

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 1188 OF 2023

MOUMITA BHATTACHARYA

VS

STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Akashdeep Mukherjee, Adv.

For the State : Mr. Satyam Pandey, Adv.

For the State : Mr. Ranabir Ray Chowdhury, Adv.
Mr. Mainak Gupta, Adv.

Last heard on : 12.12.2025

Judgement on : 11.02.2026

Uploaded on : 11.02.2026

CHAITALI CHATTERJEE DAS, J. :-

1. This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the petitioner for quashing of the proceedings of S.C & S.T case no. 10/21 under Section 3(1)(r) of the scheduled caste and scheduled Tribes(Prevention of Atrocities) Act, 1989, arising out of Amherst Street Police Station case no. 266/21 dated 4.12.21 pending before the Court of learned judge, Bench – one, City Sessions Court.

Brief fact of the case

2. The petitioner is a student and teacher who completed her B.A, M.A and PhD in Sanskrit from Viswa Bharati University. The Opposite Party no. 2 is an Assistant Professor in the Department of Sanskrit at the Sanskrit College & University. A complaint was lodged by Opposite Party no. 2 with the Officer-in-charge of Amherst Street, Police Station, against the petitioner for her motivation for alleged actions driven by jealousy and resentment towards the professional and academic achievement of the complainant / Opposite Party no. 2 who belong to schedule caste community and joined the Department of Sanskrit College on 14.11.2018 as Assistant Professor . The opposite party was deprived of making any development of the department with his ideas and concept because of the actions by the petitioner /accused who taking advantage of her position as the Head of Department of Sanskrit did not conduct any departmental meetings and convey any departmental decisions to the Opposite Party no. 2 ,was not provided with the resolutions of the meetings in violation of the rules and regulations of the university . She intentionally stopped the undergraduate classes of the Opposite Party no. 2 for the even semester , 2021 and also conspired with few students to prevent the Opposite Party no. 2 from examination and evaluation duty for the UG, 3rd semester, 2020. It was also alleged that she intentionally insulted and humiliated the Opposite Party no. 2, in presence of other students in an online meeting with abusive, offensive, inappropriate and un-parliamentary languages and thereby continuously torturing the Opposite Party no.2 mentally in various ways and destroyed the academic carrier of the Opposite

Party no. 2, leaving him mentally, shocked and traumatised only because he belongs to schedule caste community.

3. The complaint was lodged on December 4, 2021 and on completion of a purported investigation, the charge-sheet has been submitted on April 10, 2022 against the petitioner under the above mentioned provision of the Act. The learned court on receipt of the charge-sheet took cognizance of the offences against the petitioner and direct issuance of summons upon the petitioner. Accordingly filed this revision application for quashing of the entire proceeding being frivolous in nature.

Submissions

4. The learned Advocate representing the petitioner submitted that the petitioner is a diligent student, a passionate teacher and first rate researcher among the many hats she has own. She has completed her Ph.D in Sanskrit from Vishwa Bharati University and was awarded a fellowship during her PHD programme. She also completed a bachelor in education program from University of Bardwan, passed SLET examination, completed a post-doctoral fellowship from the esteemed Asiatic Society, Kolkata and is an Editorial Board Member of Vyasasrih and Sciencia. She also earlier acted as the head of the Department of Sanskrit at the Sanskrit College & University. Therefore being such a qualified lady, she has been falsely implicated in this case totally out of grudge and ill motive. She is completely innocent, and the proceeding initiated is gravely mala fide, vexatious and persecutory, and do not disclose commission of any offence as alleged. No ingredient to attract any offence under the provision of SC/ST (POA) Act 1989 can be found. It is further argued that in order to constitute an offence under the said provision the allegations

must inter alia express that the accused petitioner was not a member of the Scheduled Caste or Scheduled Tribe and the Opposite Party number two was intentionally insulted or intimidated by the petitioner with intent to humiliate in a place within public view.

5. It is further argued that the basic requirements are to be prima facie satisfied to constitute the offence alleged as mandated by the Hon'ble Supreme Court. In the decision of **Goeiege Pentaiah vs State of Andhra Pradesh & amp; another reported in¹** It was held that according to the basic ingredients of Section 3 (1)(r) of the act, the complainant ought to have alleged that the accused was not a member of the schedule, caste, or schedule tribe and was intentionally intimidated. The complaint is absolutely silent about such statement. In the **State of Haryana versus Bhajanlal reported in²** certain criteria as were laid down by the Hon'ble apex court, under which the High Court may exercise their inherent powers in order to quash a proceedings. Therefore, the entire proceeding is liable to be quashed.

Analysis

6. Heard the Submission. In the case of **Saajan Skarai versus state of Kerala & Anr.³** as has been relied upon where the Supreme Court held there is no bar on anticipatory bail, unless prima facie offence is made out. It was further held that the duty of the courts to determine prima facie existence of the case is cast upon the court, with a view to ensure that no unnecessary humiliation is caused to the accused. The courts should not shy away from conducting a preliminary enquiry to determine if the narration of facts in the complaint/FIR,

¹ (2008) 12 SCC 531

² AIR 1992 SC 604

³ 2024 SCC Online SC 2249

in fact discloses, the essential ingredients required to constitute an offence under the Act, 1989. The factual matrix of the said case was that a video was published in a YouTube channel, levelling certain allegations against the complainant. It was observed that on plain reading of the FIR would indicate that Appellant is not a member of schedule caste and he is alleged to have published and disseminated a video containing disparaging content about the complainant with a view to publicise, abuse, and insult the complainant. It was alleged by the complainant that the video has caused him a lot of humiliation, mental pain and agony. Apprehending arrest, the appellant prayed for grant of anticipatory bail before the learned Special Judge. The Hon'ble Supreme Court examined whether the necessary ingredients to constitute an offence under Section 3.(1)(r) of the act were prima facie disclosed on plain reading of the FIR and in para 55 such basic ingredients were described, which are as follows:-

55. The basic ingredients to constitute the offence under Section 3.(1)(r) of the Act, 1989R: accused person must not be a member of the schedule, caste, or schedule tribe. Accused must intentionally insult or intimidate a member of a schedule, caste or schedule tribe. Accused must do so with the intent to humiliate such a person. Accused must do so at any place within public view.

7. It was further held that for the reason that all insults or intimidation is to a member of the Scheduled Caste or Schedule 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. It was observed that nothing was found from the uploaded video to indicate even

prima facie that those allegations were made by the appellant only on account of the fact that the complainant belongs to a Scheduled caste. The intention maybe to defend him, but not on the ground or for the reason that the complainant belongs to the scheduled caste.

8. The Hon'ble apex court further defined the meaning of the expression 'intend to humiliate' as appeared in the text of the relevant provision, which are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. According to the observation of the Hon'ble Supreme court, *'not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of cast based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce, the historically entrenched ideas like the superiority of the upper caste over the lower caste/untouchables, the notion of purity, and pollution, et cetera, that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989.'*

9. The Hon'ble further considered whether the mere knowledge of the caste identity of the complainant is sufficient to attract the offence under Section 3(1)(r) of the Act, 1989. The Supreme Court refused to entertain the submission that it was known very well to the accused that complainant belong to a scheduled caste and despite such knowledge, he went on to make derogatory attendance in the video. In paragraph 79, it was held.

79. We find no merit in the aforesaid submission. Wherever the legislature intended that mere knowledge of the fact that the victim is a member of scheduled caste or scheduled tribe would be sufficient to constitute an offence

under the act, 1989, it has said so in many words. The relevant provisions where knowledge that the complainant belong to the schedule, caste or schedule drives is sufficient in itself to constitute the offence was reproduced. It was clearly held that mere knowledge of the fact that the victim is a member of scheduled caste or scheduled tribe is not sufficient to attract Section 3(1)(r) of the Act, 1989. The offence must have been committed against a person on the ground or for the reason that such person is a member of schedule, caste or schedule tribe.

10. In the case of **Ramesh Chandra Vaish versus State of Uttar Pradesh and Anr. Reported in⁴**, the Hon'ble Supreme Court took note of **Hitesh Verma versus State of Uttarakhand⁵**, where High Court ignored the misuse and abuse of the provisions of SC/ST Act by the complainant. It was held neither the contents of the first FIR nor the charge-sheet, discloses the precise content of abusive language employed by the appellant so as to attract the provisions of section 3(1)(x) of the SC/ST Act. In the decision of **Hitesh Verma versus State of Uttarakhand and Another (Supra)** the basic ingredient that words were altered in any place within public view was not made out. The issue of place in public view was considered in the celebrated decision of **Swaran Singh versus State⁶** where the Court had drawn distinction between the expression public Place and in any place within the public view.
11. In the touchstone of the law laid down by the Hon'ble Supreme Court of India time and again regarding the applicability of the provisions under the Act of 1989, the Court is now to look into the fact of the case in hand and to

⁴ (2023) 17 SCC 615

⁵ (2020) 10 SCC 710

⁶ (2008) 8 SCC 435

ascertain whether the requisite conditions are fulfilled in the complaint or whether prima facie ingredients to constitute the offence alleged can be found.

12. The factual development that took place in the meantime as the Opposite Party no. 2 didn't turn up despite receiving service and pursuing to the report submitted before this Court, he has resigned from the Sanskrit College and university on September 11, 2023 and joined at the Central Sanskrit University, Lucknow campus. The order of this court regarding fixing of the matter before this Court was duly communicated to him, however, none appeared to represent the Opposite Party no. 2.

13. On careful perusal of the entire complaint, it could be gathered that the grievance ventilated by the complainant against the petitioner in the complaint on December 3, 2021 are of atrocity, misbehaviour and ill motivation against him as he belonged to the schedule caste community by the present petitioner being the Head of the Department of Sanskrit, the Sanskrit College and University. The professional jealousy is the root cause as reflected from the content of the complaint as it is canvassed that she didn't tolerate the progress of a professor from the schedule caste community.

14. The instances why the complainant felt humiliated are described in the written are the decisions taken by the HOD without his consent, not providing resolution of the HOD meetings in respect of undergraduate and postgraduate exam, Examinations in violation of rules and regulations of the University stopped his undergraduate classes for the semester 2021, preventing him from examination and evaluation duty for the UG third semester 2020 and lodging false complaint by those students against him to the authority of the Sanskrit College and University, preventing him to take

classes by not providing the contacts of the newly admitted students, not provided the new syllabus and intentionally without his consent, gave the students assignments of the paper which he was otherwise interested and also humiliated him in presence of other students in an online meeting with abusive offensive inappropriate and an un-parliamentary language. None of these allegations attract the provision under section 3(1)(r) of the said Act .

15. From the statement recorded under 161 Cr.P.C by the complainant it is evident that he mentioned about an incident of the year 2019 when the complainant asked for recommendation when he was humiliated and abused the petitioner by calling him of lower caste and was refused but no complaint was ever lodged by the complainant against the [[petitioner on that score . So though the petitioner has tried to make out a case of instigation by the petitioner hampering his career not a single incident is narrated where he has been humiliated in the public view calling his caste .Nothing is mentioned in the complainant or the statement that the petitioner belonged to higher caste or anything to constitute an offence under the relevant provision. That apart the complainant felt humiliated as he was called as 'Adarsha Sir' in presence of the students while they were online .So even if it is accepted for a moment that he was called as Adarsha sir , it can no way said to be derogatory towards a member of Scheduled community . The word Adarsha means ideal and Sir is a term of respect. This court is unable to understand the idea of calling a person as Adarsha sir would be humiliating even if is used sarcastically, it can no way constitute an offence under SC/ST (POA) Act 1989.

16. So the averment qua allegations in the FIR on its face value do not constitute any offence, and the case diary also do not reflect any materials

which can Prima facie support the case of prosecution. In the case of **Karuppudayar vs State reported in**⁷ by the Deputy Superintendent of police Lalgudi Trichy & Ors. 2025 SCC online SC 215 against an order refusing to quash the proceeding filed under SC/ST Prevention of Atrocity Act under Section 482 of the Cr.P.C, the Hon'ble Supreme Court was of the view that to be a place within public view, the place should be open where member of the public and witness or hear the attendance made by the accused to the victim. It was held in paragraph 17.

'17.No doubt, that the power under Section 482 of the Cr.P.C is required to be exercised, sparingly and with circumspection, and that too in the rarest of rare cases. It is equally settled that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint. However, the court would be justified in exercising its discretion, if the case falls under any of the clauses carved out by the Court in paragraph 102 in the case of State of Haryana versus Bhajanlal(supra).'

It is gainful to refer the observations of the Hon'ble Supreme Court in the case of **State of Haryana versus Bhajanlal**. The law as laid down there in are as follows:-

" (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

⁷ 2025 SCC Online SC 215

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. ”

Conclusion

- 17.** On careful perusal of the above facts and circumstances and the law laid down in this regard this Court is of the view that even if the allegations made in the FIR are taken at their face value and accepted in their entirety would not prima facie constitute an offence, under 3(1)(r) of the act of 1989, and it would fall under the first category listed by the court in Bhajanlal case. It is well settled that inherent jurisdiction under Section 482 Cr.P.C is designed to achieve salutary purpose and that criminal proceedings ought not to be permitted to degenerate into weapon of harassment and cannot be a platform to ventilate personal vendetta.
- 18.** In that view of the matter, the court is of the view that this revisional application deserved to be allowed.
- 19.** In the result, this criminal revision application stands allowed. The proceeding pending before the learned Special Court along with the charge-sheet filed and all proceedings pursuing that shall stand quashed and set aside.
- 20.** Pending application, if any disposed of.
- 21.** Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

[CHAITALI CHATTERJEE (DAS), J.]