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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 2350/2020, CRL.M.A. 16560/2020 &
CRL.M.A. 14554/2021**

MADHUBALA SHARMA & ORS.Petitioners

Through: Mr. Ayush Negi &
Ms. Aarushi Gupta, Advs.
with P1 in person

versus

STATE OF NCT OF DELHI & ORS.Respondents

Through: Mr. Naresh Kumar
Chahar, APP for the State
Mr. Atul Sood, ACP/
Rohini Division
Inspector Daljeet, PS-
North Rohini

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **07.04.2025**

1. The present petition has been filed by the petitioners seeking quashing of chargesheet filed in FIR No. 361/ 2019 dated 15.11.2019 under Sections 3(1)(r)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter 'SC & ST Act') registered at P.S. North Rohini in Sessions Case No. 36/2020 and proceedings emanating therefrom.

2. The FIR was registered on a complaint given by Respondent No. 3/ complainant who belongs to a Dalit caste and resides with his family on the first floor of the building bearing No. 151, LIG Flats, Sector 6, Rohini, Delhi. It is alleged that the Petitioner No. 1 along with her daughters, that is, Petitioner Nos. 2 and 3, are Brahmins and live on the ground floor of the above-mentioned building. It is alleged that the petitioners used caste



based remarks and words such as “*chura chamar and bhangī*” at the complainant and his family members, in front of their neighbours. It is alleged that on 23.10.2019, the petitioners started hurling bad abuses at the complainant and his family members, asking them to leave their house and go some place else. It is alleged that previously on 09.09.2019, the petitioners had attacked the family members of the complainant, wherein his mother was seriously injured and received 9 stitches as a result of the said injury. It is alleged that Petitioner No. 1 being an officer in the Delhi Police has threatened to remove the complainant and his family from their house and to not let them reside there. It is alleged that the petitioners are harassing the family of the complainant everyday by making caste based remarks at them, throwing faecal matter at their door, tearing their clothes and filing false cases against them for eve-teasing, to take forceful possession of the house of the complainant.

3. During investigation, the caste certificate of the complainant was verified and the documents, CD and the DVR/CD containing the audio clippings, footages provided by the complainant were seized and sent to FSL Rohini for seeking experts opinion, however it is stated that “*the CCTV footage of the requisite dated and time could not be found*”.

4. The chargesheet has been filed under Sections 3(1)(r)(s)(c) of the SC & ST Act, whereafter summons dated 01.02.2020 were issued upon the petitioners.

5. The learned counsel for the petitioners submits that neither the FIR nor the statements of the witnesses, recorded under Section 161 of the Code of Criminal Procedure, 1973 (‘CrPC’), mention any allegations of caste based remarks and words being



used by the petitioners on 09.09.2019 or on 23.10.2019, and that the chargesheet is filed based on wrong facts, and thus, is liable to be quashed.

6. He submits that there are several contradictions in the statements of the witnesses and that witnesses at Serial No. 5, 6 and 7 are close friends of Respondent No. 3 and thus, cannot be considered as independent witnesses to the alleged incident.

7. He further points out that it is the case of the complainant that the caste based remarks were being passed by the petitioners from the ventilation shaft between the two flats and therefore the incident has admittedly taken place inside the building. In this regard he places reliance on the judgement passed in ***Hitesh Verma v. State of Uttarakhand : (2020) 10 SCC 710***, to state that when remarks are not made in public view, the basic ingredient of the offence under Section 3(1)(r) of the SC & ST Act are not made out.

8. The learned counsel for Respondent No. 3 submits that the present petition under Section 482 of the CrPC has been filed pre-maturely when the trial is still going on and there is no material to dismiss the complaint and the ongoing proceedings.

9. He submits that the petitioners are continuously harassing and passing caste based abuses at Respondent No. 3 and his family members and used force against them to leave their property under compulsion. It is submitted that the complaint entails specific allegations against the petitioners and therefore, the ingredients of the offence are complete.

10. He further submits that the judgements relied upon by the petitioners does apply to the present case wherein the caste based remarks were made outside the building. He states that relatives



and friends of the complainant are not unreliable witnesses and that the petitioners will be granted an opportunity to test their reliability during trial.

11. Heard the submissions made by the learned counsels for the parties and perused the record.

12. The present petition has been filed seeking quashing of FIR under Sections 3(1)(r)(s) of the SC & ST Act proceedings emanating therefrom. The chargesheet has been filed. At this stage it is pertinent to refer to the judgement passed in ***Somjeet Mallick v. State of Jharkhand & Ors. : SLP (Crl.) No. 6583 of 2024***, wherein the Hon'ble Apex Court made observations in regard to the scope of jurisdiction of the High Court while dealing with a quashing petition filed under Section 482 of the CrPC. The relevant portion of the said judgement is reproduced hereunder:

“16. Before we proceed to test the correctness of the impugned order, we must bear in mind that at the stage of deciding whether a criminal proceeding or FIR, as the case may be, is to be quashed at the threshold or not, the allegations in the FIR or the police report or the complaint, including the materials collected during investigation or inquiry, as the case may be, are to be taken at their face value so as to determine whether a prima facie case for investigation or proceeding against the accused, as the case may be, is made out. The correctness of the allegations is not to be tested at this stage.

17. To commit an offence, unless the penal statute provides otherwise, mens rea is one of the essential ingredients. Existence of mens rea is a question of fact which may be inferred from the act in question as well as the surrounding circumstances and conduct of the accused. As a sequitur, when a party alleges that the accused, despite taking possession of the Truck on hire, has failed to pay hire charges for months together, while making false promises for its payment, a prima facie case, reflective of dishonest intention on the part of the accused, is made out which may require investigation. In such circumstances, if the FIR is quashed at the very inception, it would be nothing short of an act which thwarts a legitimate investigation.

18. It is trite law that FIR is not an encyclopedia of all imputations. Therefore, to test whether an FIR discloses



commission of a cognizable offence what is to be looked at is not any omission in the accusations but the gravamen of the accusations contained therein to find out whether, prima facie, some cognizable offence has been committed or not. At this stage, the Court is not required to ascertain as to which specific offence has been committed. It is only after investigation, at the time of framing charge, when materials collected during investigation are before the Court, the Court has to draw an opinion as to for commission of which offence the accused should be tried. Prior to that, if satisfied, the Court may even discharge the accused. Thus, when the FIR alleges a dishonest conduct on the part of the accused which, if supported by materials, would disclose commission of a cognizable offence, investigation should not be thwarted by quashing the FIR.

19. No doubt, a petition to quash the FIR does not become infructuous on submission of a police report under Section 173 (2) of the CrPC, but when a police report has been submitted, particularly when there is no stay on the investigation, the Court must apply its mind to the materials submitted in support of the police report before taking a call whether the FIR and consequential proceedings should be quashed or not. More so, when the FIR alleges an act which is reflective of a dishonest conduct of the accused.”

(emphasis supplied)

13. Thus, the Hon’ble Apex Court has emphasized that High Courts should exercise caution when considering the quashing of FIRs in serious offences. The Court has clarified that the mere filing of a chargesheet does not automatically preclude the High Courts from quashing proceedings under Section 482 of the CrPC. However, in cases involving serious allegations, especially those affecting society at large, the High Courts must carefully assess whether the continuation of proceedings would result in a miscarriage of justice or constitute an abuse of the legal process.

14. In the present case, there are allegations against the petitioners who are not members of the SC/ST community, that they hurled caste-based abuses at the complainant and his family members, physically assaulted them, threw faecal matter at their



door, and threatened them of dire consequences. Additionally, they allegedly falsely implicated him in a eve-teasing case.

15. Further, specific allegations have been made against Petitioner No. 1 in the complaint. According to the prosecution, the complainant and the accused persons are both neighbors. It is alleged that Petitioner No. 1 frequently made caste-based remarks. On one occasion the mother of the complainant was beaten by Petitioner No. 1 whereafter she was seriously injured and received 9 stitches as a result of the said injury. This incident led to the registration of FIR No. 0291/2019 dated 09.09.2019. On 23.10.2019 the petitioners started hurling bad caste-based abuses at the complainant and his family members with the intent to humiliate them in public view and asking them to leave their house and go some place else. This incident has led to the registration of the present FIR.

16. The above facts *prima facie* give rise to a strong suspicion of the involvement of the petitioners in the alleged offence. As noted above, at the stage when chargesheet has been filed, the court is not required to meticulously assess the truthfulness, accuracy, or impact of the witnesses' statements or the evidence on record. Even a strong suspicion, based on the material presented before the Court, that leads to a presumptive opinion about the existence of factual elements constituting the alleged offence, may suffice to justify a trial.

17. A bare perusal of the FIR unequivocally indicates that the petitioners are alleged to have made caste-based remarks towards the complainant and his family members and alleged to have criminally intimidated the complainant by threatening them of dire consequences.



18. It is further pertinent to consider that the witnesses, PW2, PW5, PW6 and PW7 in their statement recorded under Section 161 of the CrPC, corroborated the complaint of the complainant and stated that they have witnessed Petitioner No.1 using caste-based remarks towards the complainant and his family members.

19. The main thrust of the petitioners' argument is that when the caste based remarks are made inside a building (with only relatives and friends present) and not in a place within public view, the offence as alleged cannot be made out solely based on the statements of the relatives and friends of the complainant.

20. Reliance has been placed on the judgement passed by the Hon'ble Apex Court in ***Hitesh Verma v. State of Uttarakhand*** (*supra*) to state that the allegations against the petitioners do not pertain to caste based remarks made in public view. The relevant portion of the judgement passed in ***Hitesh Verma v. State of Uttarakhand*** (*supra*) is reproduced hereunder:

*“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 [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . 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 (sic) *. The Court held as under : (SCC pp. 443-44, para 28)*

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged



offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered “in any place within public view” is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] , it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.”

(emphasis supplied)

21. It is pertinent to note here that the petitioners have relied upon the transcript of the statement of the complainant wherein on being asked whether the abuses were being hurled from downstairs, he replied as under:

“A. They were speaking while they were shouting downstairs. In between our flats. There is a ventilation shaft they were abusing from there and everything was clearly audible at our house.”

22. Learned counsel for the petitioners argues that that since the remarks made by the accused persons could be heard from the “ventilation shaft”, the same would imply that the offence



took place inside the building, and therefore to bring home the charge under section 3(r) and (s) of the SC & ST Act, the prosecution was required to produce a member of the public (not merely relatives or friends) as witnesses present at the time of the incident.

23. As per the FIR, the allegations against the petitioners involve hurling of caste based abuses at Respondent No. 3 and his family members, in front of the neighbours. It is stated that the children of the complainant are not able to talk to any one because everyone makes fun of them. Apart from the statements of two relatives, who are the father and wife of the complainant, the statements of three other witnesses namely– Sh. Bharat Kapoor (PW5), Sh. Santosh Singh (PW6) and Sh. Mahabir Kumar (PW7) were also recorded, who have stated that they are not members of the SC/ ST community and were present at the time of the alleged incidents.

24. In their statements under Section 161 of the CrPC, PW5 and PW6 have stated that on 23.10.2019, they had come to the house of the complainant at 151, 1st floor, LIG Flats, Sector 6, Rohini, Delhi, and were standing on the balcony along with the complainant, when around 7:30 to 8:00 pm, Petitioner No. 1, who lives on the ground floor of the building, came out and started hurling caste based abuses such as “*chura chamar and bhangī*” against the complainant and his family members from downstairs. It is also stated that later she was joined by her two daughter, Petitioner Nos. 2 and 3.

25. PW7 in his statement has said that he had received a call from the complainant regarding mother having grievously injured. He has stated that when he went to the house of the



complainant around 6:00 to 7:00 pm, the lady from the ground floor was hurling caste based abuses such as “*chura chamar and bhangī*” against the complainant and his family members.

26. It is also relevant to note that the same transcript of statement of the complainant as relied upon by the petitioners, reveals that when the complainant was asked as to where was the accused hurling abuses from, he stated as under:

“*She was abusing from downstairs, on the Gate.*”

27. The petitioners have merely relied on one of the answers of the complainant to state that the abuses were allegedly made inside the building in a private place and not in public view, whereas the entire case reflects on the contrary.

28. It is observed that the application of the principle regarding “public view” noted in *Hitesh Verma v. State of Uttarakhand* (*supra*) cannot be applied to the instant case. The Hon’ble Apex Court in *Hitesh Verma v. State of Uttarakhand* (*supra*) relied on the judgement passed in *Swaran Singh v. State : (2008) 8 SCC 435*, in which the Hon’ble Apex Court has drawn a distinction between the expression “public place” and “in any place within public view”.

29. In *Swaran Singh v. State* (*supra*) the complainant was cleaning the car of his employer, when Appellant No. 2 and her daughter Appellant No. 3 threw water at him and started making caste based remarks like “*chura chamar*”. He stated that when he confronted Appellant No. 1 (the husband of Appellant No. 2) about the same, Appellant No. 1 stated that you are in fact a “*chamar*”. The Hon’ble Apex Court while quashing the proceedings against Appellant No. 1, dismissed the appeals *qua* Appellant Nos. 2 and 3, without relying on the statements of any



witnesses and noting that *prima facie* the caste based remarks made by Appellant Nos. 2 and 3 were made in public view when the complainant stood near the car which was parked at the gate of the premises. The relevant portion of *Swaran Singh v. State* (*supra*) is reproduced hereunder:

“8. It may be noted that the trial has still to be held and the appellants will have an opportunity of establishing their innocence in the trial. At this stage all that the High Court can see in the petition under Section 482 CrPC or in a writ petition, is whether on a perusal of the FIR, treating the allegations to be correct, a criminal offence is prima facie made out or not or whether there is any statutory bar vide Indian Oil Corpn. v. NEPC India Ltd. [(2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188] (vide SCC para 12), State of Orissa v. Saroj Kumar Sahoo [(2005) 13 SCC 540 : (2006) 2 SCC (Cri) 272] (vide SCC paras 9 and 10), etc. At this stage the correctness or otherwise of the allegations in the FIR has not to be seen by the High Court, and that will be seen at the trial. It has to be seen whether on a perusal of the FIR, a prima facie offence is made out or not.

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25. A perusal of the FIR clearly shows that, *prima facie*, an offence is made out against Appellants 2 and 3. As already stated above, at this stage we have not to see whether the allegations in the FIR are correct or not. We only have to see whether treating the FIR allegations as correct an offence is made out or not. **In our opinion, treating the allegations in the FIR to be correct an offence under Section 3(1)(x) of the Act is prima facie made out against Appellants 2 and 3 because it prima facie seems that the intent of the appellants was to insult or humiliate the first informant, and this was done within the public view.**

26. **Of course, it will be open to Appellants 2 and 3 to put up their defence at the trial, and the trial court may or may not accept the correctness of the allegations in the FIR. However, at this stage we cannot quash the FIR against them and the trial must proceed.**



27. Learned counsel then contended that the alleged act was not committed in a public place and hence does not come within the purview of Section 3(1)(x) of the Act. In this connection it may be noted that the aforesaid provision does not use the expression “public place”, but instead the expression used is “in any place within public view”. In our opinion there is a clear distinction between the two expressions.

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.

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33. We have already stated above that in today's context even calling a person “chamar” ordinarily amounts to intentionally insulting that person with intent to humiliate him. It is evident from a perusal of the FIR that Appellant 1 Swaran Singh joined his wife and daughter in insulting Vinod Nagar, and he also used the word “chamar” in a derogatory sense. However, a perusal of the FIR shows that Swaran



Singh did not use these offensive words in the public view. There is nothing in the FIR to show that any member of the public was present when Swaran Singh uttered these words, or that the place where he uttered them was a place which ordinarily could be seen by the public. Hence in our opinion no *prima facie* offence is made out against Appellant 1.

34. The High Court in the impugned judgment has observed (in para 16) that the question whether the appellants indeed uttered the offending words with the intention to humiliate the complainant, are matters of evidence. *We fully agree with this view. Hence, we find no merit in the appeals of Appellants 2 and 3, and they are accordingly dismissed. However, the appeal of Appellant 1 is allowed, and the proceedings against him are quashed.* There will be no order as to costs.”

(emphasis supplied)

30. In the present case, *prima facie* the caste based abuses were not confined to a private or closed-door setting but were shouted openly from the ground floor of a residential building toward the complainant and his family on the first floor. The statements of PW5, PW6, and PW7 make it clear that the abuses were loud and aggressive, hurled from an open space and heard from one level of the building to another. Given the layout of LIG Flats in Sector 6, Rohini, Delhi—a densely populated residential colony with closely packed units—it is reasonable to infer that the shouting was loud enough to be heard by nearby neighbours and other residents in adjoining flats. The same can also be seen in the photo of the locality placed in the Trial Court Record. Therefore, the ingredients of the offence under the SC & ST Act are *prima facie* made out in view of *Swaran Singh v. State* (*supra*).



31. It is trite law that if the contents of the F.I.R., taken on their face value, make out a case against the petitioners, the same cannot be quashed. As noted in ***Swaran Singh v. State*** (*supra*), the petitioners will have an opportunity of establishing their innocence and put up their defence during trial.

32. The offence under Section 3(1)(r) of the SC/ST Act involves the elements of intentional insult or intimidation aimed at humiliating a member of a Scheduled Caste or Scheduled Tribe within a public view. Section 3(1)(s) further strengthens this protection by specifically targeting the use of caste-based slurs or abusive language, again requiring that the abuse occur in a public setting to constitute an offence. Meanwhile, Section 3(1)(c) deals with the act of dumping excreta, waste matter, carcasses, or other obnoxious substances in the neighbourhood of a member of a Scheduled Caste or Tribe, with the intention of causing injury, insult, or annoyance. The purpose of this Act is to enhance the socio-economic conditions of Scheduled Castes and Scheduled Tribes, who have historically been deprived of numerous civil rights. Therefore, an offence under this Act is established when a member of these vulnerable communities is subjected to indignities, humiliation, and harassment.

33. It is relevant to note another observation made in ***Hitesh Verma v. State of Uttarakhand*** (*supra*), wherein the Hon'ble Apex Court highlighted the intent of the legislature behind the SC/ST Act. The relevant paras are reproduced hereunder:

“8. Against the backdrop of these facts, it is pertinent to refer to the Statement of Objects and Reasons of enactment of the Act. It is provided as under:

“Statement of Objects and Reasons.—Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They



are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons.

2. Because of the awareness created amongst the Scheduled Castes and the Scheduled Tribes through spread of education, etc. they are trying to assert their rights and this is not being taken very kindly by the others. When they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. 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. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and the Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Castes persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and the Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes. Under the circumstances, the existing laws like the Protection of Civil Rights Act, 1955 and the normal provisions of the Penal Code, 1860 have been found to be inadequate to check these crimes. A special legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary.”

9. The long title of the Act is to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts and Exclusive Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

10. The Act was enacted to improve the social economic conditions of the vulnerable sections of the society as they have been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment



and commit the offence as defined under Section 3 of the Act. The Act is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.”

(emphasis supplied)

34. *Prima facie*, the ingredients of the offence alleged are established. At this stage, this Court cannot test the veracity of the allegations nor can it proceed to conduct a trial on the basis of the evidence collected.

35. In light of the aforesaid reasons, the petition being devoid of merits is accordingly dismissed.

36. Pending application, if any, stands disposed of.

37. It is made clear that the observations made herein while dismissing the instant petition shall have no bearing whatsoever on the merits of the case during trial.

AMIT MAHAJAN, J

APRIL 7, 2025