

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 240 of 2024

Suranjan Mandal @ Suranjoy Mandal
Versus
The State of West Bengal & Anr.

For the Petitioner : Mr. Amarendra Chakraborty, Adv.

For the State : Mr. Arindam Sen, Sr. Govt. Adv.
Ms. Suruchi Saha, Adv.

Heard on : 22.12.2025

Judgment on : 07.01.2026

Ajay Kumar Gupta, J:

1. Petitioner/accused preferred this Criminal Revisional application under Section 482 of the Code of Criminal Procedure, 1973 (in short 'CrPC'), seeking quashing of the proceeding being Spl. P.A. – 10 of 2022 arising out of Itahar P.S. Case No. 304/22 dated

16.05.2022 under Sections 341/323/325/307/506/34 of the Indian Penal Code (in short 'IPC') read with Section 3(1)(r)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the 1989 Act') and charge sheet bearing no. 596/2022 dated 31.12.2022 under Sections 341/323/506/34 of IPC read with Section 3(1)(r)(s) of the 1989 Act thereof pending before the Learned Judge, Special Court (POA Act), Raiganj, Uttar Dinajpur.

FACTS OF THE CASE:

2. The brief facts, essential for the purpose of disposal of this Revisional application, are as under: -
 - a. On the basis of the written complaint lodged by the opposite party no. 2/de facto complainant, an FIR being Itahar P.S. Case No. 304/22 dated 16.05.2022 under Sections 341/323/325/307/506/34 of the IPC read with Section 3(1)(r)(s) of the 1989 Act has been registered, and investigation has been initiated against the petitioner and another accused.
 - b. The opposite party no. 2/de-facto complainant had lodged a written complaint to the effect that on 15.05.2022 at about 2 PM, when he was returning from the house of one Durga Murmu of Pathantuli, and when he reached near the graveyard situated at the west of village Pathantuli, the accused persons abused

and insulted him by addressing him as Adivasi and Santhal and also assaulted him with fists and blows. As a result, the opposite party no. 2 suffered injuries.

- c.** It was further alleged that the present petitioner, with the intention to kill the de facto complainant/opposite party no. 2, tried to hit him on his head with an iron rod but somehow the de-facto complainant managed to save himself. Upon hearing the complainant's cry, the local people reached to the place of occurrence to save the de-facto complainant from the clutches of the accused persons. Seeing the local people, the accused persons fled away by threatening to kill him.
- d.** After conclusion of the investigation, a charge sheet, being no. 596/2022 dated 31.12.2022 under Sections 341/323/506/34 of IPC read with Section 3(1)(r)(s) of the 1989 Act has been submitted against the petitioner and one other accused. The petitioner was arrested and, subsequently, he was released on bail.
- e.** However, the contention of the petitioner is that the allegations made in the FIR are patently absurd and wholly unbelievable and unreasonable. The present petitioner claims to be absolutely innocent and not involved in any offence as alleged. He has been

falsely implicated in this case due to some previous grudge.

Hence, this Criminal Revisional application.

SUBMISSION ON BEHALF OF THE PETITIONER:

3. Learned counsel appearing on behalf of the petitioner has filed written notes of argument. It was argued that the allegation in respect of commission of an offence punishable under the SC & ST (POA) Act, by uttering abusive language towards the de facto complainant by touching his caste, is out and out false and fabricated. There is no whisper about the intention of the petitioner or the specific words used in the presence of the public to insult or humiliate. Therefore, no ingredients have been fulfilled to constitute an offence under the SC & ST Act.
4. It was further submitted that sufficient ingredients were not available in respect of the offence punishable under Sections 325/307 of I.P.C. Accordingly, at the time of filing the charge sheet, the investigating officer simply kept Section 323 of I.P.C., avoiding Section 325 as well as 307 of the IPC. It further gives the impression that the investigation was not done properly by the investigating officer, and only on the basis of table work, the charge sheet has been submitted without any supporting materials. No such incident ever occurred as alleged by the de facto complainant. The essential ingredients of clauses (r) and (s) of

Section 3(1) of SC & ST (POA), Act, 1989 are lacking in material particulars therein, since, no allegation of the petitioner having intentionally insulted or intimidated the opposite party no. 2 or abused him “in any place within public view” as a member of a SC or a ST within the meaning of Section 3 (1)(r) and (s) of SC & ST (POA) Act, 1989 has been made out against the petitioner either in the F.I.R. or in the charge sheet. Therefore, cognizance taken by the Trial Court is wholly unsustainable in law, as such it is required to be set aside, and furthermore, the proceeding should be quashed, as the same is based on frivolous, baseless allegations and stemming from a personal grudge of the Petitioner.

5. Learned counsel also placed reliance on some decisions to support of his contention that there are no ingredients available in the case diary, and when there are no ingredients available to support the prosecution case, the High Court can quash the proceeding as well as charge sheet by exercising its inherent jurisdiction under Section 482 of the Cr.P.C. Those judgments are as under: -

i. Swaran Singh and Ors. Vs. State Through Standing Counsel and Anr.¹;

ii. Gorige Pentaiah Vs. State of Andhra Pradesh and Ors.²

¹ (2008) 8 SCC 435;

² (2008) 12 SCC 531.

6. None appeared on behalf of the opposite party no. 2 at the time of call and even on previous occasions despite service of notice.

SUBMISSION ON BEHALF OF THE STATE:

7. Learned counsel appearing on behalf of the State strenuously opposed the prayer of the learned counsel appearing on behalf of the petitioner and further produced the case diary and submitted that there is sufficient material available against the present petitioner as regards to the alleged offence committed by the petitioner together with another accused. The FIR discloses the commission of cognizable offence as well as ingredients of the offence as alleged has been fulfilled. It is true that the medical documents, collected by the investigating officer, are with regard to the simple injury suffered by the petitioner as such the investigating officer filed charge sheet under Sections 341/323/506/34 of IPC read with Section 3(1)(r)(s) of the 1989 Act omitting Sections 325/307 of the IPC. He also drew attention to this Court the statements recorded under Sections 161 and 164 of the CrPC of the witnesses, which clearly indicate that the petitioner was committed prima facie offence as alleged. There is also an eyewitness who supports the prosecution case. Therefore, this Revisional application is liable to be dismissed.

DISCUSSIONS AND ANALYSIS BY THIS COURT:

8. Having heard the arguments advanced by the Learned Counsel for the rival parties and submissions made therein, this Court finds an important question that arises for consideration as under: -
 - i. Whether the allegations made against the petitioner fulfil the ingredients of the alleged offences?
 - ii. Whether the same are liable to be quashed to prevent abuse of process of law and/or to secure the ends of justice?
9. Before entering into the arguments advanced by the parties and for proper adjudication of this case, it would be appropriate and convenient to refer to the important sections/provisions as follows:

Section 341 of IPC reads as under: -

“S. 341. Punishment for wrongful restraint.—

Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.”

Section 323 of IPC reads as under: -

“S. 323. Punishment for voluntarily causing hurt.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.”

Section 506 of IPC reads as under: -

“S. 506. Punishment for criminal intimidation.—

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—

And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

Section 34 of IPC reads as under: -

“S. 34. Acts done by several persons in furtherance of common intention. —

When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.”

Section 3(1)(r)(s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 reads as under:-

“3. Punishments for offences of atrocities. — (1)

Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, —

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;”

10. The materials available in the case diary reveal no serious injury suffered by the de facto complainant as alleged. It appears from the medical documents collected during the investigation that the nature of injury seems to be simple, as such investigating officer removed/omitted other sections like 325/307 of the IPC at the time of filing the charge sheet.
11. Insofar as the allegations against the Petitioner/accused for commission of offence under Sections 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 are concerned, this Court finds that the opposite party no. 2 alleged that the accused persons abused and insulted him by uttering terms such as Adivasi and Santhal and also assaulted him with fists and blows.
12. In course of investigation, the Investigating officer recorded statements of the local witnesses under Section 161 of the Cr.P.C.

The statement of the victim has also been recorded under Section 164 of the Cr.P.C. They narrated a similar incident as stated in the written complaint. The de facto complainant also stated in his statement recorded under Section 164 of the Cr.P.C. that he felt humiliated and insulted when the accused persons said that he belonged to lower caste while he was returning from the house of one Durga Murmu of Pathantuli and when reached near the graveyard situated at the west of village Pathantuli, which is obviously a place within public view. The view taken by this Court in view of the proposition as laid down by the Hon'ble Supreme Court in ***Swaran Singh (supra)***, wherein it was held that 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. The alleged incident occurred near the graveyard situated at the west of the village Pathantuli, which comes within the public place and public view. Therefore, prima facie offence established under Section 3(1)(r) (s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989. There is specific allegation of threatening of life. Hence, the petitioner is required to face the trial. This court cannot justify embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations

made in the complaint at this initial stage. Trial is, therefore, necessary to uncover the truth.

13. In the decision in the case of **Hitesh Verma V. State of Uttarakhand and Another**³, the Hon'ble Supreme Court held in Paragraphs Nos. 12, 13 and 14 as under: -

12. The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as “(1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (2) in any place within public view”.

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, 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

³ (2020) 10 SCC 710

with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 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 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 [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) [Ed. : This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below:

“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.”].

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.”

(Emphasis in original)

- 14.** In the light of above discussion and on perusal of judgments as aforesaid, this Court finds the basic ingredients of the offence

under Section 3(1)(r) of the Act can be classified as 1) intentionally insulting or intimidating with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) The act taking place within public view”.

15. Similarly, ingredients of the offence under Section 3(1)(s) of the Act can be classified as 1) abuses any member of a Scheduled Castes or a Scheduled Tribe by caste name and 2) The act taking in any place within public view.

16. In the present case, it has been alleged that the incident took place near the graveyard situated at the west of village Pathantuli, the actions would prima facie satisfy the first and the second conditions of Section 3(1)(r)(s) of the Act. Furthermore, there are other allegations against the petitioner regarding threatening and assault.

17. I have also gone through the authorities cited by the Learned Counsel for the Petitioner. At this stage, this Court cannot embark upon a roving trial as to the reliability, genuineness or otherwise correctness of the allegations made in the FIR and materials collected during the investigation by the investigating officer. Hence, the application has devoid of merits.

18. Accordingly, **C.R.R. 240 of 2024** is, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.

- 19.** Interim order, if any, stands vacated.
- 20.** Case Diary, if any, is also returned to the learned counsel appearing on behalf of the State.
- 21.** Let a copy of this judgment be sent to the Learned Court below for information and taking necessary action.
- 22.** Parties shall act on the server copies of this Judgment uploaded on the website of this Court.
- 23.** Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

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