

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2563 OF 2024**

Sunita Ashok Jadhav & Anr.

...Petitioners

V/s.

The State of Maharashtra & Anr.

...Respondents

Mr. Siddharth A. Mehta a/w. Mr. Sanket Chorghe, Ms. Harshada Shrikhande and Mr. Vaibhav, for the Petitioners.

Mr. S.R. Agarkar, APP for the Respondent No.1 – State.

Mr. Shantanu Katkar, for Respondent No.2.

Mr. Ganesh Zinjurde, PSI, Chinchwad Police Station, present.

**CORAM: BHARATI DANGRE, &
SHYAM C. CHANDAK, JJ.**

DATED : 15th DECEMBER, 2025.

JUDGMENT :- (PER BHARATI DANGRE J.)

1) The two Petitioners, being the mother of the Accused No.1 and the Petitioner No.2 being the maternal uncle of Accused No.1, have approached this Court for quashing and setting aside of the FIR registered on 30th April, 2024 at the instance of Respondent No.2 resulting it being numbered as CR No.189 of 2024 as well as the charge-sheet which is filed subsequent to the investigation being completed.

2) Heard the learned Counsel for the Petitioners, the learned APP for Respondent No.1 – State and the learned Counsel for Respondent No.2.

3) With the assistance of the respective Counsel, we have perused the charge-sheet which has leveled accusations against three accused, two of them being Accused Nos.2 and 3 are before us.

Rule. Rule made returnable forthwith.

The charge-sheet is filed under Sections 354, 376, 376(2)(n), 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2), 3(V), 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC & ST Act')

4) It is urged by the learned Counsel for the Petitioners, who being arraigned as the Accused Nos.2 and 3 that the only allegation levelled against them is that from December, 2023 onwards when she insisted the Accused No.1 to enter into a marital tie, she realized that he was avoiding any conversation and specifically told that he will discuss it at home and respond to her. On 01/03/2024, the Accused No.1 informed her that his mother is not in favour of the alliance. Thereafter, on due consideration she decided to meet his mother and accordingly, visited his residential premises. While it was being discussed that her son was carrying an affair with her and they are desirous to get married, his mother along with his uncle – Daji Sushant Londhe, flatly refused to accept their alliance and it is alleged that they also pointed out to her that she belongs to a lower caste and for this precise reason, they don't want to establish any relationship with her. The FIR also alleged that she was hurled abuses in the name of caste and was driven out of their home.

5) With this allegation, we have also referred to the material in the charge-sheet to find that except this statement coming in the

complaint, there is no other material that has been collated, to establish that the abuses which were hurled by the two accused persons in the name of caste, were overheard by someone.

The learned Counsel for the Petitioners urged that the necessary ingredient to attract Sections 3(1)(r) and 3(1)(s) of the SC & ST Act, it is necessary that the intentional insult or intimidation must with an intent to humiliate a member of Scheduled Caste or a Scheduled Tribe “in any place within public view”. Similarly, in terms of clause (s) of Section 3(1), the abuses in the name of caste must also necessary be “in any place within public view”. In this context, the learned Counsel for the Petitioners has relied upon the decision of the Apex Court in case of ***Hitesh Verma v/s. State of Uttarakhand and another***¹ which has thrown light on the term “place in public view” distinguished from the word “public place”. Reiterating that the offence under the Act can be made out if it was only committed in public view and not public place, the Apex Court, in paragraph nos.13 and 14 has recorded thus :-

“ 13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities,

1 (2020) 10 SCC 710

humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is a member of Scheduled Caste.

14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State (2008) 8 SCC 435. The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view. The Court held as under:

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

6) We deem it appropriate to refer to the said observations of the Apex Court.

Since we find that in the complaint, the Complainant had alleged that she went to the house of Accused No.1 and she was there for a considerable long period of time, when she was made to face humiliation on the basis of her caste.

The learned Counsel for the Respondent No.2 has placed reliance upon her statement under Section 164 of Cr.P.C. which find an improvised version to the effect that after she was subjected to humiliation in the house, the Accused Nos.2 and 3 had driven her out of the house and therefore, when she came out of the house, the abuses in the name of caste still continued.

The aforesaid version cannot be accepted for the reason that this do not find mention in the complaint nor has the Complainant got any supplementary statement recorded. Apart from this, it was her version that after she was thrown out of the house, the abuses continued, it must have been overheard by some member of the public other than the member of the family including the Accused Nos.2 and 3 who were present in the house. In absence thereof, we are satisfied that no case is made out against the Accused Nos.2 and 3, the present Petitioners before us under the provisions of SC & ST Act and in any case, as far as the accusations under Section 376 of IPC are concerned, they are against the Accused No.1 i.e.,

the son of the Petitioner No.1.

7) Since this is a fit case where on reading of the FIR as well as the material collected in the charge-sheet in the manner as it is, no offence has been made out from the SC&ST Act, the Petition is allowed by quashing and setting aside the subject FIR i.e., CR No.189 of 2024 registered with Chinchwad Police Station, Pimpri-Chinchwad, Dist. Pune as well as the consequent charge-sheet arising therefrom.

Writ Petition is made absolute.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)