse of court process, motivated by personal vendetta. The proceedings were quashed.
- e. Furthermore, the petitioner's claims of malicious intent behind the criminal prosecution lack merit, as they are not substantiated by concrete evidence and are vague in nature. The absence of specific evidence to support the petitioner's allegations makes their claim appear unwarranted and unsubstantiated. Therefore, without clear proof of malicious intent or personal vendetta, the criminal proceedings against the petitioner should be allowed to proceed in the interest of justice and fairness to the victims awaiting resolution of their complaints.

vi. Himachal Pradesh Cricket Association & Anr. vs State of Himachal Pradesh & Ors (2020) 18 SCC 465

- a. Two FIRs were the subject matter of these appeals. One FIR involved Sections 406, 420, 120-B of the IPC and Section 13(2) of the Prevention of Corruption Act, 1988 ("PC Act"), registered against the appellants and others. The second FIR included Section 447 read with Section 120-B IPC, Section 3 of the Prevention of Damage to Public Property Act, 1984, and Section 13(2) of the PC Act. The appellants had filed petitions under Section 482 of the CrPC before the High Court of Himachal Pradesh, praying for quashing of the FIRs. The High Court had dismissed these petitions through a common judgment dated 25-4-2014. This judgment was challenged in an appeal. Upon filing the special leave petitions, notice had been issued on 5-1-2015, and further proceedings related to the FIRs, pending before the Special Judge, Kangra, Dharamshala, Himachal Pradesh, were stayed. This stay had been extended periodically and remained in effect.
- b. **Para 28.6 to 28.11** reiterates the pleadings of the appellants which is completely factual to case law that is relied upon.
- c. It is pertinent to mention that the state respondents fully agree with the legal proposition that the Court, exercising extraordinary jurisdiction and inherent powers, can quash proceedings on the ground that the allegations made in the complaint or FIR do not constitute an offence. However, in the present case, cognizable offences have been registered

against the petitioner. Despite this, the investigations and further registration of FIRs against the petitioner have been stalled, granting unwarranted immunity to the petitioner.

vii. Haji Iqbal alias Bala Through S.P.O.A vs. State of U.P &Ors (2023)
SCC OnLine SC 946

- a.* The facts of the instant judgment are that in 2012, V.S. Contractor, owned by Balraj Sethi (complainant), was awarded a multi-crore contract to construct a school at Global University, with Saifuddin as the manager. Despite completing the project in 2015, a significant amount remained unpaid, and materials worth crores were stored at the university. In 2016, Mehmood Ali and Mohammad Wajid promised but failed to make the payment. In 2021, Sethi's attempt to recover the dues led to threats and the confiscation of valuables by the accused. Hence, a complaint was filed and an FIR was registered.
- b.* The appellant filed a petition to quash the FIR, which the High Court rejected. The Court noted that even if the prosecution's case was accepted as true, it did not meet the criteria for dacoity under Section 395 of the IPC, nor did it fulfil the requirements for offenses under Sections 365, 342, and 506 of the IPC. The Court held that the FIR, lodged almost two years after the alleged incidents without specifying the date or time, which appeared fabricated and constituted an abuse of legal process. The Court emphasized that frivolous or vexatious proceedings require examining all circumstances, including materials

collected during the investigation. The presence of multiple FIRs suggested a potential private or personal grudge.

- c. In Para 15 case of *In R.P. Kapur v. State of Punjab*(AIR 1960 SC 866: 1960 Cri 1239) was referred to.
- d. When dealing with the last category, it is crucial to distinguish between cases where there is no legal evidence or where the evidence is clearly inconsistent with the accusations, and cases where there is legal evidence that may or may not support the accusations upon appreciation. When exercising jurisdiction under Section 482 of the CrPC, the High Court typically does not assess whether the evidence is reliable or whether it would sustain the accusations upon reasonable appreciation.
- e. Furthermore, by referring the decision of *Bhajan Lal* case and other precedents, the court held that the appellants fell within the parameters of 1, 5 & 7 that was laid in *Bhajanlal* case. Therefore the criminal proceedings arising from the FIR was quashed.
- f. In contrast to the present writ petitions, the State respondents firmly deny and dispute the petitioner's allegations that the proceedings were initiated out of political vengeance or malice.

viii. Haji Iqbal alias Bala Through S.P.O.A vs State of U.P & Ors (2023 SCC OnLine SC 948)

- a. The facts of the judgments are as follows, the victim "X," bought land in 2011. She alleged that in 2012, the appellant and two others forcibly

took possession of the land and threatened her. In November 2018, co-accused, including Javed and Alishan, coerced her into sexual relations near a tube well, promising to vacate her land, but they didn't. They repeatedly blackmailed and raped her. Although the appellant is named in the FIR as accused No. 2, no specific allegation was made against him. His request to quash the FIR was rejected by the High Court on 17.10.2022.

- b. The alleged gang rape in 2018 was reported in an FIR lodged in 2022, almost four years later. While the Court did not comment on the delay, as the trial against other accused is ongoing, the court noted that rape causes immense distress to the victim, but false rape allegations can similarly distress and damage the accused.
- c. When an accused invokes the inherent powers under Section 482 of the CrPC or the extraordinary jurisdiction under Article 226 of the Constitution to quash an FIR or criminal proceedings on the grounds of frivolous or vexatious nature, the Court must scrutinize the FIR closely. The complainant, motivated by personal vengeance, may draft the complaint to appear legitimate. Therefore, the Court must consider all surrounding circumstances and materials collected during the investigation. The Court must consider these factors when exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution.

- d. It is submitted by the State respondents that the facts of the instant writ petitions at hand are distinct from the referenced false rape case. FIRs, depicting cognizable offenses, have been lodged against the petitioner. The allegations of political vendetta and malice are unsubstantiated and lack specificity.

ix. Mahmood Ali & Ors vs State of U.P & Ors (2023 SCC OnLine SC 950)

- a. Ravinder Kumar, an illiterate employee of the accused since 2008, was allegedly coerced by Abdul Wajid into signing papers and cheques without his consent. Kumar was fraudulently appointed as a company director by Wajid and Mohd. Iqbal, and resigned upon discovering the deceit in 2017. He claimed to have been forced to work under threat, essentially held hostage, while the accused engaged in illegal mining and exploitation of the poor. Upon the filing of the complaint by Ravinder Kumar, an FIR was registered by the Police. The accused persons sought to quash the FIR through a Criminal Miscellaneous Writ Petition, but the High Court refused to quash the FIR.
- b. On appeal to the Supreme Court, the Court opined that even if the prosecution's case is accepted as true, it fails to establish the alleged offences. Notably, the FIR was lodged 14 years after the purported illegal acts, with no specific dates or times of the offences mentioned, suggesting it is concocted and fabricated.

c. **From paragraphs 13 to 14**, the Court emphasized its duty to scrutinize FIRs closely, especially when accused parties seek to quash them under Section 482 of the CrPC or Article 226 of the Constitution, claiming the proceedings are frivolous, vexatious, or driven by ulterior motives. In such cases, courts must look beyond the FIR's face value, considering surrounding circumstances and reading between the lines. Frivolous or vexatious cases often have been meticulously drafted FIRs to appear legitimate. Therefore, courts should evaluate additional context and evidence beyond the FIR's content. The Court can consider overall circumstances and investigation materials, not just the case's current stage, when exercising its jurisdiction.

d. The facts of the judgment referred bear no semblance to the present writ petitions. In the instant writ petitions, it is submitted that the FIRs lodged disclose the commission of cognizable offences. The dates of the incidents, some of which have been captured on CCTV footage, are detailed in the FIRs. The allegations of political vendetta and malice are unsubstantiated and lack specificity.

x. Salib vs State of U.P &Ors (2023 SCC OnLine SC 947)

a. From reading the FIR, the facts are as follows: the victim, Husna (respondent No. 3 herein), had previously lodged FIR No. 122 of 2022 for offences punishable under Sections 376D, 323, 120B, 354A, and 452 of the IPC, and under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012, against Haji Iqbal Bala (father-in-law of

the appellant herein), Mehmood, Javed, Alishan, Afjal, and Dilshad. While the investigation of FIR No. 122 of 2022 was ongoing, the accused persons Khurshid, Farukh, Maharaj, and Suleman allegedly threatened the victim, stating they were associates of Iqbal alias Bala and warning her to withdraw FIR No. 122 of 2022 or face death along with her family members. Pursuant to the lodging of the complaint, an FIR was registered being FIR No. 175 of 2022.

- b. The appellant herein filed Criminal Miscellaneous Writ Petition before the High Court, seeking to quash the FIR viz-a-viz- him. The High Court declined to quash the FIR. Considering the facts and circumstances, the Supreme Court set aside the High Court's order and quashed the FIR.
- c. It is stated on behalf of the state respondents that according to the principles established in the *Bhajan Lal case*, particularly category 7, the court should intervene in ongoing criminal proceedings only when it is clear that the proceedings are manifestly attended with *malafide* intentions or have been instituted maliciously to wreak personal vengeance. In the writ petitions and the FIRs that have registered so far, there is no manifest evidence indicating that the FIRs were filed with such *malafide* intent.
- d. Therefore, the contention that the FIR should be dismissed on the mere unsubstantiated plea of mala fides lacks merit.

xi. Neeharika Infrastructure Pvt. Ltd. Vs State of Maharashtra and Others (2021 SCC OnLine SC 315)

- a. The appellant lodged an FIR against respondent nos. 2 to 4. The FIR pertains to offenses under Sections 406, 420, 465, 468, 471, and 120B of the Indian Penal Code, 1860. The allegations involve forgery and fabrication of a Board Resolution and the fraudulent sale of a valuable property. Respondent nos. 2 to 4, apprehending arrest, filed an anticipatory bail application before the Sessions Court, Mumbai, under Section 438 of the Cr.P.C. The Sessions Court granted interim protection from arrest to the accused, which was extended from time to time and continued for nearly a year.
- b. During the pendency of the anticipatory bail application, respondent nos. 2 to 4 filed a petition before the High Court of Judicature at Bombay under Article 226 of the Constitution of India r/w Section 482 of the Cr.P.C. for quashing the FIR. The High Court issued an interim order stating that "no coercive measures shall be adopted against the petitioners (respondent nos. 2 to 4) in respect of the said FIR." The appellant's counsel expressed concern that the pending anticipatory bail application before the Sessions Court might be influenced by the High Court's order. The Division Bench clarified that the Sessions Court should decide the anticipatory bail application on its own merits.
- c. Feeling aggrieved by the interim order of the High Court, which directed that "no coercive measures shall be adopted against the original accused (respondent nos. 2 to 4) in respect of the said FIR," the original complainant (appellant) preferred the present appeal.

- d. In Paragraphs 63, 64, and 65, the Court reiterates that the power under Section 482 Cr.P.C. is extensive. However, as observed in numerous decisions by the Court, the conferment of such wide power necessitates a high degree of caution and imposes a diligent duty on the Court. In exceptional cases, the High Court may issue appropriate interim orders, considering the parameters of quashing and the self-restraint imposed by law. However, the Court must provide brief reasons reflecting its application of mind to the relevant facts. Granting a blanket order to stay an investigation can adversely affect the investigative process and have far-reaching implications for maintaining the rule of law.
- e. While the High Court has broad powers under Section 482 Cr.P.C. and Article 226 of the Constitution, these powers must be exercised with caution, particularly when considering interim orders that may impact ongoing investigations.
- f. Keeping these principles in consideration, it is submitted on behalf of the state respondents that in present writ petitions, the Hon'ble High Court has stayed the investigation in multiple FIRs which disclose the commission of cognizable offense, and further registration of the FIR against the petitioner has been halted. There is also a direction of no-coercive actions against the petitioner with respect to 2 FIRs. The petitioner's claim of malicious intent in initiating criminal prosecution against him is unwarranted, unsupported by solid evidence, and lacks specificity.

xii. Musstt Rehana Begum vs State of Assam (2022 SCC OnLine SC 82)

- a. Brief the facts of the instant judgment herein, is that the appellant is accused under Section 495 IPC for concealing a prior marriage when marrying the second respondent. After challenging a disputed divorce certificate and facing allegations of forgery, the appellant's plea to quash the FIR under Section 482 CrPC was dismissed by the High Court, citing matters for trial. The appellant preferred an SLP before the Hon'ble Supreme Court against such order of dismissal.
- b. The facts of the case referred are distinct from the facts of the present proceedings. The facts refer to a matrimonial dispute between two parties and subsequently a criminal proceedings was initiated alleging forgery of the divorce certificate. Thus, the aforesaid judgment is erroneously relied upon on behalf of the petitioner.

TRANSFER OF INVESTIGATION TO CBI

i) K.V Rajendran vs CBID (2013) 12 SCC 480

- a. In this case, the Supreme Court held that the facts and circumstances did not warrant transferring the investigation to the CBI. This case was with respect to alleged false complaint on smuggling of teakwood. Despite delays in the investigation and the appellant's allegations of mala fides against the police officers, the Court found these allegations to be non-specific. Consequently, the facts and circumstances did not justify transferring the investigation to the CBI.
- b. The paragraphs 9, 13 to 17 were referenced on behalf of the petitioner.

- c. The Court reiterated that the power to transfer an investigation should be used cautiously, sparingly, and only in exceptional situations, or when incidents have national or international ramifications. In this case, the petitioner's accusations of mala fide intention are non-specific and did not warrant transferring the investigation.

ii) **Dharam Pal vs State of Haryana &Ors (2016) 4 SCC 160**

- a. This case deals with the rape of a minor girl of the appellant, who was threatened with dire consequences if she disclosed the incident, and the subsequent murder of her wife. The context in which this judgment has been passed does not hold any relevance to the present facts of the writ petitions. In the case referred statements of material witnesses were not recorded.

iii) **Bharati Tamang vs Union of India (2013) 15 SCC 578**

- a. The petitioner, the widow of Madan Tamang, claims that her husband, who was the President of the Akhil Bhartiya Gorkha League (ABGL), was brutally murdered on by supporters of the rival Gorkha Jan Mukti Morcha (GJMM). The murder occurred in full view of the public, police, and security personnel. She asserts that the investigations conducted by the State police, CID, and CBI were all flawed. The petitioner seeks to quash the charge sheets filed by these agencies and requests the appointment of an independent Special Investigation Team or a fresh investigation by a senior CBI officer into her husband's murder. Notably, the case was already being investigated by the CBI.

- b. The paragraphs referred by the learned counsel of the petitioner from **paragraph 36 to 41.5/41.6/41.7 & 44** to in the judgment reiterate that, in the rarest of rare cases, the High Court can transfer an investigation to independent investigating authorities to ensure justice. However, this power must be exercised sparingly and cautiously. The settled principle remains that the Court has the prerogative to transfer cases to prevent a miscarriage of justice.
- c. The facts in the present case at hand, stand on a completely different footing. In the referred judgement, despite the CBI's involvement, the petitioner contends that justice has not been served due to systemic investigative failures. In contrast, the judgment referred to by the petitioner emphasizes the Court's discretion to transfer cases in exceptional circumstances to ensure justice.

iv) Bimal Gurung vs Union of India (2018) 15 SCC 480

- a. This instant judgment involves demonstrations and a bandh called by the Gorkha Jan Mukti Morcha (GJM), which did not remain peaceful and democratic. Allegations were made that the FIRs were false and concocted, and there were claims of bias against police officials. However, the Court rejected these allegations due to the absence of specific pleadings or material evidence of bias against any person or authority. The petitioner's request to transfer the investigation of all FIRs lodged against them was also rejected.

- b. The Court emphasized that transferring the investigation of such a large number of cases en masse is neither practicable nor justifiable. Otherwise, CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.
- c. The petitioners' reference to this case from **paragraph 27 to 29** is misplaced, as the reasoning and decision in this case completely undermine their position.

v) State of West Bengal vs CPDR (2010) 3 SCC 571

- a. In the present case, the issue referred to the Constitution Bench was whether a High Court, exercising jurisdiction under Article 226 of the Constitution, can direct the CBI to investigate a cognizable offence alleged to have occurred within the territorial jurisdiction of another State without that State Government's consent. From **paragraphs 68 to 69, the Court reaffirmed that such a direction by the High Court does not violate the federal structure of the Constitution or the doctrine of separation of powers and is legally valid.**
- b. However, before concluding the case, in **paragraph 70** the Court emphasized the need for caution in exercising the wide powers granted under Articles 32 and 226. While issuing directions for a CBI investigation in any case, the Court reiterated that such orders should not be routine or based solely on allegations against local police. The

power should be used sparingly, cautiously, and only in exceptional circumstances.

- c. Considering the current case, the petitioner's request to transfer the case to the CBI lacks justification. The Hon'ble Court should refrain from issuing such a direction, especially given that the demand is based solely on alleged mala-fide intention against the local police and considering the numerous cases pending against the petitioner.

vi) Himanshu Kumar & Ors vs State of Chattisgarh & Ors, (2022 SCC OnLine SC 884)

- a. In the instant judgment, it was alleged that the Chhattisgarh Police, Special Police Officers (SPOs), an activist group, and paramilitary forces committed a brutal massacre of tribals in various villages in Chhattisgarh. One of the petitioner's prayers was to issue a writ of mandamus or any other appropriate writ, order, or direction to the respondents to have the CBI take over the investigation. The families of the tribal groups were allegedly brutally killed by the Chhattisgarh police and SPOs appointed by the Chhattisgarh government. Given the severity and veracity of the alleged mass killings, the court allowed the petitioners' request for a CBI investigation.
- b. The petitioner's case at hand stands in a completely different context compared to the case referred to by the learned Counsel of the Petitioner. The Court emphasized that no one can insist that an offence

be investigated by a particular agency. An aggrieved person can only claim that the offence he alleges be investigated properly.

3.19. Arguments raised by the petitioner in rejoinder -

Submissions on behalf of the petitioner:

- g. The facts show that the moment the petitioner changed his allegiance away from the ruling political party, malicious prosecutions have started against the petitioner. Malicious prosecution, alone, is a ground for quashing of the FIRs and the proceedings arising thereof. The ruling dispensation of the State of West Bengal is proceeding against the petitioner maliciously by filing false, malicious prosecutions. To further substantiate this point, the petitioner pleaded that the State has itself not raised any arguments in defence of many FIRs registered by it.
- ii. The petitioner further submitted that the Hon'ble High Court has to see the attending circumstances to arrive at the conclusion that there was malicious prosecution against the petitioner. He submitted that this Hon'ble Court, while passing various interim orders, was pleased to observe that there exists *prima facie* circumstances of malice against the petitioner.

Orders referred to by the petitioner:

- Order dated 06.09.2021 in W.P.A. No. 11803 of 2021 passed by the Hon'ble Justice Rajasekhar Mantha.
- Order dated 08.12.2022 in W.P.A. No. 25522 of 2022 passed by the Hon'ble Justice Rajasekahr Mantha.

Response on behalf of the State:

- i. It is a settled position of law that once a complaint is lodged before a police station disclosing, *prima facie*, the commission of a cognizable offence, the police is duty bound to register an FIR. At the instance of registering an FIR where a cognizable offence is made out in the complaint, the police is not to examine the possible *mala fides* of the complainant and/or whether the allegations are genuine or not. Further, neither does the political allegiance of the de-facto complainant or the accused person hold any bearing while registering the FIR. As such, the argument raised on behalf of the petitioner that this is not a case where malice has to be specifically raised against a person, is completely erroneous. In any case instituted under Article 226 of the Constitution or under Section 482 of Cr.P.C. seeking quashing of FIR(s) on the basis of malice/*mala fides*, specific averments with regard to how malice/*mala fides* has been committed by a person is *sin qua non*. Therefore, simply stating that attending circumstances are enough to show the malice of the State, is not enough to quash an FIR. Such bald, vague and omnibus averments have to be tested at the stage of trial. The Constitutional Courts at this stage ought to only examine as to whether a *prima facie* case has been made out or not which shows the commission of a cognizable case.
- ii. It is pertinent to mention that at the stage of registering the impugned FIRs, the police officials registered them in terms of applicable laws. However, to show the *bona fides* of the State, various FIRs have not been pressed by the Senior Counsel appearing for the State of West Bengal at the time of arguing

the instant case. This is because, upon consideration, it appears that certain cases ought to not be proceeded with as initial enquiries show that these cases are fit for Final Report (FRT) and would not culminate in the filing of Chargesheets. However, the registration of these FIRs cannot be misconstrued as initiation of malicious prosecution against the petitioner. These cases were simply registered on the basis of cognizable offences made out in the complaints. A list of the cases not pressed by the State of West Bengal are produced herein below:

- a. Panskura P.S. Case No. 375/21 dated 24.08.2021 under Sections 341/323/325/379/506/34 of the Indian Penal Code, 1860;
- b. Panskura P.S. Case No. 376/21 dated 24.08.2021 under Sections 341/323/325/354/379/506/34 of the Indian Penal Code, 1860;
- c. Durgachak P.S. Case No. 29/22 dated 16.03.2022 under Sections 143/188/186/269/270/283 of the Indian Penal Code, 1860;
- d. Amherst P.S. Case No. 176/22 dated 24.07.2022 under Sections 120B/ 465/ 469/ 471/501/505(1)(c)/153 of the Indian Penal Code, 1860 read with Section 66(c) of the Information Technology Act, 2000;
- e. Jadavpur P.S. Case No. 178/22 dated 08.09.2022 under Sections 341/324/506/427/34 of the Indian Penal Code, 1860;
- f. Beliaghata P.S. Case No. 144/22 dated 16.11.2022 under Sections 153/500/501/504/505(2)/120B of the Indian Penal Code, 1860 read with Section 23 of the Protection of Children from Sexual Offences Act, 2012;
- g. Sankrail P.S. Case No. 1178/22 dated 23.11.2022 under Section 509 of the Indian Penal Code, 1860.

It is apposite to mention that the petitioner at the time of making arguments at the stage of rejoinder, has placed before this Hon'ble Court a list of 8 cases, which according to the petitioner have not been pressed by the State. However,

in the said list relied upon by the petitioner, only Durgachak P.S. Case No. 29/22 dated 16.03.2022 and Jadavpur P.S. Case No. 178/22 dated 08.09.2022 have been correctly mentioned as not pressed by the State. The other 6 FIRs, being (i) Nandigram P.S. Case No. 110/21 dated 18.03.2021, (ii) Tamluk P.S. Case No. 595/21 dated 19.07.2021, (iii) Kulti P.S. Case No. 77/22 dated 04.02.2022, (iv) Contai P.S. Case No. 73/22 dated 17.02.2022, (v) Contai P.S. Case No. 74/22 dated 17.02.2022, and (vi) Contai P.S. Case No. 75/22 dated 17.02.2022, have been relied upon and has been cogently pressed upon by the State.

Submissions of the petitioner:

- i. Moreover, this point of time, the State cannot raise this issue since this point was never raised in the initial stages. If the said issue would have been raised at the nascent stage, separate writs could have been preferred to address the cause. However, at such a belated stage, the same ought not be considered maintainable, since the petitioner's plea will remain remediless.
- ii. Further, the petitioner also placed the Judgment dated 20.07.2018 passed in CRR 730 of 2018 (Mukul Roy v. State of West Bengal &Ors.), wherein, multiple FIRs have been quashed by this Hon'ble Court.

Response on behalf of the State:

- i. At the very outset it is stated that the petitioner has erroneously attempted to mislead this Hon'ble Court by stating that the State had not raised the issue of maintainability in the initial stages of the instant case. It is categorically stated that the State had argued that the writ petitioner cannot club multiple FIRs (23

FIRs) in two writ petitions to invoke the jurisdiction of this Hon'ble High Court under Article 226 of the Constitution, where the cause of action of each FIR is separate and distinct. Clubbing of different causes of action is erroneous in law and ought to be raised through separate writ applications. [***Shivnarayan vs. Maniklal reported in (2020) 11 SCC 629***]

- ii. With regard to the Judgment dated 20.07.2018 passed in CRR 730 of 2018 (Mukul Roy v. State of West Bengal & Ors.), wherein, multiple FIRs have been quashed by this Hon'ble Court, it is submitted that in the case of *Mukul Roy*, separate FIRs were challenged through distinct criminal revisional applications before this Hon'ble High Court. At a subsequent stage, such separate criminal revisional applications were tagged together and heard together by this Hon'ble Court. However, the instant writ petitions preferred by the petitioner stands on a different footing. As many as 23 FIRs have been collectively challenged through the instant writ petitions whereby, the cause of action of various FIRs have been clubbed together and argued upon in an analogous manner. Such challenge of various FIRs stemming from distinct causes of action under two umbrella writ petitions is improper and *dehors* the mandate of law.

Arguments advanced vis-à-vis Jhargram P.S. Case No. 346/22 dated 17.11.2022

The petitioner relied upon the Judgment dated 23.08.2024 passed in Criminal Appeal No. 2622 of 2024 (***Shajan Skaria v. The State of Kerala & Anr.***). On the basis of the said Judgment, it was argued on behalf of the petitioner that mere insult of a member of the SC/ST community by a non-member of the

SC/ST community does not tantamount to an offence within the meaning of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, unless such insult was made owing to the fact that the victim is a member of the SC/ST community.

Response on behalf of the State:

- i. The petitioner's reliance upon the aforesaid Judgment dated 23.08.2024 is erroneous as the subject matter of the instant case is completely different. In *Shajan Skaria*, the Hon'ble Supreme Court was considering an appeal arising from an order of rejection of anticipatory bail of the accused person, where the accused person had insulted a person from the SC/ST community. Furthermore, the Hon'ble Apex Court was considering whether anticipatory bail can be granted to an accused, when *prima facie* the prosecution has been unable to show that the insults were hurled at the victim since the victim belonged to the SC/ST community. The Hon'ble Supreme Court finally held that when a court comes to the *prima facie* finding that though an accused had insulted a member of the SC/ST community, but such insult was made not because of the victim's SC/ST status, then the accused may be granted anticipatory bail.
- ii. The instant case has no connection to the afore-referred case law, as the instant case does not pertain to anticipatory bail, and on the contrary, is primarily concerning quashing of an FIR.

IV. Surviving cases to be transferred to an independent investigating agency:

The petitioner has argued that in case any FIR survives, such FIRs should be transferred to an independent investigating agency. Transfer of such cases would inspire confidence in the investigation.

Response on behalf of the State:

It is trite law, nevertheless fundamental, that transfer of investigation is not for the accused person's asking. Only under extreme exceptional circumstances, can an investigation be transferred to another investigating agency. Merely stating that for the accused to retain faith in the investigation, a case should be transferred to a different agency, is not an appreciable ground for transfer of the case. (*State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*) and *Bimal Gurung v. Union of India, (2018) 15 SCC 480*).

CONCLUSION

Regard being had to the aforesaid facts and submissions that the present writ petitions preferred under Article 226 of the Constitution of India and petition under Section 482 of the Code of Criminal Procedure, 1973 is a desperate attempt to curb the investigation that is to be conducted by the State Investigating Agencies in the multiple FIRs and if the same is allowed would amount to miscarriage of justice and would prejudice the State investigating agencies which in the alternative would unearth the illegalities committed by the accused persons. The present writ petitions along with the petition under Section 482 of the Code of Criminal Procedure, 1973 ought to be and should be dismissed by this Hon'ble Court with exemplary costs.

4. Learned senior counsel appearing on behalf of the respondent no. 12 has submitted and has relied on the written notes as follows.

4.1. The instant petitioner appertains to the written complaint, which was lodged on 07.07.2021 by the de-facto complainant namely Suparna Kanjilal Chakraborty (respondent no. 12), wife of Late Suvabrata Chakraborty, residing at Sarberia, Post Officer – Madhya Hingli, Police Station – Mahisadal, District – Purba Medinipur, which was converted into a First Information Report (FIR) being Contain Police Station Case No. 248 of 2021 dated 07.07.2021 registered under Sections 302/120B Indian Penal Code, 1860, wherein the petitioner is not named as an accused. The facts of the aforesaid F.I.R. in a nutshell are enumerated hereinbelow: i) The de-facto complainant's husband namely Suvabrata Chakraborty was engaged as a security personnel in the team which was assigned to the petitioner by the State Police. On 13.10.18, the de-facto complainant and her husband had a telephonic conversation at 10:16 hrs and her husband informed her that he would be coming home; ii) At about 11:20 hrs, the de-facto complainant came to know from her sister-in-law that her husband was admitted to Contai SD Hospital for medical treatment. Following this, the de-facto complainant's relatives left for Contai SD Hospital, and on arriving there, she acquired knowledge from them that an arrangement for an ambulance had been made for shifting her husband to Kolkata to undergo better treatment as per the direction of Suvendu Adhikari, who is the petitioner herein. It is pertinent to mention that the ambulance was only arranged after a significant amount of delay. On the same day, her husband was transferred to

Apollo Hospital, Kolkata at about 19:00 hrs. On 14.10.2018 at 17:00 hrs, her husband had expired. On 15.10.2018, a UD case being Inquest No. 71/2018 was initiated by Phoolbagan P.S., and a post-mortem was done, however, the post-mortem report was not served upon the de-facto complainant; iii) That the de-facto complainant was in utter shock and disbelief regarding the mysterious circumstances under which her husband died and the fact that the same was termed as suicide without any proper investigation. As a result, she nurtured a strong belief that there was foul play behind the delay in arranging the ambulance and the death of her husband however, she spent a substantial amount of time trying to overcome the grief and despair caused due to the untimely and tragic loss of her husband's life and was shaken but could not gather the courage to approach the law enforcement agencies to look into the matter owing to the popularity, influence and power enjoyed by the petitioner; iv) Subsequent to the facts and circumstances, the de-facto complainant's suspicion was further aroused when 15.05.2021, one Himangshu Manna and Swadesh Das suddenly came to the house of the de-facto complainant and started enquiring as to whether she had received any call regarding the death of her husband. Being suspicious of the cause of death of her husband, the Respondent No. 12 filed a written complaint at Contai Police station. On the basis of this written complaint, an F.I.R, being Contai Police Station Case No. 248, dated-07.07.2021 under Section 302/120B IPC, 1860 was lodged.

4.2. The Learned Counsel for the petitioner put together a three-fold argument that: i) Delay in registration of FIR by the de-facto complainant; ii)

Proper investigation was conducted by the police; iii) The FIR is lodged with the intention of falsely implicating the petitioner in various criminal cases.

4.3. The learned counsel for the respondent no. 12 defended the false allegations of the petitioner, by arguing at length that: i) The writ is not maintainable as the petitioner does not have any locus standi since the FIR does not name the petitioner as accused – The Respondent No.12 submitted that the petitioner has not been named anywhere in the complaint or the F.I.R. and as such petitioner not being arraigned as an accused in the F.I.R cannot challenge the same by way of filing a quashing application. It is submitted that the petitioner, as on date not being an accused, cannot lay challenges to the complaint made by the Respondent No. 12 which indeed has disclosed the commission of cognizable offences. It is further submitted that the Hon'ble Court should evaluate the interest of the petitioner, who is constantly trying to stall the investigation vis-a-vis the interest of the de-facto complainant who is well within her fundamental rights, as the wife of the deceased being the victim within the meaning of Section 2(wa) of the Code of Criminal Procedure, 1973 to seek justice and the same cannot be hindered by another third party. being the petitioner herein; ii) Fundamental right of the de-facto complainant to seek justice for her husband's (victim) mysterious death -It is submitted that it has been stated in the F.I.R. that this is a clear case of unnatural death under suspicious circumstances since the deceased had spoken to his wife over a telephone call an hour before the incident and had informed his wife that he would be coming home in an hour. Within one hour of the call, the deceased

was found dead with a gunshot through his head. Furthermore, the unreasonable delay in arranging the ambulance for shifting her husband from Contai SD Hospital to Kolkata raised serious suspicion of foul play in the matter. At the time of the post-mortem of the deceased, the brother-in-law of the Respondent No. 12 had stated that he did not think that his brother could do such a thing. The Respondent No. 12 was never given any clear understanding of the events leading up to the shooting of her husband, being security personnel of the petitioner, which was extremely suspicious for the de-facto complainant and given the status of the petitioner, the delay in arranging an ambulance for shifting of the deceased was not justified and remains unaccounted for. It is submitted by the Respondent No. 12 that on perusal of the F.I.R., it appears that she has given information about the death of her husband owing to bullet injury and she also affirmed the view of her brother-in-law that her husband could not have shot himself dead which necessarily indicates that there was the commission of cognizable offence in relation to the death of her husband. In this connection, it is submitted that the law is well-settled that an FIR need not be an encyclopaedia containing each and every detail about the commission of an offence, but it should only give information so as to bring to the knowledge of the investigating agency the commission of an offence, which in the impugned FIR has been sufficiently provided; iii) Alleged delay and mala fide are not grounds for quashing an FIR - It is submitted that the Respondent No. 12 was under the impression that the investigation was still being conducted to unearth the cause of her husband's

mysterious death. It is submitted that since the Respondent No. 12 is the victim herein within the meaning of Section 2(wa) of the Code of Criminal Procedure, 1973, it was her fundamental right to be informed about the cause and developments concerning her husband's death. But neither was she duly informed about the investigation process nor was told about the completion of the said investigation and whether any conclusion was derived from such investigation. Furthermore, a copy of the post-mortem report dated 15.10.2018 was also not served upon her and the same was only served during the hearing of the instant case in terms of direction of this Hon'ble Court. Non furnishing of information of investigation to the victim violates the well-settled principle as held in *K. Krishnan v. State of Kerala and Ors.* 2023 (5) KHC 58. Despite a significant amount of time having passed by, the Respondent No. 12 was not apprised of the particulars of the investigation, and in 2021, some people approached her to enquire about her husband's death which made the Respondent No. 12 apprehend some serious foul play in connection with her husband's death and the investigation thereof. Hence, she lodged the complaint and subsequently, the F.I.R. being No. 248 of 2021 was registered. Moreover, it is submitted that there was a delay in lodging the complaint as the Respondent No. 12 was terrified of the influence of the petitioner, since at the time of the incident, he was affiliated with the ruling political party. Such stature of the petitioner had prevented the Respondent No. 12 from raising questions about her husband's death. The Respondent No. 12 was hoping to get justice upon the dissociation of the petitioner from the ruling dispensation.

Hence, when even after three years of her husband's death, she was not duly informed about the conclusion of the investigation, she was constrained to file a complaint. Furthermore, it is submitted that the complaint lodged by the Respondent No. 12 is not mala fide, as the petitioner was not named in the complaint or the impugned F.I.R. registered by the investigating agency; iv) Preliminary enquiry is not required if a prima facie case of cognizable offence is made out - It is submitted that a bare perusal of the complaint and the F.I.R. would answer the question that a prima facie case of a cognizable offence is made out involving the unnatural death of her husband. Moreover, his death being an undisputed fact, needs to be thoroughly investigated after registration of the F.I.R. as observed in the case of *Lalita Kumari vs. State of Uttar Pradesh & Ors.*, (2014) 2 SCC 1. It is submitted that the investigation was not transparent and proper, which left the Respondent No. 12 completely in the dark about the real events leading up to the unnatural death of her husband. The Respondent No. 12 urged the Hon'ble Court to consider the need for a fair and thorough investigation, as observed in the case, of the events leading up to the death of her husband, to ensure the ends of justice. Thus, the Respondent No. 12 had not approached the criminal justice machinery with mala fide intention but wanted the investigating agency to conduct proper investigation to unearth the cause of death of her husband as she did not believe that her husband could commit suicide; v) Proper investigation was not conducted by the police – It is submitted by the respondent no. 12, that in the UD case registered at Phoolbagan Police Station, the investigation should have been

conducted in the manner laid down in Police Regulations, Calcutta, 1968, to ascertain whether her deceased husband's death was suicidal or homicidal. However, the said investigation had a lacuna and was not conducted as mandated by the law. The Section 111(2) of the Police Regulations, Calcutta, 1968. It is submitted that as per Section 111(2)(c) of PRC, 1968 the police were required to maintain a special diary of the investigation, but in this instant matter, the police did not maintain a special diary of the investigation, thereby clearly violation of Section 111(2)(c) of the PRC, 1968. The police were also obliged to inform the deceased's wife, the de facto complainant herein, of the key developments in the ongoing investigation, but the police failed and/or neglected to do so, therefore, depriving the respondent no. 12 of her right to justice. Further, the learned counsel of the respondent no. 12 relied upon *K. Krishnan v. State of Kerala and Ors.* 2023 (5) KHC 58.

4.4. It is submitted that it is trite that the victim cannot be treated as an alien or total stranger to the criminal proceedings. It must be fair, transparent, and judicious, as it is the minimum requirement of the rule of law. The victim has the right to be informed of the conclusions of the inquiry. The report under Section 174(2) of the Code is not a 'final report' under the Code. Such a report is not treated as "positive or negative". The report of an inquest under Section 174(2) of the Code and the inquest report prepared by the Executive Magistrate shall not in any way interfere with the power and freedom of the Police to investigate the commission of a cognizable offence. The report under Section 174 of the Code does not decide the rights and liabilities of the parties involved.

It was submitted that the post-mortem report which was provided to the Respondent No. 12. upon the Hon'ble Court's direction clearly states, "death was due to the effects of gunshot injury, ante mortem and suicidal in nature, however manner to be confirmed by circumstantial evidence". Hence, the investigation was supposed to be continued pursuant to the findings in the post-mortem report but was abruptly stopped by the investigating agency, which is in grave violation of the procedures laid down in the Police Regulations, Calcutta, 1968 and K. Krishnan v. State of Kerala and Ors. 2023 (5) KHC 58. Judgements relied upon by the respondent no. 12; i) K. Krishnan v. State of Kerala and Ors. 2024 (5) KHC 58; ii) Lalita Kumari vs. State of UP and Ors. (2014) 2 SCC 1.

5. Learned counsel appearing on behalf of the respondent no. 21 has submitted and has relied on written notes as follows.

5.1. On 16.11.2022, Smt. Birbaha Hansda (respondent no. 21 herein) had lodged a complaint before Jhargram Police Station against the petitioner, namely, Sri Suvendu Adhikari (MLA from Nandigram Assembly Constituency and Leader of Opposition) and unknown others, inter alia, highlighting the following: i) The respondent No. 21 belongs to the Schedule Tribe and is a cabinet minister in the State of West Bengal; ii) The petitioner with an intention to humiliate, intimidate and degrade the respondent No. 21 and other members of the Schedule Tribe, had stated, 'these people sitting here are children, this Debnath Hansda and Birbaha Hansda, their place is below my shoes'; iii) Such

derogatory statements were made by the petitioner to single out the respondent No. 21 and her brother from a crowd of people, knowing fully well that they are members of the Schedule Tribe, with the intent to promote ill-will amongst members of higher castes against members of the Schedule Tribes; 2) On the basis of the aforesaid complaint lodged by the respondent No. 21, Jhargram Police Station registered an FIR, being Jhargram P. S. Case No. 346 of 2022 dated 17.11.2022 under Sections 34/120B/153A/500/504/505/506/507/509 of the Indian Penal Code, 1860 read with Sections 3(1)(r)/3(1)(u)/3(1)(w)(ii)/3(2)(vii) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989; 3) On 18.11.2022, the petitioner filed the instant writ petition, therein praying for, inter alia, writ of mandamus to quash 11 FIRS registered against the petitioner across the State of West Bengal. The petitioner claimed that such FIRs were registered by the state police with mala fide intent to target him, at the behest of the ruling dispensation since he is the leader of the opposition. It is relevant to mention that the writ petition did not assail the instant FIR, being Jhargram P. S. Case No. 346 of 2022 dated 17.11.2022, registered at the instance of the respondent No. 21; 4) Subsequently, vide a supplementary affidavit dated 07.12.2022, the petitioner assailed the subject FIR dated 17.11.2022. Upon hearing the contentions of the petitioner on the basis of the supplementary affidavit, this Hon'ble Court was pleased to stay the instant FIR dated 17.11.2022 vide an order dated 08.12.2022. The said order was passed without giving the de-facto complainant (respondent No. 21) an opportunity of being heard. Furthermore,

it is pertinent to mention that the petitioner had assailed the subject FIR within 21 days of its registration and thereby disallowed the investigating agency from conducting investigation into a cognizable offence which is in contravention of the principles laid down in *Lalita Kumari v. Government of Uttar Pradesh & Ors.* reported in (2014) 2 SCC 1. The said affidavit did not contain any pleadings with respect to the facts as stated in the FIR dated 17.11.2022; 5) Aggrieved by the aforesaid order dated 08.12.2022, whereby, the investigation was stayed at a very nascent stage, the de-facto complainant (respondent No. 21 herein) in Jhargram P. S. Case No. 346 of 2022 preferred an impleadment application (being C. A. N. 1 of 2023 in W. P. A. 25522 of 2022). Such impleadment was necessary as the respondent No. 21 falls within the meaning of "victim" under Section 2(1)(ec) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989. Thereafter, the respondent No. 21 was impleaded by the writ petitioner as a party respondent in the instant writ petition.

5.2. Petitioner's allegations on mala fide needs to have specific allegations – i) The supplementary affidavit filed by the petitioner assailing Jhargram P. S. Case No. 346 of 2022 fails to make any specific allegation of bias/malice against the respondent No. 21. It simply states that, "... yet another criminal case has been registered at Jhargram Police Station against the petitioner..." (Page 2 para 2(b) of the supplementary affidavit). No specific pleadings were made with regard to the facts as stated in the complaint of the respondent No. 21; ii) The state respondents had filed an affidavit in opposition to the aforesaid

supplementary affidavit. In reply, the petitioner raised bald allegations against the police administration and the ruling party (Page 2 para 2 of the petitioner's affidavit-in-reply to the state respondents' affidavit-in-opposition). Further, the petitioner claimed that criminal cases were being weaponised by the state administration to curtail the voice of the opposition in connivance with certain elements of the ruling party (Page 4 para 7 of the petitioner's affidavit-in-reply to the state respondents' affidavit-in-opposition); iii) The petitioner also preferred an affidavit in opposition to the impleadment application filed by the respondent No. 21. Once again, no specific allegation/ opposition was made against the respondent No. 21. Only bald statements of political vendetta have been alleged, without going into any specifics (Page 7 para 4 of the affidavit in opposition filed by the petitioner to the impleadment application filed by the respondent No. 21). Therefore, in the absence of any specific allegation(s) against the respondent No. 21, this Hon'ble Court should not entertain the petitioner's bald allegation(s) of mala fide, especially when the respondent No. 21 has been able to make out a cognizable case against the petitioner. The veracity of the allegation(s) made by the respondent No. 21 has to be tested at the stage of trial and merely because the complaint was lodged by a political opponent is no ground for quashing. Case laws on mala fide and quashing: i) State of Bihar v. P. P. Sharma reported in 1992 Supp (1) SCC 222 (para 23); ii) State of Maharashtra v. Ishwar Piraji Kalpatri reported in (1996) 1 SCC 542; iii) Rambeer Updhyay and Anr. V. State of UP and Anr. reported in 2022 SCC Online SC 484. Scheme of the Schedule Castes and Schedule Tribes

(Prevention and Atrocities) Act, 1989 – i) The Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 is a special statute enacted by the Legislature as the then existing general statutes like the Protection of Civil Rights Act, 1955 and the Indian Penal Code, 1860 have been found to be inadequate to prevent atrocities against members of the SC/ST. The Statement of Objects and Reasons of the Act clearly state, "when the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty"; ii) Tersely put, the term 'atrocities' was defined for the first time and the Act envisages to punish all forms of atrocity committed against members of the SC/ST community. The Legislature intended to protect atrocities in the forms of -a. Physical (S. 3(1)(a), (d), (e));b. Vicinity (S. 3(1)(b), (c));c. Land (S. 3(1)(f), (g));d. Forceful work (S. 3(1)(h), (i), (j), (k));e. Election related (S. 3(1)(l), (m), (n), (o));f. Legal (S. 3(1)(p), (q));g. Insult (S. 3(1)(r), (s), (t), (u), (v));h. Sexual (S. 3(1)(w));i. Waterbody (S. 3(1)(x));j. Passage (S. 3(1)(y), (z), (za));k. Witchcraft (S. 3(1)(zb));l. Boycott (S. 3(1)(zc)); iii) As stated above, the Legislature intends to protect the SC/ST community from atrocities arising from any form of insults made by a person who is not a member of the SC/ST. Section 3(1)(r) pertains to intentional insults and intimidation with the intent to humiliate a member of the SC/ST in any public place. Further, Section 3(1)(u) pertains to words spoken which promote feelings of enmity, hatred or ill-will against members of the SC/ST. Therefore, any form of insult/humiliation in a public place and/or words which creates ill-feelings towards any SC/ST member is a punishable offence within

the scheme of the Act. The fact that the writ petitioner had stated that the respondent No. 21 and her brother deserves to be under the shoe of the petitioner, before a public gathering, clearly reflects the humiliation which was being brought over to the respondent No. 21 and her brother because of them being members of the SC/ST community. The respondent No. 21 and her brother were singled out when such comments were made; iv) Section 3(2)(vii) of the Act lays down a higher burden on public servants who are not members of a SC/ST community as opposed to non public servants. This is to ensure that no person in a position of power can misuse their office to degrade the quality of life of a member of the SC/ST community; v) Section 8(c) of the Act lays down that in a prosecution for an offence, if it is proved that the accused had personal knowledge of the victim or his/her family, the Court shall presume that the accused was aware that the victim is a member of the SC/ST community. Even though this section refers to the stage of trial, it is amply clear that the legislative intent focuses on the presumption that the accused had wilfully committed an offence against a victim since such victim is a member of the SC/ST community. In other words, there is a presumption that the accused is aware of the victim's caste or tribal identity if they were previously acquainted with each other. In the present case, since both the petitioner as well as the respondent No. 21 are Members of the same Legislative Assembly, the petitioner cannot deny the fact that he had ample knowledge that the respondent No. 21 is a member of the Scheduled Tribe; vi) A conjoint reading of Section 15A and Section 18 of the Act shows that the Legislative

intent is highly pro-victim and aimed at providing efficacious remedy to the victim.

5.3. Arguments advanced vis-a-vis Jhargram Police Station Case No. 346/2022 dated 17.11.2022 - At the stage of rejoinder, the petitioner relied upon the judgement dated 23.08.2024 passed in Criminal Appeal No. 2622 of 2024 in Shajan Skaria v. The State of Kerala & Anr., to contend that an insult directed at a member of the SC/ST community by a person not belonging to the SC/ST community does not qualify as an offense under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, unless the insult was levelled at the victim specifically because the victim belongs to the SC/ST community.

5.4. Response on behalf of respondent no. 21 – i) At the very outset, it is stated that the petitioner's reliance on the judgment in Shajan Skaria is clearly misplaced as the facts of the present case are at variance. ii) The present fact scenario has no relation with the case cited above as it pertains to the quashing of an FIR and not anticipatory bail. In contrast, when dealing with quashing of the entire proceedings, this Hon'ble Court must adhere to the grounds of quashing as laid down by the Hon'ble Supreme Court in State of Haryana & Ors. v. Bhajan Lal & Ors. reported in 1992 Supp (1) SCC 335. As such, the ratio laid down in Shajan Skaria is concerning an anticipatory bail matter, having completely different facts and circumstances from the instant case; iii) Additionally, the letter of complaint on the basis of which the

instant FIR was registered, clearly alleges that the de-facto complainant and her brother were specifically targeted and humiliated by the petitioner due to their SC/ST status, which establishes a prima facie case, and as such, Jhargram P.S. Case No. 346/22 dated 17.11.2022 should not be quashed. The veracity of these allegations must be assessed at trial and this Hon'ble Court ought not to conduct a mini-trial at this stage to make such a determination.

5.5. The petitioner had specifically identified and addressed the respondent No. 21 and her brother, in a public place, amongst many persons. With words spoken, the petitioner targeted and thereby insulted the respondent No. 21 and her brother amongst a gathering of people. Being a public servant (MLA and Leader of Opposition), the petitioner enjoys limelight/attention from the general public as well as wide publicity from the media. As such, the petitioner's public utterances are widely disseminated across public fora. Hence, when the petitioner humiliated the respondent No. 21 and her brother by stating, 'these people sitting here are children, this Debnath Hansda and Birbaha Hansda, their place is below my shoes', such statement was not only heard by the general public present at the spot, but also persons across the nation through the media, including other members of the SC/ST community; 2) The Act envisages that a person ought to be punished for making any form of insult/humiliation against a person who is a SC/ST, and the same extends to humiliation faced by the entire community. Further, the petitioner also tactfully chose not to insult the other persons who were accompanied the respondent no. 21 and her brother. Therefore, it is evident that the petitioner

purposefully singled out the respondent No. 21 and her brother so as to insult them since they are beneath him, i.e., members of a lower caste ought to be beneath members of a so called higher caste; 3) It is also without doubt that the petitioner is well aware about the SC status of the respondent No. 21. This is because both, the petitioner as well as the respondent No. 21 are members of the same Legislative Assembly and the respondent No. 21 was also a Minister of State in the Government of West Bengal. Further, being the Leader of Opposition, the petitioner cannot deny that he is well acquainted with the respondent No. 21's ST status, moreso, when the said writ petitioner singled out the respondent No. 21 and her brother out to abuse them in public; 4) In light of the above, the petitioner squarely falls within the penal ambit of the special statute and ought to be punished in accordance with the special statute. He is a non-member of the SC/ST community and has insulted the respondent No. 21 knowing fully well that she belongs to the ST community. Being a public servant, he was also aware that the humiliation faced by the respondent No. 21 would also be extended to common members of the SC/ST community (through the media) who would also be subject to such ridicule; 5) Be that as it may, it is trite law, nevertheless fundamental, that High Courts while hearing a quashing application ought not to conduct a mini trial. While examining an FIR/complaint, the court cannot embark upon an enquiry as to the reliability or genuineness of the allegations made in the FIR/complaint. Additionally, the instant supplementary affidavit assailing the FIR dated 17.11.2022 does not have any specific prayer seeking quashing of the FIR. On the contrary, each of

the other FIRs challenged in the instant writ have a separate prayer seeking quashing of the same. In the absence of a specific prayer seeking quashing of the FIR dated 17.11.2022, no relief to that effect ought to be granted. In such circumstances, the FIR dated 17.11.2022 ought not to be quashed by this Hon'ble Court. Case laws on quashing (including matters pertaining to SC/St) and on 'reliefs not to be granted when not prayed for – i) State v. M. Maridoss and Anr. reported in (2023) 4 SCC 338; ii) Puran Chand Gupta and Ors. v. State NCT of Delhi and Anr. reported in 2022 SCC Online Del 695; iii) Sudamati w/o Nandkumar Kade v. State of Maharashtra reported in 2005 SCC Online Bom 1054; iv) Bharat Amratlal Kothari and Anr. v. Dosukhan Samadkhan Sindhi reported in (2010) 1 SCC 234; v) Akella Lalitha v. Konda Hanumantha Rao and Anr. reported in 2022 SCC Online SC 928.

6. The CBI was represented by learned senior counsels.

7. I heard the learned counsels for the parties and perused the writ petitions, the affidavits, the case diaries and the written notes of submissions.

Sixteen Criminal Proceedings effectively challenged:

8. It would appear from the submissions of the parties, even the written notes, that the parties had proceeded on the premise that several criminal proceedings other than the sixteen specifically mentioned at paragraph 1.2. above were also under challenge in these three applications. Even the State filed submissions in respect of 23 cases as mentioned in their written notes.

8.1. It is true that a supplementary affidavit was filed in the writ petition of 2022 making averments as regards certain other criminal proceeding citing four more cases and praying for similar relief. During the hearing, even counter arguments were advanced in respect of several other criminal proceedings.

8.2. However, it does not appear from the records that at any point of time the prayer made in the supplementary affidavit was specifically considered or allowed permitting the petitioner to formally challenge any of the said other criminal proceedings in these three applications (two writ petitions and one criminal revision), except for the sixteen criminal proceedings as specifically enumerated above. However, reference was made to such other proceedings and interim orders were also granted by a Co-ordinate Bench of this Court in respect of the FIRs referred to. In fact, interim orders were granted in respect of some other criminal proceedings that were not even enumerated in the supplementary affidavit. But, there was no order passed to amend the writ petition or the prayer or to make such other criminal proceedings subject matter of challenge herein. Quite commensurately, the prayer portions remain unaltered.

8.3. In fact, the pleadings in the said supplementary affidavit do not even appear to be sufficient to elicit any such amendment in the petition.

8.4. The above infraction goes to the root of the matter and is not a mere procedural lapse. Here, the other criminal proceedings referred to are therefore, effectively, not under challenge in any of the three applications.

8.5. Thus, it cannot be held that such other proceedings are under challenge in the present applications. Therefore, this Court intends to deal only with the above referred sixteen criminal proceeding on merits, even as regards the question of maintainability.

8.6. The petitioner, however, shall be at liberty to file appropriate application/s in respect of any other criminal case. The merits of those other cases would not be dealt with herein for the purpose of testing the sustainability of such proceedings.

Quashing of Proceedings - Multiple ones in lesser number of applications, in the instant case:

9. It is trite law that applications can be moved praying for quashing of criminal proceedings even in exercise of Article 226 of the Constitution of India, other than by invoking inherent powers under Section 482 of the Code of Criminal Procedure 1973. Reliance is placed on (i) **State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335**; (ii) **Haji Iqbal @ Bala through SPOA vs. State of Uttar Pradesh and Others, (2023) 20 SCC 209**.

9.1. Ordinarily, a distinct cause of action would give rise to a distinct revision petition or a particular writ petition. However, the petitioner herein has alleged that there is a common thread in all the cases instituted during a particular period and that is the mala fide on the part of the State and its men and agents and therefore, the petitioner can fairly pray for quashing of diverse proceedings in such fewer number of applications. In fact, there are detailed orders passed

by a Coordinate Bench of this Court granting interim order / s, which were assailed before the Hon'ble Supreme Court, but the Hon'ble Court did not interfere on the question of maintainability of the petition.

9.2. As contended on behalf of the petitioner, thereafter this issue was not taken up as a separate ground of non-maintainability. The respondents participated in the hearings till the end and thus, should be estopped from taking this up as a ground of non-maintainability at this mature stage. More importantly, it was contended that if the petitioner had been asked to file separate applications, he would have done so.

9.3. The issue of joinder of more than one cause of action in an application does not, however, go to the root of the matter or, for that that matter, raise a question of jurisdiction per se. Even if separate applications were filed here, the same could have been and, in all probability, would have been taken up for hearing together as they involved similar issues and questions of law.

9.4. In any event, as was held in **Lallan Rai vs State of Bihar, (2003) SCC 268**, it is axiomatic that procedural law is the hand-maid of justice and the Code of Criminal Procedure is no exception thereto. Its incorporation in the Statute Book has been to sub-serve the ends of justice and non-observance of the technicalities does not and cannot frustrate the concept of justice since technicality alone would not out-weigh the course of justice. In **Sushil Kumar Sen vs State of Bihar, (1975) 1 SCC 774**, a Three Judges Bench of the Hon'ble Supreme Court held – “The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that

procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable.”

9.5. It also does not appear that any prejudice has been caused to anyone for taking up all the similar matters together.

9.6. Therefore, at this final stage it would not be fair and just to dismiss the petitions on this score alone.

Crux of the petitioner’s case and the question of mala fide:

10. Evidently, the present petitioner is the Leader of the Opposition in the State and had shifted allegiance from the ruling political dispensation to the party in opposition on 19.12.2020. He had also defeated the present Chief Minister in the Elections. All the present criminal proceedings have been started after the said date and all within a period of less than two years. The petitioner has contended that 47 more FIRs were lodged against the petitioner later, in a span of 34 days. These are being dealt with by the petitioner separately. Upon enquiry, it was submitted on behalf of the State that before the date of such shifting of allegiance, no criminal case had been started by the State during the period between the date of coming into power of the present ruling political dispensation in 2011 till the date of the petitioner shifting allegiance. However, there were a couple of cases started by the Central Agencies during such period.

10.1. If so many cases, as are the subject matters of these petitions, could be started against the present petitioner after shifting of political allegiance during such short span of time and so many more cases could be started against him

till interim restrictive order/s could be passed by this Court, then one would be at a loss to ponder about whether the petitioner is a habitual offender and quite an incorrigible one. But, the State did not file a single criminal case against him before his shifting of allegiance. Therefore, it will be open to speculation as to whether the State police had been deliberately ignoring any earlier crimes, or is it a fact that the petitioner had been falsely implicated in these cases for shifting political allegiance.

10.2. It has been eloquently enumerated, on behalf of the petitioner, about how similarly circumstanced politicians who had shifted their allegiance from the ruling political party of the State to other the side were also allegedly falsely implicated in criminal cases. Some of them allegedly and apparently buckled under pressure and went back. Others stood their ground. In fact, some such proceedings had been quashed by this Court and some had been stayed by this Court or by the Hon'ble Supreme Court.

10.3. The above facts do create a supportive backdrop to the petitioner's allegation that he has been falsely implicated in these criminal cases out of political vendetta for shifting sides.

11. Mala fide is indeed a ground for quashing of criminal proceedings. On this, reliance may be placed on (i) **Bhajan Lal's Case** (supra); (ii) **Sunder Babu and Ors. vs. State of Tamil Nadu, (2009) 14 SCC 244** (Bench of Three Judges).

11.1. The dictum that mala fide should not only be alleged, but also pleaded and proved would only mean that the same needs to be pleaded in the affidavits

and proved by affidavits when it comes to a writ petition. The instant pleadings apparently do not lack in such requirements.

11.2. It is also to be remembered that if a malicious attempt is made to frame someone in a false criminal case, such conspiracy, whoever may be responsible for the same, would quite obviously be done in secrecy or inside closed doors. Therefore, direct proof of the same may not be available. The same, thus, has to be ascertained and inferred from the attending facts and circumstances. Reliance may be placed on (i) **Mohd. Khalil vs. State of West Bengal, (2002) 7 SCC 334** [Bench of Three Judges]; (ii) **Sheikh Sintha Madhar alias Jaffer alias Sintha and Ors. vs. State represented by Inspector of Police, (2016) 11 SCC 265.**

12. However, painting of all cases with the same brush mechanically and even if a ground of mala fide is prima facie established would not be proper and the facts and circumstances of each and every case have to be carefully dealt with. There may be cases that are maliciously instituted against a person. But, that does not necessarily preclude the possibility of such person actually being responsible for a particular offence. Therefore, it has to be found out in each and every case whether a prima facie case is made out against the petitioner or not, albeit, keeping in mind the petitioner's contentions that he has been maliciously framed in false cases by the agencies of the State for shifting political sides.

Principles of quashing of criminal proceedings:

13. In deciding whether a prima facie case in a criminal proceeding is made out or not, it would be profitable to quote relevant portions of the decision in

Bhajan Lal's Case (supra), 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.

.....”

13.1. The scope and discretion to be exercised by a Court in an application for quashing of proceeding has been significantly enhanced by a recent path-breaking decision of the Hon’ble Supreme Court in **Haji Iqbal’s Case** (supra). Among other things, it was held that the Court was duty bound to carefully look into the FIR and the attending circumstances emerging from the records over and above the averments and try to read in between the lines. It was also empowered to take into account the overall circumstances leading to the initiation/registration of the case.

13.2. The relevant portions of the decision in **Haji Iqbal** (supra), may be quoted, as under:

“.....

15. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under [Section 482](#) of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under [Article 226](#) of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the

necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.

The Court while exercising its jurisdiction under [Section 482](#) of the CrPC or [Article 226](#) of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

.....”

Quashing of investigational proceeding:

14. As to whether a criminal proceeding can be quashed at a relatively early stage or at the stage of investigation, the law is quite well settled. In **Ajay Mitra vs. State of MP & Ors. reported at (2023) 2 SCC 11**, a Bench of Three Judges of the Hon’ble Supreme Court held that where a complaint or FIR prima facie did not disclose commission of any cognizable offence against the accused, the same would be liable to be quashed.

14.1. The very act of quashing of proceeding has to be exercised with due care and caution and in exceptional circumstances. A question of quashing of a proceeding, therefore, would have to be dealt with further circumspection, if the

stage is early. However, all these do not imply that the same cannot at all be taken recourse to even if the attending facts and circumstances so warrant and/or where a prima facie case is not made out on the face of the complaint or the FIR.

14.2. Even a partial quashing of an FIR or an investigation in respect of some accused is permissible. Reliance is placed on **Lovely Salhotra vs. State NCT of Delhi, (2018) 12 SCC 391.**

State sought to not press certain cases during hearing:

15. The other aspect here is the categorical submission made on behalf of the State that the State was not seriously opposing the petitioner's prayer in some of the above referred criminal proceedings.

15.1. The said proceedings in respect of which such submissions were advanced are enumerated as under –

- (i) Panskura P.S. Case No. 375/21 dated 24.08.2021 under Sections 341/323/325/379/506/34 of the Indian Penal Code, 1860;
- (ii) Panskura P.S. Case No. 376/21 dated 24.08.2021 under Sections 341/323/325/354/379/506/34 of the Indian Penal Code, 1860;
- (iii) Durgachak P.S. Case No. 29/22 dated 16.03.2022 under Sections 143/188/186/269/270/283 of the Indian Penal Code, 1860;
- (iv) Amherst P.S. Case No. 176/22 dated 24.07.2022 under Sections 120B/465/469/471/501/505(1)(c)/153 of the Indian Penal Code, 1860 read with Section 66(c) of the Information Technology Act, 2000;

(v) Jadavpur P.S. Case No. 178/22 dated 08.09.2022 under Sections 341/324/506/427/34 of the Indian Penal Code, 1860;

(vi) Beliaghata P.S. Case No. 144/22 dated 16.11.2022 under Sections 153/500/501/504/505(2)/120B of the Indian Penal Code, 1860 read with Section 23 of the Protection of Children from Sexual Offences Act, 2012;

(vii) Sankrail P.S. Case No. 1178/22 dated 23.11.2022 under Section 509 of the Indian Penal Code, 1860.

15.2. It is a different thing that out of the above, only serial nos. (iii), (iv) and (v) above are actually under specific challenge before this Court.

15.3. A criminal case is a very serious thing, right from its institution through the investigational process, the trial and then the ultimate outcome coming out of the decision making and the judgement. It affects the rights of citizens in a direct and a most agonizing manner touching upon the life and liberty of individuals. Thus, the same has to be taken with utmost seriousness. Therefore, it is very strange indeed that the State, which is the ultimate protector of rights of its citizens, could take such a cavalier stand in deciding not to press or seriously oppose the prayer for quashing in as many as eight criminal proceedings, that too during hearing of the applications. If this was the stand of the State, they might have very well brought an end to the proceedings themselves at an earlier stage.

15.4. However, simply because the State has chosen not to seriously oppose the petitioner's prayer in respect of some proceedings, this Court cannot base its decision blindly on such unreasoned choice made by the State. Therefore, the

Court would, like in any other case, go through the allegations and the materials on record to find out whether the contentions of the petitioner in those proceedings can be accepted or not, albeit, keeping in mind the submissions of the State seeking withdrawal of certain proceedings.

Transfer of investigation – Independent Special Investigation Team:

16. On the question of transferring investigation to another agency, decisions have been relied upon by the adverse sides. The respondents contended that an accused cannot choose the investigating agency and relied upon several decisions in this regard. The petitioner too relied on numerous decisions on this issue and submitted that in appropriate cases investigation can be transferred to another agency.

16.1. Taking all these into careful consideration, it does not appear that a Constitutional Court is completely debarred from exercising its power to transfer investigation to another agency if such a case comes to its notice where transfer of investigation is found to be an absolute imperative. In such an exceptional situation, a Court would be duty bound to act *ex debito justitiae* and transfer the investigation to an appropriate agency.

16.2. It appears that if a proceeding is not quashed, the petitioner would like to have it investigated by a Central Agency while the State would like to keep it to themselves, both on the ground of bias of either agency.

16.3. It may not be out of place to mention that keeping in mind the alleged respective mistrust of the adverse parties in the impartiality of the Central and the State Investigating Agencies in cases with such political overtones and the

question of efficacy of an investigation considering that investigations in these cases may have to be done in some of these cases in remote areas of the State requiring incisive knowledge of local population, locales and practices, it would perhaps not be imprudent to constitute an independent Special Investigation Team consisting of both the Central and the State agencies for the best outcome in any or more of such cases. Significantly, such SIT is not what any of the adverse parties had prayed for.

16.4. This Court had tried this method in the **Enforcement Directorate vs. State of West Bengal and Ors., 2024 SCC Online Cal 418**. Finally, the Division Bench directed investigation by the CBI alone, but without touching upon the question of permissibility of joint investigation.

16.5. In **Dr. Subramanian Swamy vs. State of Andhra Pradesh and Ors., MANU/SCOR/115525/2024**, the Hon'ble Supreme Court directed a joint investigation by the CBI, the State Police and other agencies, to investigate where an FIR had been lodged over certain very serious allegations in question.

The Sixteen Cases at hand:

17. On the above factual backdrop and in view of the decisions as referred to above, each of the cases are briefly dealt with as follows.

Re: Manicktala Police Station Case No. 28/2021, dated 27.02.2021, under Sections - 120B/460/467/488/34 of IPC (in WPA 11803 of 2021)

18. Here, an FIR was registered against one Rakhil Bera and one Chanchal Nandi and others alleging that they had entered into a criminal conspiracy and pursuant to the same they organized a fake Government job campaign. The

informant being a jobless youth went to their place seeking a Government job and the accused persons offered to provide him a job at the Irrigation and Waterways Department, Government of West Bengal as a Group – D staff in lieu of money. As per demand of the accused, the complainant paid a sum of Rupees Two Lakhs to them. The accused then handed over forged documents and assured him a job. Neither was any job arranged, nor was the money returned.

18.1. Although the petitioner has remained unnamed in the FIR, it was alleged that money was collected by taking the name of the present petitioner.

18.2. There is no money receipt or document showing payment of money to any of the accused. However, the stand of the State is that as the petitioner's name was taken, the matter is required to be investigated.

18.3. So far as the present petitioner concerned, it is evident that, as of now, no credible evidence is available against the present petitioner to implicate him. The petitioner does not have any privity of contract with the de facto complainant. Even if it is assumed, although for arguments' shake, that his name was taken, the petitioner cannot be hauled up vicariously for such acts of third parties. Furthermore, here, there is no material whatsoever that would show that any money transaction was made.

18.4. It has been contended on behalf of the petitioner that the same tactics were employed by the State in for falsely implicating Mr. Mukul Roy, a politician, who had once shifted his allegiance from the ruling political party of the State. Similar allegations were leveled of taking of money in his name. Once Mr. Mukul Roy joined back to the political party of the State, the State stopped to contest the case

filed against him. The FIR was quashed by this Court.

18.5. Each case depends on its own facts and circumstances. As the allegations apparently relate to a job scam, the same is not interfered with, for the present.

18.6. In any event, in the instant case, the present petitioner does not appear to have made an accused in the proceeding yet. Therefore, it will be futile to quash such proceeding qua the present petitioner on his prayer.

18.7. Therefore, in the light of the above facts and to instill public confidence in such investigation, let the investigation of the case be carried out by an independent Special Investigation Team, to be headed by two Officers of the rank of Superintendent of Police, one belonging to the CBI and the other belonging to the State of West Bengal, to be nominated by the respective entities. They shall chose equal member of personnel to be part of the team, not exceeding five each, to be selected from the CBI and the State forces, respectively. The investigation shall be monitored by the jurisdictional Court.

Re: Nandigram Police Station Case No. 110/2021, dated 18.03.2021 under Sections -147/148/149/323/325/307/352/379/506 of the IPC (in WPA 11803 of 2021)

19. In the instant case, the main allegation was that when a procession of the opposition political party was going through Sonachura Bazar, the husband of the informant shouted “Joy Bangla” after he saw the petitioner, as a result of which the BJP members who were present allegedly assaulted the said victim and fight broke out between the party workers of TMC and BJP.

19.1. While the State contended that a prima facie case was made out, it was the contention of the petitioner that many such similar FIRs were filed against the

petitioner for simply taking part in a political rally with no specific allegations against him. In this case, there was no role ascribed to the present petitioner.

19.2. A perusal of the case diary shows that there is no specific role ascribed to the petitioner pertaining to the allegations leveled.

19.3. As no prima facie case is made out against the petitioner and considering the factual backdrop as referred to above, the impugned proceeding is quashed so far as the present petitioner is concerned.

19.4. The rest of the investigation in this case shall be carried out by the said Special Investigation Team.

19.5. Such investigation shall be monitored by the jurisdictional Court.

Re: Tamruk Police Station Case No. 595/2021, dated 19.07.2021, under Sections 341/186/187/188/189/269/270/295A/506/120B of IPC, Section 51 (b) of Disaster Management Act, 2005 and Section 5 of the Official Secrets Act, 1923 (in WPA 11803 of 2021)

20. This was the result of a suo moto complaint filed by the Inspector In-Charge of the Police Station regarding a speech given by the petitioner at a political rally, which allegedly hurt religious feelings as well as sent a threatening message to the Superintendent of Police, Purba Medinipur.

20.1. Although, the petitioners pointed out that this case was not seriously opposed by the State during arguments, in the written notes filed by the State, the latter has chosen to oppose the same.

20.2. The speeches given by the petitioner and others were found by the complainant to be demeaning and threatening to the police officers and also intended to outrage or insult religious feelings, belief of others. There were also

allegation of violation of COVID protocol.

20.3. First, elections were allowed to take place by the competent authorities, although certain restrictions were placed regarding campaigning and gatherings. Permissions were widely given to the holding of such meetings.

20.4. From the content of the speech as allegedly delivered by the petitioner in the rally, as made available in the case diary, it does not appear that the same was capable of inciting religious hatred. Urging to protect one's own belief or caste or clan has not been made illegal in our laws.

20.5. So far as the allegations of threats were concerned, an offence of criminal intimidation is not cognizable. Furthermore, it is doubtful about whether expressing dissatisfaction and even grudge regarding alleged partisan attitude and high handedness of public officers would necessarily tantamount to criminal intimidation or any aggravated form of the offence.

20.6. Viewed in the light of the overall factual matrix and considering the materials available in the case diary, no prima facie case appears to have been made so far as the present petitioner is concerned.

20.7. Accordingly, the same is quashed so far as the present petitioner is concerned.

20.8. For ensuring proper and impartial investigation, let the rest of the investigation be conducted by the above referred SIT.

20.9. The investigation shall be monitored by the jurisdictional Court.

Re: Contai Police Station Case No. 248/2021, dated 07.07.2021, under Sections 302/120B of the IPC (in WPA 11803 of 2021)

21. On 07.07.2021 the de facto complainant lodged an FIR alleging that her

husband as an employee of the State police was engaged as security guard of the petitioner. On 13.10.2018, a telephonic conversation took place between her and her husband at night. The husband informed that he would be coming home soon. Thereafter, she learnt from her sister-in-law that her husband was admitted to Contai SD Hospital for medical treatment. After arriving there, she came to know that an arrangement of ambulance was made for shifting her husband to Kolkata for undergoing better treatment as per direction of the petitioner. On the same date, the victim was transferred to the Apollo Hospital, Kolkata. On 14.10.2018 at about 7.00 pm., her husband passed away. An alleged suspicion arose in her mind about the delay in making arrangement for the ambulance and shifting her husband from Contai SD Hospital to Kolkata. The husband had been shot. It was also alleged that on account of influence of the petitioner, the informant was initially scared to disclose anything. The petitioner, however, has not been named in the FIR as an accused.

21.1. First, there is a delay of about more than two and half years in lodging the FIR. Yet, and inspite of the decision in Lalita Kumari (supra), although the existence of a prima facie cognizable case was apparently in doubt in as much as the informant did not specifically allege that her husband was murdered by anyone and despite the earlier UD Case, the police did not consider it fit to undertake a preliminary enquiry and instead immediately registered an FIR.

21.2. Secondly, from the four corners of the letter of complaint, it does not appear anywhere that the informant had alleged that someone, far less the petitioner, had murdered her husband. At best, the allegation is primarily about a suspicion

regarding purported delay caused in arranging an ambulance for shifting the victim from Contai SD Hospital to Kolkata. It is not even the case that the victim was not taken to any hospital or there was any delay in it. It was all about a subsequent transfer to another hospital.

21.3. Moreover, the petitioner was an employee of the State police. Therefore, the primary responsibility of arranging for medical help, or for that matter an ambulance, especially once everyone had come to know about the fact that the victim was already shifted to a hospital in Contai, lay with the State police.

21.4. At the highest, if at all, one could have thought of starting an FIR with a charge of death due to negligence. One wonders how an FIR under Section 302 of the IPC could be registered over such allegations.

21.5. It is true that an FIR need not be an encyclopaedia setting out all the ingredients of an offence, but the bare minimum allegations, prima facie, constituting a cognizable offence have to be made. For an FIR under Section 302, IPC to be registered, the informant ought to have, at the least, stated that her husband was murdered.

21.6. There is another aspect to this. Perhaps, it is an in-built safeguard against lodging of false complaints, ingrained in the scheme of criminal law. Section 154 of the Code requires that information given should be of commission of a cognizable offence so that an FIR can be registered. De-facto doctrine enables anyone who comes to know about a cognizable offence to lodge an FIR. [**AR Antulay, (1984) 2 SCC 500; Sheo Nandan Paswan, (1987) 1 SCC 288**].

However, the key expression here is the commission of a cognizable offence. Once

a de-facto complainant alleges commission of a cognizable offence, his accountability is fixed. If the allegation is subsequently found to be false and reckless and made with malicious intent, he could be proceeded against for giving a false information. But, if an informant shies away even from alleging commission of a cognizable offence and merely floats an alleged belated suspicion about certain events surrounding a death, no such accountability can be fixed on him or her.

21.7. No roving or fishing enquiry ought to be permitted in criminal law solely on someone casting mere suspicion over certain attending facts without clearly alleging commission of a cognizable case.

21.8. Subsequent averments and submissions made on behalf of the de facto complainant in the present writ petition cannot be a surrogate for what was not stated in the said FIR in question or, earlier, in the UD Case proceeding.

21.9. Even the UD case was done over the matter without raising any suspicion over such unnatural death. Therefore, there had to be something more clinching than this in the allegations in order to dislodge the findings in the UD case.

21.10. As regards the investigation done pursuant to the instant FIR, the best evidence appears to be that of the security personnel staying with the deceased at the relevant time. The statement of an ASI contained at page 102 of the case diary revealed that after he went to the washroom, he heard a gunshot and rushed back to find the victim lying with the injury and the gun. A constable (statement at page 109) who was washing clothes, heard the gunshot and rushed to find the victim in the room.

21.11. Therefore, from a plain reading of the FIR and the materials collected thus far, no prima facie case can be said to have been made out in respect of an allegation of murder. This, coupled with the factual background pertaining to the allegations of mala fide and false implication for shifting sides, as discussed earlier, would render the impugned proceeding bad in law.

21.12. In view of the above and as no prima facie case is made out from a plain reading of the FIR and the materials collected, the impugned proceeding is quashed.

Re: Kulti Police Station Case No. 77/2022, dated 04.02.2022, under Sections, 143/149/188/186/189/114/353/500/504/506 of the IPC and Section 32 of the Police Act and Section 51(b) of the Disaster Management Act (in WPA 25522 of 2022)

22. This was a suo moto complaint lodged by the police. It was alleged that on 03.02.2022 at 00.15 hours, the petitioner was having a programme at Subhash More, for door-to-door campaigning for the elections. Force was deployed for police protection. At about 16.15 hours, when the petitioners reached Subhash More Sanctoria along with escort and security coverage, all of a sudden, due to indulgence of the petitioner and others, a large number of supporters of the BJP assembled there and formed an unruly crowd. They did not pay heed to the guidelines set by the Election Commission. The petitioner started a big procession on the plea of door-to-door campaign.

22.1. Quite like in other cases, Section 500/ of IPC was imputed in an FIR, which is not permissible. Even the nature of violation of COVID-19 Protocol is unclear.

22.2. Even otherwise, from a plain reading of the FIR and materials available in the case diary, it does not appear that a prima facie case is cogently made out against the petitioner and others. Among other things, it is quite incredulous that while campaigning for votes for themselves, the petitioner and others would indulge in such acts as could deter the voters from casting their votes in their favour. The statements are devoid of specifics.

22.3. That apart, the initiation of the proceeding has to be seen in the overall background of the circumstances as delineated above and the contention of the petitioner that these cases were started maliciously during a short period because he has shifted political allegiance.

22.4. In view of the above, the impugned proceeding is quashed.

Re: Contai Police Case No. 83/2022, dated 19.02.2022, under Sections 341/323/325/307/354/427/506/34 of the IPC (in WPA 25522 of 2022)

23. It was alleged by the informant that on 18.02.2022 between 18.00 hours to 18.30 hours, the complainant along with his relatives and others were having a meeting at a temporary party office beside the Supermarket, Kaluraymandir. Then the accused being the petitioner, his security personnel and others suddenly attacked the party office of the TMC, vandalized it, assaulted the informant's maternal brother. The accused tried to throttle the victim's neck to kill him. The accused persons also outraged of modesty of other female supporters and assaulted other associates. The complainant's brother received severe injuries and was shifted to the local hospital.

23.1. Strangely, the central security personnel have practically been depicted as hooligans.

23.2. As has been contended on behalf of the petitioner, there is no overt act ascribed to the present petitioner in the instant case. This will be evident from the statements of witnesses.

23.3. Injury reports showed no apparent and external injury.

23.4. Considering the materials available in the case diary, the alleged role ascribed to the present petitioner and the overall factual backdrop as discussed earlier, it appears that no prima facie case is made out against the present petitioner.

23.5. Accordingly, the impugned proceeding is quashed qua the present petitioner.

23.6. The rest of the investigation shall be carried out by the SIT.

23.7. The investigation shall be monitored by the jurisdictional Court.

Re: Nandigram Police Case No. 705/2021, dated 23.10.2021, under Sections 153A/153B/295A/298/504/505/120B/34 of the IPC (in WPA 25522 of 2022)

24. Here, the complaint was made primarily about alleged offensive statements made to provoke breach of peace in the State. It was alleged that the petitioner gave communally charged statements.

24.1. According to the petitioner, the FIR was lodged maliciously simply for taking part in a political rally. There is no specific allegation against the petitioner. This is only an attempt to stifle freedom of speech.

24.2. A citizen has every right to exercise his freedom of speech and participate in political rallies, albeit, subject to certain reasonable restrictions. Therefore, the allegation made in respect of the same have to be subjected to a greater

scrutiny.

24.3. Political figures and parties have been taking up divers issues. They may have a particular view even about religion, caste and the like. Merely, asking for consolidations of one's own group or protesting against an alleged discrimination against it does not necessarily attract the mischief of inciting hatred against other groups.

24.4. It appears from the statements in the case diary that the petitioner had also asked for installation of CCTVs as a safety measure.

24.5. *Stricto sensu*, there is no element of criminal intimidation either.

24.6. Even otherwise, after perusing the materials in the case diary pertaining to the alleged hate speech, it does not appear that a *prima facie* case is made out against the petitioner as alleged.

24.7. Therefore, the impugned proceeding is quashed.

Re: Contai Police Station Case No. 73/2022, 74/2022 and 75/2022, dated 17.02.2022, under Sections 341/506/34/120B of the IPC (in WPA 25522 of 2022)

25. All these three cases were started *suo moto*, alleging that the petitioner and others threatened the respective complainants for refusing to vote and participate in the petitioner's campaign.

25.1. The three FIRs were registered on the same date about an incident that happened on 15.02.2022 with an interval of about ten minutes from each other.

25.2. Although the informants were different in these three different cases, the complaints were the exact replica of each other.

25.3. The allegation of malice as contended by the petitioner, seems to get a substantial vindication in the instant cases. All the three FIRs were registered about incidents happening at three different places in an interval of about ten minutes with an exact same version in the complaints.

25.4. This Court does not find any prima facie case made out against the petitioner in these three cases and the three proceedings appear to be tainted with a stench of malice.

25.5. Accordingly, three impugned proceedings are quashed.

Re: Durgachak Police Station Case No. 29/2022, dated 16.03.2022, under Sections 143/188/186/269/270/283 of the IPC (in WPA 25522 of 2022)

26. The case was started suo moto against the petitioner and others. It was alleged that on 16.03.2022 about 200/250 unknown persons unlawfully assembled at Durgachak Super Market for taking out a rally/procession over the victory of BJP in other States of India. Despite request, the accused did not pay any heed and unlawfully took out a rally and moved up to Girish More through Haldia Mecheda Road by using loudspeakers.

26.1. According to the petitioner, the only role ascribed to the petitioner was that he had participated in a political rally. No cognizable offence is disclosed against the petitioner.

26.2. From a perusal of the case dairy, it does not appear that any specific role had been attributed to the petitioner in respect of allegations leveled.

26.3. There is apparently no specific allegation or statement about what protocol was violated.

26.4. The State has also not pressed the instant case before this Court, along

with some others.

26.5. In view of the above, the impugned proceeding is quashed.

Re: Amherst Police Station Case No. 176/2022, dated 24.07.2022, under Sections 120B/465/469/471/501/505(1)(c)/153 of the IPC read with Section 66(c) of the IT Act (in WPA 25522 of 2022)

27. It was alleged that the accused entered into a criminal conspiracy and posted a fake and forged photo in his Twitter handle misrepresenting a mass programme with an intention to damage the reputation of the ruling party with an intention to provoke people to commit breach of peace.

27.1. According to the petitioner, this was the result of an over-reaction of the informant towards the Twitter post purportedly made by the petitioner. No cognizable offence was made out.

27.2. First, there is no question of defamation of a political party. In any event, any complaint of defamation, even for Section 501 of the IPC, has to be filed before a Magistrate. Reliance is placed on **Subramanian Swamy, (2016) 7 SCC 221**.

27.3. There is no material available to show that there was a provocation to commit rioting.

27.4. There is a difference between making a false statement in a document and forgoing a document. A forged document has to lie about itself. Reliance is placed on **J. Th. Zwart & Ors. vs. Indrani Mukherjee, 1989 SCC Online Cal 289**.

27.5. The alleged facts do not, even prima facie, satisfy the ingredients of Sections 465, 489, 471 of the IPC or, for that matter, provisions under the IT

Act.

27.6. Even from a plain reading of the FIR and the materials available in the case diary including the post in question, it does not appear that the alleged offences are made out, even prima facie, against the present petitioner.

27.7. The State has also decided not to press the case.

27.8. In view of the above, the impugned proceeding is quashed.

Re: Nandakumar Police Station Case No. 390/2022, dated 28.10.2022, under Sections 153A/295A/505(2) of the IPC (in WPA 25522 of 2022)

28. Here, the allegation is of making offensive statements to provoke breach of peace, targeting majority communities and stating that Hinduism was in danger.

28.1. According to the petitioner, this is an attempt to stifle his freedom of speech and expression as guaranteed by our Constitution and to prevent him from propagating the ideologies of his political party; the alleged offences are not attracted; in fact, the investigating agency registered the FIR without even perusing the speech.

28.2. Stating certain facts including as regards earlier disturbances and urging one's own caste or community to consolidate does not necessarily attract Section 153A.

28.3. The allegations also have to be read in the light of overall context.

28.4. From a perusal of the case dairy including the FIR, the statements of witnesses and the content of the alleged speech, it does not appear that there is any element to provoke breach of peace or to attack any particular community in general.

28.5. As no prima facie case is made out against the petitioner, the impugned proceeding is quashed.

Re: Jadavpur Police Station Case No. 178/2022, dated 08.09.2022, under Sections 341/324/506/427/34 of the IPC (in WPA 25522 of 2022)

29. Here, the allegation is of threat and assault on the complainant and other supporters of the TMC.

29.1. According to the petitioner, there is no overt role ascribed to the present petitioner in the instant case. This is a clear case of malicious proceeding.

29.2. Injuries allegedly inflicted do not seem to match with the allegations of throwing bottles and brickbats. Injury reports gave out complaints of pain. There was no external injury, at best swelling in some cases.

29.3. The case has to be read in the overall context of multiple cases being started against the present petitioner in a short span of time allegedly for his shifting of political allegiance.

29.4. Considering the above materials available in the case diary, I do not find that a prima facie case is made out against the present petitioner.

29.5. Even the State has decided not to press the prosecution case.

29.6. Accordingly, the impugned proceeding is quashed.

Re: Nandigram Police Station Case No. 1453/2022, dated 11.11.2022, under Sections 341/323/326/307/435/427/504/506/120B of the IPC (in WPA 25522 of 2022)

30. The allegations are of breach of peace by using firearms and explosives, setting fire in a stage and assaulting members of the BUPC.

30.1. It is alleged that after the de-facto complainant's programme for paying respect to the martyrs of land eviction movement was over, the Leader of

Opposition came with his father, removed the existing flowers and submitted garlands at Shahid Bedi. After 6.00 pm, alleged goons of the BJP purportedly started attacks and assaults.

30.2. As per the petitioner, the FIR was lodged without any preliminary enquiry. There was no overt role whatsoever ascribed to the present petitioner. The case was actuated by malice.

30.3. From a perusal of the materials available in the case diary, it does not appear that any specific overt act has been alleged against the present petitioner.

30.4. Keeping this in the backdrop of the overall matrix as referred to earlier, this Court finds that no prima facie case is made out against the present petitioner.

30.5. Accordingly, the impugned proceedings are quashed, qua the present petitioner.

30.6. To ensure a fair investigation in the case, let the investigation of the case be further conducted by the SIT.

30.7. The jurisdictional Court shall monitor the investigation.

Re: Pandaveswar Police Station Case No. 85/2022, dated 16.07.2022, under Sections 166A/171F/189/387/389/506/109/120B of the IPC (in CRR 2703 of 2022)

31. It is alleged by the local MLA that at the behest of the petitioner, a co-accused had called him up trying to illegally and unduly influence the election of the President to be held on 18.07.2022. Allegedly, there was promise of reward and threat of false complaint made.

31.1. Section 166A is not at all applicable to the present facts. No prima facie case appears to have been made out even under Sections 387, 389 of the Indian Penal Code, especially upon considering the tenor of allegations.

31.2. Criminal intimidation is not a cognizable offence. Nor are Sections 171F and 189 cognizable.

31.3. No direct role is ascribed to the petitioner. He cannot be made vicariously liable for any act of the other accused, whether it amounts to an offence or not.

31.4. As no prima facie case is made out, the impugned proceeding is quashed.

32. With the above observations and directions, the two writ petitions, the criminal revisional application and the connected applications are disposed of.

33. Interim order passed earlier, if any, that has not been made absolute herein, shall stand vacated.

34. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)