

Form No. J(2)

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

Present:

THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

CRR 2088 of 2023

**BISWANATH MAHATO
VS.
STATE OF WEST BENGAL & ANR.**

For the petitioner : **Mr. Kunal Ganguly,Adv.**
 Mr. T. Mukherjee,Adv.

For the State : **Mr. Debasish Roy,Adv.**
 Mr. Arijit Ganguly,Adv.
 Mrs. Manisha Sharma,Adv.

Heard On : **12.12.2025**

Judgement On : **12.12.2025**

Uploaded On : **16.12.2025**

CHAITALI CHATTERJEE (DAS) J:

1.This revisional application has been for quashing of the proceeding pending before the learned Chief Judicial Magistrate at Purulia arising of Session (SPL) Case No. 78 of 2023 under Section 447/354B/506 of the Indian Penal Code, 1860 read with Sections 3(g)(s)[w (1)] of the SC and ST (Prevention of Atrocities) Act, 1989.

Brief facts of the case:

- 2.** The present petitioner and the Opposite Party no.2 are both the resident of same locality on March 12, 2018. The father of Opposite Party no.2 had lodged a First Information Report to the Officer-in-charge, Purulia Police Station under Section 156 (3) of the Code of Criminal Procedure Code accordingly, Purulia (M) Police Station case No. 60 of 2018 started under Sections 447/506 of the Indian Penal Code read, 1860 read with Sections 3(1)(iv)(v)(x) of the SC & ST(Prevention of Atrocities) Act, 1989 against the present petitioner alleging of making construction on the land of the Opposite Party No 2 allotted to him by the Department of Forest , Government of West Bengal on the basis of 'Patta', measuring about 32 decimal .It was further alleged that on March 21, 2018 he abused the Opposite Party no.2 by using the word "Choto Jat".
- 3.** The Investigating Officer on completion of investigation submitted the charge sheet against the present petitioner and the learned Trial Court framed the charge under Sections 447/506 of the Indian Penal Code, 1860 along with Sections 3(1)(f), 3 (1) (g) and 3(1)(r) of the SC & ST (Prevention of Atrocities) Act, 1989 against the present petitioner.
- 4.** Learned Trial Court after that started process of trial and after hearing both the parties passed an order of acquittal on November 30, 2019. after that on 12th November, 2019 the father of the Opposite Party no.2 again lodged complaint against the present petitioner with the allegation that on 7th November, 2019 at about 11 A.M. petitioner destroyed vegetables

and also threatened with dire consequences on the basis of which Purulia Police Station Case No. 261 of 2019 started .

5.Being aggrieved by the said FIR petitioner approached this High Court as CRR 3701 of 2019, in the mean time the investigating authority submitted the charge sheet under Sections 341/447/323/307/506/427 of the Indian Penal Code, 1860 read with Section 3 (1) (f)(g) of the SC/ST Prevention of Atrocities Act ,1989 .

6. The Learned Trial Court framed the charge and the trial commenced and on December 19, 2022 after considering the evidences adduced by the prosecution witnesses acquitted the petitioner in terms of Section 235 of the Code of Criminal Procedure Code. After the order of acquittal was passed by the learned Court the Opposite Party no.2 lodged the complaint again on April, 2023 alleging that on April 2, 2023 at about 7 A.M. the petitioner has destroyed the plants and forcefully cultivate the land and since the opposite party no. 2 raised protest against the present petitioner not only he destroyed the vegetables but also molested the female member of the family member of the opposite party no 2. On the strength of the said complaint the Purulia (M) police station case no. 78 of 2023 started under Sections 447/354B/506 of the Indian Penal Code, 1860 along with Sections 3(1)(f), 3 (1) (g) and 3(1)(r) of the SC & ST (Prevention of Atrocities) Act, 1989 .

In this case also the charge sheet has been submitted on completion of investigation against that the instant revisional application has been filed by the petitioner.

Submissions

7. It is submitted by the learned advocate that the opposite party no.2 has filed three consecutive complaints almost similar in nature against the same person which itself shows the mala fide of the petitioner who intend to harass the petitioners. The order of acquittal of the present petitioner in those two cases, proves how frivolous and malicious allegations were levelled against the petitioner and since he became unsuccessful in his attempts to prosecute against the petitioner this complaint has been lodged alleging further grave offence. The entire allegations are false, vexatious and only in order to wreaking vengeance he filed this complaint in order to harass the petitioner further.

It is further submitted that the complaint is devoid of any ingredients which can attract either Sections 447/354B/506 of the Indian Penal Code, 1860 or Sections 3(1)(f), 3 (1) (g) and 3(1)(r) of the SC & ST (Prevention of Atrocities) Act, 1989. More so, not a single allegation has been made out in order to constitute an offence under Sections SC & ST (POA) Act 1989 and or the penal code and therefore prays for dismissal of this case.

8. The Learned Advocate representing State has handed over the Case Diary. It is submitted that on previously two complaints were lodged by

the Opposite Party against the petitioner and submits since the charge sheet has been submitted by the investigating authority the prima facie offence is proved against the petitioner and hence in order to dig out the truth the parties must face the trial.

Analysis

- 9.** On careful perusal of the content of the complaint on the basis of which the present proceeding has been initiated and this instant revisional application has been filed prima facie reveals that on 2nd April, 2023 at about 7 A.M. suddenly the present petitioner trespassed into his land and destroyed vegetables, abused the petitioner and humiliated him, since he belongs to the Scheduled community. On the basis of the said complaint Purulia (M) case started against the petitioner under Sections 447/354B/506 of the Indian Penal Code, 1860 along with Sections 3(1)(f), 3 (1) (g) and 3(1)(s) of the SC & ST (Prevention of Atrocities) Act, 1989.
- 10.** On careful perusal of the entire facts and circumstances and the documents annexed it is clear that on previous two occasions the complaints were lodged by the opposite party no. 2 against the present petitioner with similar nature of allegation relating forceful entry by the petitioner into the land of accused which he is possessing on the strength of the Forest department patta allotted in his favour.

On the basis of the previous complaint on completion of investigation the charges were framed and the trial commenced and order of acquittal was

passed in both the cases .Therefore from the nature of allegations mostly found relating to possession of the quantum of the land allotted in favour of the de-facto complainant and regarding disturbance of his possession by the petitioners .The learned trial court passed the judgement after making assessment of the evidence adduced before the learned court and therefore the observations made by the learned court are relevant to be look into.

11. In the Sessions Trial Case No. 33 of 2018 where the judgement was delivered on 13th day of November, 2019 the case was started under section 3 (1) (iv)(v)(x) of the SC/ST (P.O.A) Act 1989 but the court framed the charge under the amended sections 3 (1)(f)(g) and (r) of the said Act along with Section 447 and 506 of the Indian Penal Code . In that case the date of incident was alleged on March 21st, 2018 at 16.5 hours. The prosecution adduced 6 witnesses including the defacto-complainant. On close scrutiny of the materials the Learned Trial Court was of the view that the DSP made requisition to the Forest Department as well as B.L & L.R.O regarding the nature and ownership of the land and he collected the report but in course of trial no paper was produced by the prosecution to substantiate that the de facto complainant and his four sons are being dispossessed and the accused persons/present petitioner were in possession. The learned trial court further mentioned the quantum of land of 28 decimals comprised in plot no 584 within Lokudih Mouza of which the Opposite Party no 2 and his four sons are the owners but

observed that it cannot be ascertained whether they are the owners of the entire plot of land or not . The learned court relied upon prosecution witnesses relating to guilt of accused persons and held the same failed short to come a conclusive decision regarding involvement of the accused person in commission of the alleged offence. In other words, prosecution failed to prove the case beyond doubt that accused persons not being members of Scheduled Caste and Scheduled Tribes community wrongfully dispossessed said Opposite Party no.2 and his family members from their land or accused person wrongfully occupies the land of Raju Sabar and his family members of the said Opposite Party no.2.

- 12.** In the second case on the basis of complaint dated 2nd November, 2019 Sessions Trial No. 8 of 2021 started where the cause of action was mentioned on 7.11.2019 at about 11 A.M. when the present petitioner was alleged to have destroyed vegetables grown in the said land and also took possession of the said land for 'Khamar chula and the accused Biswanath Mahato tried to kill him by way of strangulation. The learned court framed the charge under Section 3 (1) (f) (g) of the said Act along with Section 447/427/307/323 IPC. In that case also numbers of witnesses were examined. Learned Court was of the view that first and foremost ingredients was to prove that the accused person entered into the patta land of the de-facto complainant. The learned court considering the evidence found that Raju Sabar received 4 decimal and his sons received 8 decimal each in plot no. 584 but in the complaint it was not

mentioned that in whose patta the accused entered to commit the offence as the patta received Land was not identified by a boundary wall. The land was not surveyed and encompassed and the house of the accused persons/petitioner is about 200/250 ft away from such plot which is a big plot with no boundary wall. . It was observed that prosecution could not be able to prove case beyond reasonable ground as per oral and documentary evidence that the de-facto complainant were dispossessed or the accused persons qua the petitioners entered into such land and hence the order of acquittal was passed.

13. It is the case of **Haji Iqbal Vs. State of U.P¹** it was held that the Court while exercising its jurisdiction need not restrict itself only to the stage of the case but is empowered to take into account over all circumstances leading to initiation or registration of the case as well as material collected in the course of investigation. It was held in the case of multiple FIR's was registered over a particular issue on repeated occasions prayer for quashing has been filed as they were manifestly frivolous or vexatious or instituted with the ulterior motive or wreaking vengeance in the circumstances to look into the FIR more closely.

14. In the light of the above decision various statements recorded by the Investigating officer nothing could be found to constitute an offence in respect of which charges has been framed. On perusal of the content of

¹ (2024) 15 SCC 776

the FIR a date of incident is found when the alleged offence was committed under Sections 3(g)(s [w] I) of the SC/ST (POA) Act . The said provisions are reproduced herein; In section 3(1) of the said Act Whoever not being the member of SC/ST,

3 (g): wrongfully dispossess a member of a schedule caste or a schedule Tribe from his land or premise or interfere with the enjoyment of his right including forest right over any land or premises or water /or takes away the produce therefrom ,

3 (s): abuses any member of SC/ST by caste name in any place within a public view

W(i)Intentionally touches a woman belonging to SC/ST knowing that she belongs to schedule caste or schedule tribe.

- 15.** In the previous complaint the offences were under sections 3(1)(iv)(v)(x) of the said Act but the Learned court framed the charges as per the amended Act under sections 3(1) (f) (g) and (r) and in the second complaint alleged commission of offences under section 3 (1)(f)(g) of the said Act other than the penal offences under IPC.

Section 3 (f) reads as ;wrongfully occupies or cultivate any land ,owned by or notified by any competent authority to be allotted to a members of a schedule caste or Schedule Tribe or gets such land transferred .

Section 3(r) read as ; intentionally insults or intimidates with intent to humiliate a member of a schedule caste or schedule tribe in any place within public view .

16. In the celebrated decision of *State of Haryana vs Bhajanlal*², the parameters given Where the High Court can exercise inherent power under Section 482 of Cr.P.C. for quashing of the proceeding which are pending either at the stage of investigation or even at the filing of the charge sheet. In the clause (g) of paragraph 8.1 it is mentioned that where a criminal proceeding is manifestly attended with mala fide and where the proceeding is maliciously instituted with ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the inherent power under section 482 can be exercised.

So on assimilation of the facts and circumstances it can be easily gathered that the dispute pertains to the allotment of land in favour of the de-facto complainant and his four sons and its enjoyment. The previous cases revealed that the land allotted in their favour was not demarcated or identified with the boundary wall and given the distance between the land of accused and the de-facto complainant a dispute is plausible but it should not be addressed with repeated complaints. So far the penal sections are incorporated for the offences as alleged under Section 447 and 506 the ingredients are absolutely missing.

It prima facie appears from overall conspectus that there may be a heated altercation over the land disputes but there are lack of sufficient materials to establish that present petitioner abused the complainant in public view

² 1992 AIR 604

calling his caste name. In a decision of the Hon'ble Supreme court in ***Ramawater vs State of Madhya Pradesh***³ it was held that "the courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Article 15, 17 & 21 of the constitution with a twin fold objective of protecting the members of the vulnerable communities as well as to provide relief and rehabilitation of the victims of caste based atrocities". *It was further held that 'if the court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question go unpunished the mere fact that it is covered by a special statute would not restrain this court or the High court from exercising their respective powers under Article 142 or section 482 crpc'*. Therefore, simply because complainant falls under Scheduled community a dispute basically civil in nature since pertains to a case of dispossession cannot cloak it as criminal dispute specially when his previous allegations were nullified on the strength of evidences by pronouncing judgement of acquittal and was of similar nature.

- 17.** Therefore in the wake of the above discussions this Court is of view that continuance of the instant proceeding is abuse of process of law.

³ (2021) SCC Online SC 966

Conclusion

- 18.** In view of the above this revisional application stands allowed. The proceeding pending before the learned Chief Judicial Magistrate and any order passed therein is hereby quashed.
- 19.** The case Diary be returned to the learned advocate for the State.
- 20.** Urgent Photostat certified copy of this judgement, if applied for, be supplied to the parties upon compliance of all legal formalities.

Sg

(CHAITALI CHATTERJEE DAS,J.)

