

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 3966 OF 2022

PRIARANJAN @ PRIYARANJAN @ MR. RANJAN & ANR.& ANR.

VS

THE STATE OF WEST BENGAL & Anr.

For the Petitioners : Mr. Prabir Kumar Mitra, Sr. Adv.

Ms. Sudarshana Srivastava, Adv.

For the Opposite : Mr. Sourav Chatterjee, Sr. Adv.

Party no. 2 Mr. Ranadeb Sengupta, Adv.

Mr. Aditya Tiwari, Adv.

For the State : Mr. Sumon Dey, Adv.

Mrs. Manasi Roy, Adv.

Last heard on : 10.02.2026

Judgement on : 22.04.2026

Uploaded on : 22.04.2026

CHAITALI CHATTERJEE DAS:-

1. This revisional application arises against an order dated August 17, 2022 passed by the learned Additional Session Judge, 1st Court, Howrah cum

Judge special Court, SC/ST (POA) Act, Howrah whereby the petition filed by the petitioners for discharge from the offences section 3(1)(r) & (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), 1989 in connection with Special Case no.190/20 dated October 13, 2020 .

Brief facts of the case

2. The petitioner No.1 is a railway employee and petitioner no 2 is his wife and both of them are the resident of a railway quarter situated in a four storied building where the opposite party was also a resident and both of them had lawful right to use the terrace. It is the case of the petitioner that on October 13, 2020, an altercation took place between two families over the use and enjoyment of the terrace and as a result, both petitioner no.1 and 2 sustained injuries and they were treated on that day itself in the railway hospital and the petitioner lodged a GDE on the same day at Belur Police station being GDE No. 576 dated 13.10.2020.
3. The opposite party No. 2 initiated a FIR at Belur police Station Case No. 190/20 under section 341/323/34 of the Indian Penal Code and section 3(1)(r) & (s) of the SC/ST (POA) Act. On completion of investigation a charge sheet has been submitted under the aforesaid section in respect of the same incident with certain false and concocted story. On completion of investigation over the same, the charge sheet has been submitted against the petitioner under section 341/323/506 /34 of the Indian Penal Code read with section 3(1)(r)&(s) of the SC/ST(POA) Act, 1989 . The petitioners thereafter filed an application for discharge on the ground of lack of materials to attract any of the charges and it was an afterthought only to

which has been turned down by the learned Special Court. Being aggrieved thereby this revisional application has been filed for quashing the entire proceeding pending before the learned Special Court.

Submission made by the petitioner

4. The learned advocate representing the petitioners argued that nowhere in the complaint it was mentioned that the petitioners belongs to higher caste than the opposite party or such abusive words were hurled in public place and within the public view and lastly the complaint was filed as to the fact that the petitioner abused them with the name of their caste, which are the essential elements to be mentioned or spelt out in the petition of complainant. It is further argued that to deal with the offences under section 341/323 of the Indian Penal Code it must be mentioned that the petitioner wrongfully restrained the opposite party No. 2 or any member of his family which could attract section 341 of the Indian penal code. In the written complaint no description of assault on the complainant's daughter was mentioned and by whom. The incident arose out of a commotion occurred between the family members of the petitioners and the opposite party No. 2 and pursuant to such self-same incident two General Diary entries were lodged at Lilua police Station. The complaint lodged by the opposite party No. 2 was entered as G.D.E No. 575 which finds reference in the substantive part of the FIR. The counter complaint was registered as G.D.E No. 576 dated 13.10.20 and it manifest that both the parties approached the police station immediately after the alleged incident which happened on the same dates at around 6.30 a.m. It is argued that had any cognizable case

disclosed in the G.D.E No. 575 lodged by the Opposite party no 2 the same ought to have been registered as an FIR in view of the law laid down by the Hon'ble Supreme Court in the case of ***Lalita Kumari versus Government of U.P¹***.

5. The learned advocate draws attention of this court in course of argument that the time of occurrence was not mentioned in the Formal FIR when under the Police Regulation of Bengal it is mandatory to record the date and time of occurrence of the alleged offence to enable proper assessment of the incident and to prevent any possibility of interpolation or embellishment at a later stage.
6. The unexplained omission of such a material particular raises a serious doubt regarding the authenticity and veracity of the FIR. After filing of the charge sheet in compliance with section 207 of the Code of Criminal Procedure, 1973 neither injury report has been supplied to the petitioner nor it is mentioned as seized article in the column of the charge sheet.
7. The further argument advanced by the learned advocate that the essential ingredients of an offence to be constituted under section 3(1)(r) & (s) of the Act, 1989 are completely absent as there was no intentional insult or intimidation with intent to humiliate in any place within the public view which is sine qua non. That apart from the expression public view has been consistently interpreted by judicial precedents, does not include mere presence of family members of the complainant while the charge sheet witnesses in their statements claiming to be present at the place of

¹ (2014) 2 SCC 1

occurrence are all relatives or family members of the complainant. Therefore public view is not satisfied. The learned advocate relied upon the decisions reported in , ***Karuppudayar vs. State & Ors***².; ***Keshaw Mahto @ Keshaw Kumar Mahato vs. State of Bihar & Anr.***³; ***Swaran Singh & Ors. Vs. State & Anr.***⁴;; ***GorigePentaiah vs, State of AP & Ors.***⁵; ***Darshan Singh Saini vs. Sohan Singh & Anr.***⁶; ***Hitesh Verma Vs, State of Uttarakhand & Anr.***⁷; ***Ramesh Chandra Vaishya vs. State of UP & Anr.***⁸; ***N.S. Madhanagopal & Anr. Vs. K. Lalitha***⁹ ; ***Manik Taneja & Anr. State of Karnataka & Anr.*** ¹⁰.

Submission made by the Opposite party

8. The learned senior advocate Mr. Sourav Chatterjee on the other hand argued that in GD No. 597 the time was 13:15 with regard to FIR and this point was not raised before the learned court. The offence under the special Act cannot be diluted merely because the complainant did not mention that the petitioners belongs to higher caste than the complainant and in this regard draws the attention of this court to the provision incorporated under section 8(c) of the Act. It is submitted that when a complaint has been lodged with the specific allegation of abuse with regard to the name of the caste it is to be presumed that the accused was having personal knowledge of the their caste for his family, the court shall presume that the accused

² 2025 SCC OnLine 215

³ SLP (Crl) No. 12144 of 2025

⁴ (2008) 8 SCC 435

⁵ (2009) 1 SCC (Criminal) 446

⁶ (2015) 14 SCC 570,

⁷ (2020) 10 SCC 710,

⁸ SLP (Crl) No. 1249 of 2023

⁹ SLP (Crl) No. 6039 of 2022

¹⁰ SLP (Crl) No. 6449 of 2014

was aware of the caste or tribal identity of the victim unless the contrary is proved. This is the rebuttable presumption which can be rebutted in course of trial. The learned Senior advocate relied upon the decision of a three Hon'ble judges Bench of Hon'ble Supreme Court in **Ashabhai Machindra Adhagale vs State of Maharashtra & Others**¹¹ where it was held that caste of the accused if not mentioned in FIR for offence under section 3(1)(ix) of SC/ST Act 1989 is not a ground to quash FIR . It is further argued that an FIR is not expected to be an encyclopaedia .The investigating agency after ascertaining the facts during the course of investigation to record that either the accused belong to Scheduled Caste or Scheduled Tribe and after the formal opinion is formed that is to be placed before the Learned Court to either accept or to take cognizance. In the aforesaid decision it was further observed that after charge sheet is filed it is open to the accused to bring to the notice of the court that the material do not show that the accused does not belong to Schedule Caste or Schedule Tribe .

9. The further argument advanced by the Learned Senior Counsel that the alleged incident happened on the terrace which is open from all sides and it was in broad day light hence was within public view and to that extent sufficient materials are collected which must be assessed before the trial court. In this regard he relied upon a decision reported in **Kaptan Singh vs state of Uttar Pradesh & Others**¹², where it was held by the Hon'ble supreme Court that High court failed to appreciate and consider fact that

¹¹ (2009) 3 SCC 789

¹² (2021) 9 SCC 35

there are very serious triable issues /allegations which are required to be gone into and considered at the time of trial.

10. The further limb of argument advanced by the Learned Senior advocate is with regard to the scope of discharge application and the court must proceed on the assumption that the material which has been brought on record by prosecution is true and evaluate material in order to determine whether the facts emerging from the materials taken on their face value disclose the existence of the ingredients necessary to constitute offence. In this case the chargesheet has been submitted on the basis of the materials collected in course of investigation and the discharge petition is rejected .So there is no hazy situation for which any interference is necessary. It is further argued that it was decided by the Hon'ble Supreme Court in the case of **Central Bureau of Investigation vs Arvind Khanna, reported in**¹³ while setting aside the order of quashment passed by the High Court, that the High Court while exercising jurisdiction under section 482 Cr.P.C exceeded its power after making assessment and recording the findings on several disputed facts when the cognizance was taken of by a competent court.

11. The learned Senior advocate further relied upon the decision of **Central Bureau of Investigation vs Arvind Khanna**¹⁴; **State of MP vs. Yogendra Singh Jadon & Anr.**¹⁵, **Kamal Shivaji Pokarnekar vs State of**

¹³ (2019) 10 SCC 686

¹⁴ (2019) 10 SCC 686

¹⁵ (2020)12 SCC 588

Maharastra & Ors.¹⁶;Kaptan Singh vs State of U.P & Ors.¹⁷ and State by Karnataka¹⁸, Lokayukta police Station, Bengaluru vs. M.R. Hiremath. Accordingly, prayed for dismissing this revisional application.

Submission by Prosecution

12. The Learned prosecution also argued that in this case the statement of the two daughters have been recorded under section 164 Cr.P.C and the Investigating agencies have recorded various statements of the witnesses which primarily supports the allegation made in the complainant. There is injury report in the case diary and hence it is a fit case where the accused persons must face the trial. The case Diary is produced before the court to substantiate his contention.

Analysis

13. Heard the submissions. On careful perusal of the entire materials on record at the outset it transpires that the petitioners did not challenge the charge sheet and filed this application with a prayer challenging the order passed by the Learned Special Court whereby the petition filed for discharge was turn down. The proceeding emanated from a complaint lodged by the present opposite party No. 2 against the present petitioners alleging assault on his daughters who went to terrace and subsequently abused taking the name of their community who belong to schedule caste. The complainant mentioned lodging of a General Diary Entry in Belur police Station on 13 October 2020 which is numbered G.D.E No. 575 against the petitioner over

¹⁶ (2019) 14 SCC 350

¹⁷ 2021 (9) SCC 35

¹⁸ (2019) 7 SCC 515

the self-same incident. The complaint was lodged to file an F.I.R against the petitioners on the basis of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The content of the said General Diary was not mentioned but primarily it projects that no allegation was made while filing the G.D Entry on the same day pertaining to any offence committed by the petitioner under SC/ST Prevention of Atrocities Act, 1989 and in between lodging of General Diary and the written Complaint no materials to suggest that any other incident happened. The investigation started on the basis of the written complaint filed by the complainant and the column in the Formal F.I.R “place of occurrence “was not filled up.

14. It can be gathered from the record as well as from the submission that the present petitioners also lodged a General diary before Liluah Police Station on the same date that is 13.10.2020 which was registered as G.D.E No. 576. The incident has been described by the petitioners as an altercation between the two families over enjoying the right of use of terrace of the residential building/quarter and there was a commotion and both parties sustained minor injuries and the petitioners also were treated before the Railway doctor. The G.D no. 575 and 576 on 13.10.20 apparently suggest that almost same time both the G.D was lodged before police Station but in course of investigation the Investigating authority remained silent about the G.D lodged by the complainant. It is not clear the G.D was lodged before the Lilua P.S. or Belur P.S. due to mentioning of two different Police Station.

15. In connection with the complaint lodged by the opposite party No. 2 on completion of investigation the charge sheet was submitted against the

present petitioner's under section 341/323/506/34 of the Indian penal code read with section 3(1)(r) & (s) of SC/ST(Prevention of Atrocities) Act 1989. The investigating agency found after visiting the place of occurrence and collecting the injury report that a prima facie charge under the aforesaid sections have been established against the accused persons. From the four corners of the said charge sheet nothing is found which suggest that because the complainant belongs to Schedule Caste community and the present petitioners knowing fully well humiliated them taking the name of the caste.

16. After filing of the charge sheet the petitioners filed an application with the prayer for discharge and the learned court vide an order dated August 17, 2022 refused to allow such prayer. The learned court while passing such order considered that the I.O collected the caste certificate of the opposite party No.2 which discloses they belongs to "Charan" community and hence prima facie it was established that they belong to Schedule Caste.

17. The learned court while refusing the prayer observed that the power under section 227 of the Code is to confine itself within the record of the case and hear the accused persons as well as prosecution on the materials. Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused which provides that the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused person. In this context the 'ground' is not a ground for conviction but the "ground" for putting the accused on trial. It is not necessary to delve deep into various aspects and only to consider

whether evidentiary materials on record if generally accepted, would reasonably connect the accused with the crime.

18. The observation passed by the Learned Court is based upon the decisions of the Hon'ble Supreme Court in **Stree Atyachar Virodhi Parishad vs Dilip Nathumal Chordia**¹⁹. In the light of the above law laid down it is to be seen that how far the learned court was justified in arriving at such observation that primarily enough materials are there to proceed with the trial so far the charges under section 3(1) (r) & (s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 are concerned.

19. In the case of **Keshaw Mahto @ Keshaw Kumar Mahato vs. State of Bihar & Anr. (supra)** as relied upon on behalf of the petitioners, the quashing application filed by the Accused was turned down by the High court where the allegation was under various provisions of Indian Penal Code along with section 3(1)(r)(s) of the SC/ST Act. It was observed by the Hon'ble Supreme Court that in the written complaint no specific word was uttered from the mouth of the accused. The Hon'ble Apex Court took note of the decision of **Shajan Sakaria vs The State of Kerala and Anr**²⁰., paragraph 55, where the ingredients to constitute an offence under Section 3(1)(r) of the SC/ST (POA) Act were laid down which were referred to.

“55. The basic ingredients to constitute the offence under Section 3(1)(r) of the Act, 1989 are:

a. Accused person must not be a member of the Scheduled Caste or Scheduled Tribe;

¹⁹ (1989) 1 SCC 715

²⁰ 2024 SCC On Line SC 2249

- b. Accused must intentionally insult or intimidate a member of a Scheduled Caste or Scheduled Tribe;*
- c. Accused must do so with the intent to humiliate such a person; and*
- d. Accused must do so at any place within public view.” (Emphasis supplied)*

In paragraph 12, 13, 14, 15, and 16 it was elaborately discussed by the Hon’ble Apex Court as follows;

“12. Section 3(1)(r) is attracted where the reason for the intentional insult or intimidation by the accused is that the person who is subjected to is a member of a Scheduled Caste or a Scheduled Tribe. In other words, the offence under Section 3(1)(r) cannot stand merely on the fact that the informant/complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless the insult or intimidation is with the intention to humiliate such a member of the community.

13. To put it briefly - first, the fact that the complainant belonged to a Scheduled Caste or a Scheduled Tribe would not be enough. Secondly, any insult or intimidation towards the complainant must be on the account of such person being a member of a Scheduled Caste or a Scheduled Tribe.

14. With a view to dispel any doubt and lend clarity, we deem it appropriate to mention that even mere knowledge of the fact that the complainant is a

member of a Scheduled Caste or a Scheduled Tribe is not sufficient to attract Section 3(1)(r).

15. Further, for an offence to be made out under Section 3(1)(s), merely abusing a member of a Scheduled Caste or a Scheduled Tribe would not be enough. At the same time, saying caste name would also not constitute an offence.

16. In other words, to constitute an offence under Section 3(1)(s) it would be necessary that the accused abuses a member of a Scheduled Caste or a Scheduled Tribe “by the caste name” in any place within public view. Thus, the allegations must reveal that abuses were laced with caste name, or the caste name had been hurled as an abuse.

17. What appears from the aforesaid is the element of humiliation is present in Section 3(1)(s) as well. It has to be gathered from the intentional insult towards the caste, and the content. The content under Section 3(1)(s) are the abuses hurled at a person belonging to a Scheduled Caste or a Scheduled Tribe. However, the intent with which the abuses were hurled must be found to be denigrating towards the caste, resulting into a feeling of caste-based humiliation.”

20. The learned advocate of the petitioners relied upon the decision of **GorigePentaiah versus State of A.P (supra)** when it was held that-
“According the basic ingredients of 3(1)(x) of the Act of 1989, the complainant ought to have alleged that the appellant accused was not a member of the Scheduled Caste or Scheduled Tribe and he was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public

view.” In this case in the complaint nothing was mentioned as to whether the appellants/ accused was not a member of SC or ST Community and he intentionally insulted or humiliated the accused with the intent to humiliate in a place within public view and the Hon’ble Supreme Court held that ‘When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law’.

21. In order to buttress the above decision the learned senior advocate has relied upon the decision of ***Ashabhai Machindra Adhagale vs State of Maharashtra (supra)***, where the Hon’ble Bench consisting of three Judges of the Supreme Court on this issue held that in paragraph 10, 11 and 12, which are as follows-

“10. It needs no reiteration that the FIR is not expected to be an encyclopaedia. As rightly contended by learned counsel for the appellant whether the accused belongs to Schedule Caste or Scheduled Tribe can be gone into when the matter is being investigated. It is to be noted that under section 23(1) of the Act, The SC and ST (POA) Rules, 1995 have been framed.

11. Rule 7 deals with the investigating officer. Under Rule 7 investigation has to be done by an officer not below the rank of Deputy Superintendent of Police.

12. After ascertaining the facts during the course of investigation it is open to the investigating officer to record that the accused either belongs to does not belong to scheduled caste or Scheduled Tribe. After final opinion is formed, it is open to the Court either to or accept the same or take cognizance. Even if the charge sheet is filed at the time of consideration of the charge, it is open to the accused to bring to the notice of the court that the materials do not show that the accused does not belong to schedule caste or scheduled Tribe. Even if charges framed at the time of trial materials can be placed to show that the accused either belongs or does not belong to Schedule caste or Schedule Tribe.”

Therefore if the complaint is silent about the caste of the accused persons or even in the chargesheet that fact was not to the notice, ipso facto it cannot be the ground for quashing.

22. Now considering the fact that in the F.I.R, the caste of the accused was not mentioned in the written complaint, neither the investigating officer tried to ascertain whether the accused persons belongs to higher caste than that of the complainant nor while considering the application filed for discharge the learned court dealt with the issue to ascertain such fact on the basis of the materials collected in course of investigation. The scope of raising such issue remains alive and can be taken in course of trial as held by the Hon'ble Supreme Court, therefore only on that point the power under

section 482 cannot be exercised for setting aside the order refusing to discharge the present petitioner.

23. In the light of the above, the contents of the complaint should be revisited in order to see what materials exist on the face of the complaint to attract the offences charged with. The lodging of GD entry before Belur police Station or Liluah Police Station by both the parties unequivocally discloses that an incident occurred on October 30, 2020 in the early morning but certainly it did not contain any cognizable offence and this can be found prima facie corroborated from the narration made before the Investigating Officer. No whisper was made regarding insulting him with regard to his caste. On giving a cursory glance to the other materials collected also primarily nothing transpires regarding abuse made taking the name of their caste or with an intention to insult any word was uttered maligning his caste. It is glaringly visible that the germane of the dispute rooted over us of therefore which can be found from the statement of the neighbour recorded under section 164 Cr.P.C ,before whom the daughter narrated the incident.

24. The incident happened on the open terrace of the four-storied building. The GD lodged by the opposite party No. 2 contains the No. 575 received on 13:15 hours on 13.10.2020 at Belur Police Station but in the Formal F.I.R a reference is given as 597 received at 15.30 hours at the Belur Police Sation. The petitioner has stated that at Liluah Police Sation both of them lodged the GDE which are numbered 575 and 576 respectively on 13.10.20 but no contents of such GDE can be found from the case Diary. The suppression of

the previous G.D. not only in the F.I.R but also in the statement made by the complainant suggests that the allegation to incorporate the charges under SC/ST POA Act, 1989 was afterthought.

25. In this regard the decisions relied upon by the learned advocate of the petitioner in the case of **Karuppudayar (supra)** be looked into .It was decided there that for constituting the offence under section 3(1)(r) of the SC/ST (POA) Act, *“it has to be established that the accused intentionally insults or intimidates with intent to humiliate a member of a scheduled caste or a Scheduled Tribe in any place within “Public View”. For a constituting an offence under section 3(1)(s) of the SC/ST (POA) Act 1987 Act it will be necessary that the accused abuses any members of the Scheduled Caste or Scheduled Tribe by caste name in any place within public view”* .

26. The Hon’ble Supreme Court took note of the decision of **Swaran Singh vs State** through the Standing Counsel (where the term any place within the Public View was discussed). The Hon’ble Supreme Court in the decision of **Hitesh Verma vs State of Uttarakhand (supra)** also made the reference of the case of Swaran Singh where the distinction between the expression Public Place and “in any place within public view” was discussed and 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) were there then also it would be an offence since it is in the public view .The*

Hon'ble Supreme Court further made the distinction of the expression "place" 'within public view' means the place which should be open where the members of the public can witness or hear the utterance made by the accused to the victim.

27. In the present case the alleged incident happened in the early morning at 6 to 6:30 a.m and it is not mentioned that the petitioners uttered any word or made any gesture to humiliate or insult his caste and any other persons were present either in the terrace or in the adjacent building since the complainant specifically averred that only his two daughters went to the terrace and hearing their cry he went there. The building is four storied and the incident happened on the terrace.

28. It is no more res integra that the court can at any point of time ascertain the caste of the accused and merely because of not mentioning the said fact in the F.I.R would not be the reason to quash the proceeding as decided by the Hon'ble three Judges Bench of the Hon'ble Supreme Court in the case of ***Ashabai Machindra Adhagale (supra)***. In this case though till the discharge petition was rejected no such ascertainment could be found to have been raised by the prosecution regarding the caste of the petitioners/accused person, that itself cannot be considered for quashing the entire proceeding.

29. In the case of ***Central Bureau of Investigation (supra)*** as relied upon by the Learned Senior advocate ,the petitioner sought for quashing of the F.I.R, charge sheet and the order passed by the Learned ACJM whereby the cognizance was taken in respect of an offence under section 35 read with

section 3 of the Foreign Contribution (Regulation) Act,2010 .The Hon'ble Apex Court set aside the order of quashing passed by the High court considering that the High court recorded finding on several disputed facts and allowed the petition .Further observed that the High court went into the most minute details ,on the allegations made by the appellant CBI and hence exceeded its power while exercising inherent jurisdiction. In this case the charge sheet has been filed under section 341/323 /506 IPC read with section 3(1)(r) & (s) of the SC/ST (POA) Act ,1989 and so far the allegations under the SC/ST Act is concerned the F.I.R prima facie shows no materials exists to attract the said provision and the materials collected in course of investigation primarily do not suggest any ingredients to attract the said section as no word was uttered which can be said to have laced with castiest remark. The root cause of the dispute pertains to use of terrace for which the opposite party no. 2 paid rent, and as both the parties lodged General Diary on the same date over the same dispute, there left no room to doubt that no incident happened but question whether sufficient materials exists prima facie to prove the allegation made to malign the petitioner with their caste ought to have been considered by the Learned Special Court.

30. The decision of the Hon'ble Supreme Court in **(2019) 7 SCC 515 State by Karnataka Lokayukta ,Police station ,Bangaluru vs M.R Hiremath** where the discharge application was turned down under section 239 CrPC and the entire proceedings was quashed and that order was set aside by the Hon'ble Supreme Court, it was held that the law does not permit a mini trial at this stage .In the said decision the Hon'ble Supreme Court referred the

decision of **State of T.N vs N.Suresh Rajan and Others**²¹ wherein also it was held that at the stage of hearing discharge application the probative value of the materials has to be gone into and it is to be considered whether there is ground for presuming that the offence has committed but not whether a ground for conviction is made out .

31. In the decision of **State of Madhya Pradesh vs Yogendra Singh Jadon and Anr.**²² the Hon'ble Apex court held that the power under section 482 Cr.P.C cannot be exercised where prima facie case stands established and allegations are required to be proved in court of law. The High court examined the issue as to whether offence under Section 420 and 120B IPC was made out at pre-trial stage .In the case of **Kaptan Singh (supra)** it was held that when proceedings are at the stage when statements are recorded,evidence is collected and charge sheet is filed after conclusion of investigation /inquiry ,restraint to be exercised by High Court while exercising inherent jurisdiction.

32. In **(Suman Mishra & Ors vs. The State of Uttar Pradesh & Anr.)**²³ referred the observation made by the Hon'ble Apex court in **Iqbal alias Bala and others Vs. State of Uttar Pradesh and others**²⁴ which is "*In frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under*

²¹ (2014) 11 SCC 709

²² (2020) 12 SCC 588

²³ 2025 INSC 203

²⁴ (2023) 8 Supreme Court Cases 734

Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation”.

33. In this case both the parties being employee of the official quarter resided there and no prior complaint was lodged against the petitioner over the issue of humiliation to the complainant or his family members taking their caste name and nothing ascribed the role of the complainant to utter any word against the complainant or to his daughters. The specific allegation made by the daughters was assault when they were sitting on a portion of the terrace since the petitioners used to pay rent and it was only averred that the petitioners took the name of their caste. This court cannot brush aside the fact that initially a G.D was lodged by the complainant and subsequently made this written complaint in order to incorporate the charges under the provision of SC/ST (POA) Act, 1989 and the context of G.D was totally suppressed. Therefore the complaint and the subsequent materials from case diary clearly reveals that in order to strengthen the case of assault on their daughter and to incorporate an injury report this complaint was lodged so it was afterthought .

34. The scope and ambit of the power under 482 to be exercised by the High court is also settled in a catena of decisions where it was held that every High Court under this power to act as ex debito justitiae ,to do real and substantial justice in order to prevent abuse of the process of the court and

or to secure the ends of justice. However since the power is wide have to be used sparingly, carefully and with great caution.

35. In the instant case on the face of the complaint it suggest that it was lodged only to incorporate the charges against the petitioners under the provisions of SC/ST (POA) Act ,1989 even though a prior General Diary was lodged on the same date in respect of the self-same incident . Despite mentioning the GD number the Investigating authority did not bother to enquire about the contents of the same. While recording statement the complaint remained silent about any specific word uttered which is laced with castiest remarks.

36. It has been settled in the decision of ***Lalita Kumari vs State of U.P.***²⁵ that if a complaint discloses any cognizable offence an FIR must be registered immediately and it is mandatory to lodge such F.I.R and whether the allegations are false or not relevant at that stage but if no cognizable case is made out in the information given then the F.I.R need not have to registered and police can conduct a preliminary enquiry in order to ascertain whether any cognizable offence has been committed .In this case even after lodging of such GD, the FIR was not registered which again suggest that no cognizable offence was made out therefore by way of lodging the subsequent FIR the charges levelled under the provisions of SC/ST Act 1989 which is clearly an afterthought and made to put more weightage to the allegations.

²⁵ (2014) 2 SCC 1

37. It is reiterated by the Hon'ble Apex court that the criminal law ought not become a platform for the initiation of vindictive proceedings to settle personal scores and vendettas .When it is glaringly visible that the F.IR was afterthought and even if accept in toto it would not satisfy the ingredients to constitute an offence under SC/ST (POA) Act,1989 and hence if the proceeding allowed to be continued further it would be an abuse of the process of court.

Conclusion

38. The petitioner has prayed for setting aside the order passed by the Learned Magistrate refusing to discharge the accused from the charges levelled against him so far the allegation under section 3 (1)(r) & (s) of the Act of 1989 is concerned and hence question of quashing the entire proceeding does not arises.

39. Hence from the above discussions and considering the laws laid down in this regard and considering that the allegations as discussed above are not sustainable, this court is inclined to allow the prayer .

40. Therefore this CRR is hereby allowed without any costs. All other connected applications if any stands disposed of.

41. The order passed by the learned Special Court is hereby set aside.

42. The petitioners are discharged from the charges under section 3(1)(r)& (s) of the Act 1989 .Since the rest of the charges are triable by a court of Magistrate, the Learned Special Court is directed to send down the record to

the Learned Chief Judicial Magistrate ,Howrah for taking appropriate steps to proceed with the trial with respect to the charges levelled in the charge sheet under the various provisions of Indian Penal Code.

- 43.** 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.]

