

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Tirthankar Ghosh

**CRR 91 OF 2025
With
CRAN 2 of 2025**

***Sri Atanu Sarkar & Ors.
versus
The State of West Bengal & Anr.***

For the Petitioners : Mr. Avrojoyti Das
Mr. Rajdeep Das

For the State : Mr. Nilay Chakraborty, Ld. APP
Mr. Subhasish Misra

Heard On : 09.01.2026 & 15.01.2026.

Judgement On : **15.01.2026**

Tirthankar Ghosh, J. :

The revisional application reflects that the opposite party no.2 appeared on 03.03.2025 and on 02.05.2025. However, this revisional application was called on several occasions and on the last date although, the learned advocate for the opposite party no.2 was present, today, when the revisional application is taken up, learned advocate for the opposite party no.2 evaded to participate in the proceedings.

The present petitioners have preferred the present revisional application for quashing of Special Case no.17 of 2022 arising out of Bhaktinagar Police Station case no. 813 of 2022 dated 29.07.2022 wherein

case was registered under the relevant provisions of the Indian Penal Code and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The investigating agency on conclusion of investigation submitted charge-sheet under Sections 498A/323/509/380/34 of the Indian Penal Code read with Sections 3(1)(r) {Za-(C)} of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The allegations made in the letter of complaint addressed to the Officer-in-Charge of Ashighar Outpost, Siliguri which was treated to be the foundation of Bhaktinagar Police Station case no. 813 of 2022 dated 29.07.2022 are as follows:

The informant was married to one Atanu Sarkar and shortly before marriage they became acquainted with each other. It is alleged that the husband concealed many facts about him and manipulated her to get married. He also refused to take her to matrimonial home and instead he took her to a rented accommodation. In course of time when she became pregnant her mother-in-law came to see her and as she insisted, her mother-in-law took her to the matrimonial home. After she had been to her matrimonial home she was subjected to physical and mental torture and there were demand of money from her father. She further alleged that she was subjected to strangulation and was also threatened that her child would be killed. The informant also accused the petitioners of not allowing her to enter into the kitchen or the temple owing to her caste and she was often being teased and taunted because of her caste. She was also not

provided with proper food during her period of medication or during her period of pregnancy. She was physically tortured, being pushed, slapped etc without any reason. She was admitted to a private nursing home for delivery and on 29.04.2015 she gave birth to a female child and after five days when she returned back from nursing home she found that her jewellerys have been taken away without her consent. She further alleged that the petitioners refused to look after her child as the child was a female child and compelled her to go and stay at her parent's house. For three years the petitioners hardly visited or took information regarding her financial condition, as such after she was compelled to go to her matrimonial home she was disowned by the petitioners. With the aid of the local Councilor and neighbours she entered her matrimonial home but because of circumstances being created she could not stay at the matrimonial home and on or about 02.05.2020 she was thrown out along with her child. She alleged lastly she intended to enter her matrimonial home on 27.07.2022, however, she was subjected to physical assault, abuses by the petitioners and because of their attitude she was compelled to return at her parental home by leaving her matrimonial home.

As it has already been stated that the prosecution on conclusion of investigation has submitted charge-sheet and the charge-sheet has been based on the statements of Bhupendra Nath Roy @ Bhupen Roy; Dipali Roy; Dipika Orown; Hrishikesh Roy; Subash Roy and the de-facto complainant Mampi Roy along with other police officers, and assessment was made in respect of the contents of the statements.

On an analysis of the statements of the each witness it is reflected that the version which has been stated in the complaint has been reiterated by all the other witnesses who were examined by the investigating officer and their statements were reduced to writing.

In course of hearing of the revisional application report was submitted, as it was claimed by the husband that he happens to be member of the Scheduled Castes community and in spite of the same he has been implicated under the relevant provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

I have taken into account the facts of the case and I find that there is a matrimonial discord and dispute between the petitioner no.1 and opposite party no.2.

Another peculiarity which has been pointed out is that although the petitioner nos. 2 and 3 are the parents of the petitioner no.1 but, there is nothing to support that they are the members of the scheduled caste community. However, on an enquiry from the concerned officer, learned advocate for the State has submitted that the documents regarding genuinity of the scheduled caste certificate was placed by the State after an enquiry was conducted by the concerned officer.

Prima facie, it appears that the petitioner no.1 is a holder of the scheduled caste certificate. Irrespective of such certificate, if the allegations in the FIR, the Charge-sheet and the statement of the witnesses on the basis of which the charge-sheet has been submitted, I am of the view that

there are certain principles under which the provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are attracted.

The Hon'ble Supreme Court in the Case of Priti Agarwalla & Ors. – Vs. – State of GNCT of Delhi & Ors. report in 2024 SCC OnLine SC 973 was pleased to hold as follows:

“18.1 *In National Campaign on Dalit Human Rights (supra) and Union of India v. State of Maharashtra (supra), this Court has held that the constitutional goal of equality for all citizens of this country can be achieved only when the rights of members of the Scheduled Castes and Scheduled Tribes are protected. The prosecution machinery and adjudicatory bodies work to achieve this constitutional goal. The FIR registered and investigation must be taken forward subject to the complaint satisfying the requirements of an offence complained under the Act of 1989. See Usha Chakraborty v. State of West Bengal*16:

“10. ...There cannot be any doubt with respect to the position that in order to cause registration of an F.I.R. and consequential investigation based on the same the petition filed under Section 156(3), Cr. P.C., must satisfy the essential ingredients to attract the alleged offences. In other words, if such allegations in the petition are vague and are not specific with respect to the alleged offences it cannot lead to an order for registration of an F.I.R. and investigation on the accusation of commission of the offences alleged...”

20. *The cumulative effect of the structured application to a given situation is that the intentional insult or abuse coupled with the humiliation is made in any place within public view. The expression “in any place within public view” has an important role to play in deciding whether the allegation attracts the ingredients of an offence*

or not, and has been the subject matter of consideration in the following decisions:

(1) *Swaran Singh (supra)*-

“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.”

(2) *Daya Bhatnagar v. State*-

“19. The SC/ST Act was enacted with a laudable object to protect vulnerable section of the society. Sub-clauses (i) to (xv) of Section 3(1) of the Act enumerate various kinds of atrocities that might be perpetrated against Scheduled Castes and Scheduled Tribes, which constitute an offence. However, Sub-clause (x) is the only clause where even offending “utterances” have been made

punishable. The Legislature required ‘intention’ as an essential ingredient for the offence of ‘insult’, ‘intimidation’ and ‘humiliation’ of a member of the Scheduled Casts or Scheduled Tribe in any place within ‘public view’. Offences under the Act are quite grave and provide stringent punishments. Graver is the offence, stronger should be the proof. The interpretation which suppresses or evades the mischief and advances the object of the Act has to be adopted. Keeping this in view, looking to the aims and objects of the Act, the expression “public view” in Section 3(1)(x) of the Act has to be interpreted to mean that the public persons present, (howsoever small number it may be), should be independent and impartial and not interested in any of the parties. In other words, persons having any kind of close relationship or association with the complainant, would necessarily get excluded.”

(3) Pramod Suryabhan Pawar v. State of Maharashtra (before the High Court of Bombay)-

“17. Requirement of section 3(1)(x) of the old Act is intentional insult and intimidation with intent to humiliate the person belonging to Scheduled Caste or Scheduled Tribe in any place within public view. Messages sent on whatsapp cannot be said to be an act of intentional insult or intimidation or an intent to humiliate in public place within public view. As such it is prima facie seen that no offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is attracted in the case in hand.”

23. *The other allegation in the complaint is regarding the chat/conversation of the “Alliance” WhatsApp group members. In Pramod Suryabhan Pawar (supra; before this Court), this Court dealt with a chat between the complainant and the accused on WhatsApp*

and considered the effect of the conversation whether it was in public view or not. The relevant portion reads thus:

“23. Without entering into a detailed analysis of the content of the WhatsApp messages sent by the appellant and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. The messages were not in public view, no assault occurred, nor was the appellant in such a position so as to dominate the will of the complainant. Therefore, even if the allegations set out by the complainant with respect to the WhatsApp messages and words uttered are accepted on their face, no offence is made out under the SC/ST Act (as it then stood). The allegations on the face of the FIR do not hence establish the commission of the offences alleged.”

24. *After appreciating the allegation on the exchange of WhatsApp messages in the group, we are not deciding on whether these allegations were made in public view or not but examine on the intrinsic element of the very accusation covering this aspect of the matter. At the cost of repetition, we quote the very sentence from the complaint:*

“...International insult and Humiliation by, Anush Agarwalla on many occasions has publicly abused me by calling me “chuda, Chamar, chakka and faggot.

xxx xxx

xxx xxx

International insult and humiliation by Shikha Mundkur and Ameera Pasrich : On 28January 2018 I was riding a horse called “xanthos”. When Shikha and Ameera saw me riding the horse, they both ran towards me hurling abuses at me and pushed me off the horse, they spat on me and said “you bloody mother

fucking faggot if you ever dare to ride a horse again then it will have very bad consequences...”

In view of the principles laid down by the Hon’ble Apex Court, it is established that public view is an important factor which is to be taken into consideration for assessing insult and/or ignominy faced by the members of the scheduled caste community.

In the facts of the present case which has the essence of matrimonial dispute, the only allegation, which has been made so far as the present petitioners are concerned, is that informant was not allowed to enter the kitchen or the room where the deities were worshipped and she was teased/taunted by the inmates of matrimonial home

The aforesaid allegations are within the precincts of the house itself and not within the public view.

Considering the totality of the circumstances as placed and the nature of the allegations made both by the complainant and the witnesses who have been cited in the charge-sheet, I am of the opinion that the facts of the present case do not satisfy the ingredients attracting the provisions of Sections 3(1)(r) {Za-(C)} of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

However, so far as the provision of the Indian Penal Code is concerned, the same, at this stage, do not call for any interference, as *prima facie*, the materials which have been collected by the investigating agency do satisfy the ingredients of the offence. The petitioners would, at the

appropriate stage, canvass such issues relating to the offences under the provisions of the Indian Penal Code.

Having regard to the aforesaid observations, the charges under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are hereby **quashed**. The proceedings will continue only under the provisions of the Indian Penal Code before the jurisdictional court *in seisin* of the matter.

With the aforesaid observations, CRR 91 of 2025 along with CRAN 2 of 2025 is disposed of.

Pending application(s), if any, is also disposed of.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)