IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

Before:

The Hon'ble Justice Anuj Singh.

W.P.A. No. 25795 of 2023

Sonali Barui Paramanik & Ors.

v.

The State of West Bengal & Ors.

For the Petitioner : Mr. Arka Pratim Chowdhury
Ms. Puja Rajbhor
Mr. Swattik Batabyal
..... Advocate.

For the State : Mr. Goutam Mistra

..... Advocate

Heard on : 28.09.2026

Judgement on : 09.10.2026

Anuj Singh, J:.

1. The instant writ petition has been filed by the writ petitioners *inter alia*, praying for expunging their names from the Hirapur Police Station Case No. 244 of 2022, registered for investigation

into the offences punishable under sections 353/186/504/506/120B and 34 of the Indian Penal Code.

2. The Petitioners herein are a group of persons, who at all material times, were aggrieved by the manner of recruitment by School Service Commission. The writ petitioners contend that in order to express their grievance against improper recruitment procedure adopted by the School Service Commission, the Petitioners started peaceful protest on 28.09.2021.

3. The said petitioners further contend that the Petitioners wanted to express their grievances in front of the Hon'ble Chief Minister, and thus, went to a political meeting of the Hon'ble Chief Minister at Asansol Stadium Ground, to protest against hunger, unemployment and illegal recruitment. However, Hirapur Police Station Case No. 244 of 2022, registered for investigation into the offences punishable under sections 353/186/504/506/120B and 34 of the Indian Penal Code. The investigation of the case is said to be pending.

4. The complaint was lodged by LSI Piyali Jana, Officer-in-Charge. A perusal of the complaint, which led to registration of the FIR, reveals that:

a. On 28.06.2022, during the public meeting of the Hon'ble Chief Minister at Asansol Stadium Ground, four women in ladies' block stood up and started shouting that they have been selected in SLST 2016, but had not received appointment, and displayed posters demanding a meeting with the Hon'ble Chief Minister.
b. It is alleged that when the lady police officers requested them to keep calm, they obstructed the police officers in discharging their public functions by displaying aggressive body language and gestures, and intentionally insulted and provoked the public, and disrupted the meeting.
c. The above acts constituted the offense punishable under sections 353/186/504/506/120B and 34 of the Indian Penal Code.

5. By way of the instant writ petition under Article 226 of the Constitution, the writ petitioners have Petitioners have for Writ in the nature of mandamus to strike off the name of petitioners from Hirapur Police Station Case No. 244 of 2022, registered for investigation into the offences punishable under sections 353/186/504/506/120B and 34 of the Indian Penal Code.

6. Ld. Advocate for the Petitioners submits that the Petitioners were exercising their right to assemble peacefully and voice their grievances under Articles 19(1)(a) and 19(1)(b) of the Constitution of India. Learned counsel for the petitioner has placed reliance upon the decision of the **Madras High Court in J. Jayaraj v. The Chief Educational Officer, W.P.(MD) Nos. 13409 to 13415 of 2022**, in support of the arguments that petitioners have a right to protest peacefully. It is further submitted that the police authorities were not authorised by Respondent No. 1 to take action against the Petitioners, as no notification/notice was issued in 2021 authorising such action against peaceful assembly and protest.

7. Reliance has been also placed on the Supreme Court's decision in **Re: Ramlila Maidan Incident v. Home Secretary, Union of India, 2012 AIR SCW 2660**, to contend that an order under Section 144 Cr.P.C. requires urgency necessitating immediate and speedy intervention and must disclose the material facts warranting such intervention, whereas no grave or severe offence was made out from the Petitioners' protest.

8. It is further submitted that this Court, in exercise of its jurisdiction under Article 226 of the Constitution, may prevent abuse of process and quash proceedings where the allegations do not disclose a prima facie offence. The Learned counsel for the petitioner has placed reliance on **State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522** and **State of Haryana v. Bhajan Lal, 1992 AIR 604**.

9. It is further submitted that the Petitioners have sought quashing of the investigation arising out of Hirapur Police Station Case No. 244 of 2022, registered for investigation into the offences punishable under sections 353/186/504/506/120B and 34 of the Indian Penal Code, as continuation thereof would amount to an abuse of process of law and cause serious prejudice to the Petitioners by saddling them with a criminal record and adversely affecting their prospects of employment.

10. Learned Advocate representing this State has opposed the instant writ petition. Ld. Advocate has argued that the petition is not maintainable and deserves to be dismissed.

11. I have heard the learned advocates representing the petitioner and the State.

12. The power of the High Court to quash an FIR may be exercised under Article 226 of the Constitution of India as well as under its inherent jurisdiction under Section 482 of Cr.P.C. In **State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335,** which itself arose from a proceeding under Article 226, the Supreme Court, after considering R.P. Kapur v. State of Punjab, AIR 1960 SC 866, laid down in paragraph 102 the following categories of cases in which such power may be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice:

> *"(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.*
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> *(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 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."

13. In **Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque, (2005) 1 SCC 122** (paragraphs 8 to 11), the Court reiterated that the inherent power is to be exercised ex debito justitiae to do real and substantial justice. The Court would be justified in quashing a proceeding if its initiation or continuance amounts to an abuse of the process of the Court; and that, when a proceeding is sought to be quashed, it is permissible to look into

the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto. At the same time, the Court cautioned that the High Court ought not to embark upon an enquiry into the reliability of the allegations, nor analyse the case in the light of probabilities to determine whether a conviction would be sustainable.

14. In **Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401**, the Supreme Court summarised the position in paragraph 33. The police have the statutory right and duty to investigate a cognizable offence and courts would not thwart any investigation into cognizable offences. It is only in cases where no cognizable offence or offence of any kind is disclosed in the FIR that the Court will not permit the investigation to go on. The Court, having regard to the parameters in R.P. Kapur and Bhajan Lal, has the jurisdiction to quash the FIR but, while examining an FIR, it has to consider only whether the allegations disclose the commission of a cognizable offence, and not the merits of the allegations.

15. It is a well-settled principle of law that if the FIR does not disclose the commission of an offence, the Court would be justified in quashing the proceedings to prevent the abuse of process of law **(Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741)**.

16. The Hon'ble Supreme Court in **Chanchalpati Das v. State of West Bengal, 2023 INSC 554**, in paras 12, 13, observed that except for bald allegations made in the complaint, no material was produced by the complainant to substantiate the allegations and considered it rightly to quash the proceedings to prevent the abuse of process of law and to secure ends of justice.

17. Further, when it is alleged that the proceedings are vexatious or frivolous or instituted with an ulterior motive, then it the duty of the court to look at the attending circumstances and read between the lines with due care and circumspection, and not confine itself merely to the bare words of the FIR (Mohammad Wajid v. State of UP, 2023 SCC OnLine SC 951, paras 36-38; Mahmood Ali v. State of UP, (2023) 15 SCC 488, paras 12, 13).

18. **The Madras High Court in Ramamoorthy V Inspector of Police, 2020 SCC online Mad, 2020**, the Petitioners were situated in a similar factual position, wherein they took part in a protest against the ruling Government, and were charged with Sections 353, 506 of IPC. Madras High Court, vide Order dated 07.12.2020 quashed the FIR holding that the allegations in the FIR do not disclose any act of violence or happening of any untoward incident. Relevant portion of the Judgement is reproduced hereunder:

> *"6. The above judgment is squarely applicable to the present facts and circumstances of the case. Though, there are prima facie materials to justify the registration of the First Information Report, I am of the view that its continuance is not warranted. This is because no untoward incident had taken place. The country had witnessed protests all over by different sections of people against various amendments. Since the protest was conducted in a peaceful manner and even the First Information Report does not disclose any act of violence or happening of untoward incident, I am of the view that the continued prosecution is not warranted. Quashing the same will secure the ends of justice."*

19. Thus, this Court is empowered under Article 226 to quash the proceedings in cases where there are mere bald allegations,

which do not disclose the commission of an offence. It is the duty of this Court to have a meaningful reading of the FIR as a whole, and the Court must be able to find who is alleged to have committed the act, what was the act, and how it satisfies each ingredient of the offence charged.

20. In light of the above settled position of law with regard to quashing of investigation of a case, it is necessary to examine the allegations which are forming the subject matter ofHirapur Police Station Case No. 244 of 2022, registered for investigation into the offences punishable under sections 353/186/504/506/120B and 34 of the Indian Penal Code. The allegations contained in the FIR must be examined and accepted on their face value and believed to be true. This court is not required to look into the defense of the petitioners. The limited question that may be looked into is whether the conduct attributed to the petitioners discloses the essential ingredients of the offences charged.

21. The FIR proceeds on the allegations that on 28.06.2022, during the public meeting of the Hon'ble Chief Minister at Asansol Stadium Ground, four women in ladies block stood up and started shouting that they have been selected in SLST 2016, but

were not appointed. They then displayed posters demanding a meeting with the Hon'ble Chief Minister.It is further alleged that when the lady police officers requested the petitioners to keep calm, the petitioners obstructed the police officers in discharging their public functions by displaying aggressive body language and gestures, and intentionally insulted and provoked the public, and disrupted the meeting. On such allegations Sections 353, 186, 504, 506, 120B and 34 IPC have been invoked.

22. In order to attract the penal provisions of Section 353 of the Indian Penal Code, it must be alleged that the accused has assaulted or used criminal force on a public servant while such public servant was executing its duty, or such assault must be with intent to prevent or deter him from discharging his duty. 'Assault'isa gesture or preparation made, intending or knowing it, to be likely that it will cause a person present to apprehend that criminal force is about to be used against him. "Criminal force" under Section 350 requires the intentional use of force on a person**.** In ***B.N. John v. State of U.P., 2025 INSC 4***, the Supreme Court has held that when no assault or criminal force is disclosed, and there is mere allegation of "disturbance" without any specific act of assault or criminal force, the same does not

attract Section 353 IPC. Relevant portion of the judgement is reported hereunder:

> *"44. In the present case, however, what can be seen from a perusal of the contents of the FIR, is that no such allegation of assault or use of criminal force has been made. The aforesaid FIR is based on the complaint filed by the District Probation Officer, which has already been quoted above, and the same has been reproduced verbatim in the said FIR in which only the allegation of creating disturbance has been made.*
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> *59. If "disturbance" has to be construed as "assault" or "criminal force" without there being specific acts attributed to make such "disturbance" as "assault" or "criminal face" within the scope of Section 353IPC, it would amount to abuse of the process of law. While "disturbance" could also be caused by use of criminal force or assault, unless there are specific allegations with specific acts to that effect, mere allegation of "creating disturbance" cannot mean use of "criminal force" or "assault" within the scope of Section 353IPC.*
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> *60. As noted and discussed above, nothing was mentioned in the complaint/FIR of any specific acts apart from alleging that the appellant and his party were creating disturbance. Nothing has been mentioned how disturbance was created because of assault or use of criminal force. Thus, the contents of the statements recorded later under Section 161CrPC clearly appears to be an afterthought and the allegation of assault/attack was introduced later on, which is inconsistent with the contents of the original FIR."*

23. Even if the allegations in the present FIR are accepted in their entirety, they fall short of these requirements. No actual use of criminal force against a public servant is alleged. Nor does the FIR describe any gesture or preparation indicating that criminal

force was about to be used against an officer. The general reference to “aggressive body language and gestures”, without particulars disclosing such apprehension, does not supply the essential ingredient of assault. The conduct described therefore does not attract Section 353 IPC.

24. In order to attract the penal provisions of Section 186 of the Indian Penal Code it must be alleged that the accused voluntarily obstructed a public servant in the discharge of his public functions.Although the FIR alleges the petitioners conduct as obstruction, it does not describe how their conduct prevent it the officers in performing those functions. The acts described are that the petitioners voiced their grievance, displayed posters demanding a meeting with the Hon’ble Chief Minister and showed aggressive body language when asked to stay calm. Their failure to heed that request, without further allegations disclosing obstruction of the officers public functions, does not satisfy the essential ingredients of Section 186 IPC.

25. On the above allegations it is necessary to to further examine whether the essential ingredients of Section 504 IPC or

Section 506 IPC is attracted. In order to attract the penal provision of Section 504, Indian Penal Codethe accused must intentionally insult a person and thereby give that person provocation, intending or knowing it to be likely that the provocation will cause him to break the public peace or commit any other offence. It is necessary that there should have been an act amounting to intentional insult and mere fact that the accused abused the complainant is not sufficient by itself to warrant a conviction under Section 504 IPC. ***(Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44).*** Relevant portion of the judgement is reproduced hereunder:

> *"13. Section 504 IPC comprises of the following ingredients viz. (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC."*

26. Similarly, Section 506 IPC is attracted when the accused must threaten another with injury to his person, reputation or property, with intent to cause alarm to that person or to cause him to do an act which is not legally bound to, or omit to do an act, which he is legally entitled to do. **(See, Manik Taneja v. State of Karnataka, (2015) 7 SCC 423)**.The FIR does not describe any such threat by the petitioners. The essential ingredients of criminal intimidation are therefore not disclosed.

27. It is a well-settled position of law that right to assemble peaceably and without arms, and to express their voice, is guaranteed by Articles 19(1)(a) and 19(1)(b), subject to reasonable restrictions. In plethora of judgements, including the decision of the Madras High Court in J. Jayaraj (supra) and the Supreme Court in **Javed Ahmad Hajam v. State of Maharashtra, (2024) 4 SCC 156,** it was held that the right to dissent, criticise and peacefully protest against the Government, in a legitimate and lawful manner is integral and essential part of democracy in view of Articles 19(1) and 21 of the Constitution. Thus, a demonstration does not become an offence merely because it was unwelcome to those in authority.

28. As regards Section 120B, the allegation that the women had a plan can only be inferred only from the use of phrase “chaos on the part of aforesaid women”. However, the four women had merely voiced their shared grievance, which cannot be said to be an agreement to commit an offence.

29. Thus, a bare reading of FIR does not disclose the ingredients of any of the offences invoked in the FIR, and no prima facie case is made out against the Petitioners. It is an unavoidable inference that the Petitioners are being punished for the protest, making it a vexatious and frivolous proceeding. Thus, the present case clearly falls within the category (1), (3) and (7) of Bhajan Lal (supra).

30. In view of the settled principle of law that when commission of any offence is not disclosed on a careful and constructive reading of the FIR as a whole, the court is empowered to quash such proceedings to prevent any further abuse of process of law and in order to meet the ends of justice.

31. In view of the foregoing, Hirapur Police Station Case No.244 of 2022 dated 28th June, 2022, registered under Sections 353, 186, 504, 506 and 120B read with Section 34 IPC, and all consequential proceedings arising therefrom, including G.R. Case No.2171 of 2022 pending before the learned Chief Judicial Magistrate, Paschim Bardhaman at Asansol, are quashed.

32. Let a copy of this judgement be communicated forthwith to the concerned criminal court and the Officer-in-Charge, Hirapur Police Station by the petitioner.

33. WPA 25795 of 2023 is allowed. There shall be no order as to costs.

34. Urgent Photostat certified copy of this judgement, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Anuj Singh J.)