IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 408 of 2024

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1. Rahul Goenka, aged about 41 years, s/o Raj Kishore Goenka,
2. Monika Goenka, aged about 33 years, w/o Rahul Goenka,
   All residents of flat No. 6C, Shanti Apartment, Shradhanand Road, Opposite Congress Bhawan, P.O- G.P.O., P.S.- Kotwali, District Ranchi, Jharkhand. .... …. Appellant(s)

Versus

1. The State of Jharkhand
2. Darshana Gopa Minz, D/o Dr. Dibakar Minz, R/o Flat No. 6A, Shanti Apartment, Shradhanand Road, Opposite Congress Bhawan, P.O- G.P.O., P.S.- Kotwali, District Ranchi, Jharkhand.
   .... Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant(s) : Mr. Jitendra S. Singh, Sr. Advocate
Mr. Ashish Kr. Thakur, Advocate
Mrs. Kabisha Goenka, Advocate
For the State : Mr. Rajneesh Vardhan, A.P.P.
For the Resp. No.2 : Mr. Apurv Krishna, Advocate
Mr. Gopal K. Sinha, Advocate
Mr. Umesh Kumar Kashyap, Advocate

Order No.25/Dated: 04.11.2026

1. Heard the parties.

2. The present appeal has been filed by the appellants for following relief(s): -

> *i) To quash and set aside the order of taking cognizance dated 15.09.2022, in SC/ST P.S. Case No. 99/2020 corresponding to SC/ST Case No. 93/2022, by which the learned Court of Additional Judicial Commissioner - II -cum- Special Judge, SC/ST, Ranchi has taken cognizance of the offence u/s. 504, 506, 34 of the Indian Penal Code and u/s. 3(1) (s) of The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2015.*
> *ii) To quash and set aside the F.I.R. being SC/ST P.S. Case No. 99/2020 dated 24.11.2020 and the entire criminal proceeding arising out of the said F.I.R. which is now pending in the Court of Additional Judicial Commissioner - II -cum- Special Judge, SC/ST, Ranchi.*
> *iii) During the pendency of the instant application any further proceeding in connection with SC/ST P.S. Case No. 99/2020 corresponding to SC/ST Case No. 93/2022, may kindly be stayed.*

3. From the argument and pleading of the parties, sequence of facts as appeared is as follows: -

i) On **23.11.2020**: - The alleged occurrence had taken place on the sixth floor of the apartment where the appellant and the complainant reside.

ii) On **24.11.2020**: - The FIR had been lodged being Sadar SC/ST P.S. Case No. 99 of 2020.

iii) On **22.12.2021**: - Criminal Appeal (SJ) No. 550 of 2021 has been filed for grant of anticipatory bail, as the prayer for anticipatory bail has been rejected by the trial Court, and this case has been culminated vide order dated 13.10.2022 whereby the prayer for anticipatory bail has been rejected.

iv) On **31.08.2022**:- The Police after completing the investigation has submitted the chargesheet under Sections 504 and 506 read with Section 34 of the Indian Penal Code and also under Section 3(1)(s) of the SC/ST (PoA) Act against the accused persons.

v) In the meantime, Cr.M.P. No. 3321 of 2022 has been filed for quashing of the FIR and the entire criminal proceeding which has been ultimately dismissed as withdrawn vide order dated 21.06.2024.

vi) On **05.07.2024**: - The present criminal appeal has been filed wherein the interim protection has been granted to the appellants vide order dated 12.11.2024.

4. The learned Senior Counsel for the appellants has relied upon the judgment of Hon'ble Apex Court passed in the case of ***Darshan Singh Ram Kishan vs. The State of Maharashtra*** reported in ***1971 (2) Supreme Court Cases 654*** specifically paragraph nos. 8 & 9 which is quoted herein below: -

> *"8. As provided by Section 190 of the Code of Criminal Procedure, a Magistrate may take cognizance of an offence either, (a) upon receiving a complaint, or (b) upon a police report, or (c) upon information received from a person other than a police officer or even upon his own information or a suspicion that such an offence has been committed. As has often been held, taking cognizance does not involve any formal action or indeed action of any kind but occurs as soon as a Magistrate applies his mind to the suspected commission of an offence. Cognizance, therefore, takes place at a point when a Magistrate first takes judicial notice of an offence. This is the position whether the Magistrate takes cognizance of an offence on a com-plaint, or on a police*

report, or upon information of a person other than a police officer. Therefore, when a Magistrate takes cognizance of an offence upon a police report, prima facie he does so of the offence or offences disclosed in such report.
9. It is not in dispute that the charge-sheet submitted by the police officer for the purpose of initiation of proceedings by the Magistrate was for offences under Sections 419 and 471 read with Section 468 against Bakshi Singh and under Sections 419/109, 471 and 468 against the appellant. The charge-sheet admittedly did not refer to or charge either of them with criminal conspiracy under Section 120-B. Prima facie it is not possible to say that at the stage when the police filed the charge-sheet the Magistrate took cognizance of the offence under Section 120-B, for, that was not the. offence alleged in the charge-sheet to have been committed by either of the two accused persons."

5. Learned Senior Counsel for the appellants has again relied upon the judgment of Hon'ble Apex Court passed in the case of ***Ramkrishna Chauhan vs. State of U.P. & Anr.*** reported in ***2026 SCC OnLine SC 1676.*** *Specifically*, paragraph nos. 11 to 13 & 16 has been relied which are quoted herein below:-

"11. The expression "any place within public view" has been considered by this Court in several decisions most recently in Karuppudayar v. State represented by the Deputy Superintendent of Police, Lalgudi, Trichy & Others. Relying on Hitesh Verma v. State of Uttarakhand, this Court reaffirmed that:

> *"11. It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view."*

12. Tested on this principle, the prosecution case does not satisfy the statutory requirement. The FIR does not state that the alleged caste-based abuses were uttered in the presence or hearing of members of the public. On the contrary, the incident is alleged to have occurred inside a room in the school. The site plan dated 25th February, 2020 prepared by the Investigating Officer identifies the place of occurrence as room "A". The material on record indicates that the room was enclosed and had no window or public access.
13. The prosecution case also suffers from the absence of any specific allegation of caste-based abuse against the appellant. Neither the FIR nor the statement of Respondent No. 2 attributes any specific caste-based words or slurs to the appellant. The allegation that Respondent No. 2 was abused on the basis of his caste remains general in nature.

The material relied upon by the prosecution, at the highest, discloses a quarrel and scuffle between the parties. It does not disclose any specific caste-based utterance attributable to the appellant.

16. We are conscious that, at the stage of cognizance, the Court is not required to conduct a meticulous appreciation of evidence. However, the basic ingredients of the offence must emerge from the material placed before the Court. In the present case, the essential requirement that the alleged caste-based insult or intimidation occurred at a place within public view is not borne out by the material on record."

6. Referring to above judgments of Hon'ble Apex Court, submission has been advanced by the learned Senior Counsel for the appellants that:

i) There is no disclosure of usage of abusive words.

ii) If the offence is not in a public view, then the offence under Section 3(1)(s) of the SC/ST Act is not made out and order issuing summon under that section should be quashed.

iii) Further, it is the duty of the Magistrate to satisfy whether there is sufficient material to take cognizance or not and that should be reflected in the judgment itself.

7. On the other hand, learned counsel for the respondent No.2/ victim has relied upon the judgment of the Hon'ble Apex Court in the case of ***Pramila Devi & Ors. vs. State of Jharkhand & Anr.*** reported in ***2025 SCC OnLine SC 886***. Paragraph Nos. 15 to 20 of which reads as under: -

"15. Coming to the first issue, we have no hesitation to record that the approach of the High Court was totally erroneous. Perusal of the Order taking cognizance dated 13.06.2019 discloses that the Additional Judicial Commissioner has stated that the 'case diary and case record' have been perused, which disclosed a prima facie case made out under Sections 498(A), 406 and 420 of the IPC and Section 3(1)(g) of the SC/ST Act against the accused including appellants. Further, we find the approach of the Additional Judicial Commissioner correct inasmuch as while taking cognizance, it firstly applied its mind to the materials before it to form an opinion as to whether any offence has been committed and thereafter went into the aspect of identifying the persons who appeared to have committed the offence. Accordingly, the process moves to the next stage; of issuance of summons or warrant, as the case may be, against such persons.

16. In the present case, we find that the Additional Judicial Commissioner has taken cognizance while recording a finding that - from a perusal of the case diary and case record, a prima facie case was made out against the accused, including the

Appellants. In Bhushan Kumar v. State (NCT of Delhi), (2012) 5 SCC 424, this Court held that an order of the Magistrate taking cognizance cannot be faulted only because it was not a reasoned order; relevant paragraphs being as under:

> *'14. Time and again it has been stated by this Court that the summoning order under Section 204 of the Code requires no explicit reasons to be stated because it is imperative that the Magistrate must have taken notice of the accusations and applied his mind to the allegations made in the police report and the materials filed therewith.*
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> *15. In Kanti Bhadra Shah v. State of W.B. [(2000) 1 SCC 722: 2000 SCC (Cri) 303] the following passage will be apposite in this context: (SCC p. 726, para 12)*
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> *"12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. If a Magistrate is to write detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down. We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been passed for culminating the proceedings before them. But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial.'*
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> *(emphasis supplied)*
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> *16. In Nagawwa v. Veeranna Shivalingappa Konjalgi [(1976) 3 SCC 736 : 1976 SCC (Cri) 507] this Court held that it is not the province of the Magistrate to enter into a detailed discussion on the merits or demerits of the case. It was further held that in deciding whether a process should be issued, the Magistrate can take into consideration improbabilities appearing on the face of the complaint or in the evidence led by the complainant in support of the allegations. The Magistrate has been given an undoubted discretion in the matter and the discretion has to be judicially exercised by him. It was further held that: (SCC p. 741, para 5)*
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> > *"5. ... Once the Magistrate has exercised his discretion it is not for the High Court, or even this Court, to substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused."*
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> *17. In Chief Controller of Imports & Exports v. Roshanlal Agarwal [2003) 4 SCC 139: 2003 SCC (Cri) 788] this Court, in para 9, held as under: (SCC pp. 145-46)*

"9. In determining the question whether any process is to be issued or not, what the Magistrate has to be satisfied is whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

This question was considered recently in U.P. Pollution Control Board v. Mohan Meakins Ltd. [(2000) 3 SCC 745] and after noticing the law laid down in Kanti Bhadra Shah v. State of W.B. [(2000) 1 SCC 722 : 2000 SCC (Cri) 303] it was held as follows: (U.P. Pollution case [(2000) 3 SCC 745], SCC p. 749, para 6)

'6. The legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons. The process issued to the accused cannot be quashed merely on the ground that the Magistrate had not passed a speaking order. ""

18. In U.P. Pollution Control Board v. Bhupendra Kumar Modi [(2009) 2 SCC 147 : (2009) 1 SCC (Cri) 679] this Court, in para 23, held as under: (SCC p. 154)

"23. It is a settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused."

19. This being the settled legal position, the order passed by the Magistrate could not be faulted with only on the ground that the summoning order was not a reasoned order.'

(emphasis supplied)

17. The view in Bhushan Kumar (supra) was reiterated in Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420 and State of Gujarat v. Afroz Mohammed Hasanfatta, (2019) 20 SCC 539. This Court in Rakhi Mishra v. State of Bihar, (2017) 16 SCC 772 restated the settled proposition of law enunciated in Sonu Gupta v. Deepak Gupta, (2015) 3 SCC 424, as under:

'4. We have heard the learned counsel appearing for the parties. We are of the considered opinion that the High Court erred in allowing the application filed by Respondents 2, 4, 5, 6, 7, 8, 9 and 10 and quashing the criminal proceedings against them. A perusal of the FIR would clearly show that the appellant alleged cruelty against Respondents 2, 4, 5, 6, 7, 8, 9 and 10. This Court in Sonu Gupta v. Deepak Gupta [Sonu Gupta v. Deepak Gupta, (2015) 3 SCC 424:(2015) 2 SCC (Cri) 265] held as follows: (SCC p. 429, para 8)

"8. ... At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with

a view to take cognizance of the offence ... to find out whether a prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials would lead to conviction or not."

5. The order passed by the trial court taking cognizance against R-2 and R-4 to R-9 is in conformity with the law laid down in the above judgment. It is settled law that the power under Section 482 CrPC is exercised by the High Court only in exceptional circumstances only when a prima facie case is not made out against the accused. The test applied by this Court for interference at the initial stage of a prosecution is whether the uncontroverted allegations prima facie establish a case.'

(emphasis supplied)

18. Coming to the second point which the Appellants canvassed before this Court viz. the background of lodging of the FIR to impress that the same is mala fide, an afterthought and at best, a civil dispute being tried to be settled through criminal proceedings by way of arm-twisting. On this point, need for a detailed discussion is obviated in view of our answer on the first point supra and the paragraphs infra.

19. Perusal of the entire gamut of the pleadings of the Appellants does not disclose any categorical statement to the effect that during investigation by the police, no evidence has emerged to warrant taking of cognizance, much less against the Appellants. The only averment which has been made is that the Trial Court had not recorded the prima facie material against the Appellants because it does not exist. This is too simplistic an argument and does not shift the burden from the Appellants of taking a categorical stand that no material whatsoever for taking cognizance is available in the police papers/case diary against the Appellants. Be it noted, the State has argued that sufficient material warranting cognizance has been unearthed during the course of investigation.

20. Here, the Court would pause to delve on what is the scope of the exercise of application of mind on the police papers/case diary for deciding as to whether to take cognizance or not - it has only to be seen whether there is material forthcoming to indicate commission of the offence(s) alleged. The concerned Court is not empowered to go into the veracity of the material at that time. That is why, the law provides for a trial where it is open to both the parties i.e., the prosecution as well as the defence to lead evidence (s) either to prove the materials which have come against the accused or to disprove such findings. This Court vide Order dated 13.09.2024 directed the Appellants to file a translated copy of the chargesheet, as the State filed the chargesheet in Hindi along with an application

seeking exemption from filing official translation (I.A. No. 198073/2024). As this Court [Coram: Sudhanshu Dhulia and Ahsanuddin Amanullah, JJ.] is well-conversant with Hindi, the language in which the chargesheet is and which has been brought on record, we have examined the same. However, the Appellants failed to comply with the specific direction issued on 13.09.2024. Be that as it may, we find that chargesheet mentions that on the basis of investigation, site inspection and statements of the complainant, the police has found the allegations true against all the accused including appellants."

8. Referring to the above judgment, submission has been advanced by the learned counsel for the victim as:-

i) When the Police report is being accepted, no reasoned order is required to be passed.

ii) Sufficiency of evidence is not relevant. Whether there is a material to substantiate the allegation, that has to be proved.

9. It has further been submitted by the learned counsel for the respondent referring to Section 3(2)(va) and 8(c) of the SC/ST (PoA) Act that the schedule offence has been made out and parties are also known to each other. It is an offence under the SC/ST (PoA) Act, so even cognizance has been taken under Sections 504/506/34 of IPC and Section (1)(s) of the SC/ST Act, it should have been taken under Section 3(2)(va) of the SC/ST (PoA) Act. Thus, the offence under SC/ST Act is made out. At best, it is a case of alteration of charge under the SC/ST (PoA) Act.

10. So far as the factual matrix is concerned, this Court is in the opinion that the FIR itself disclose that both the parties are residing in the same flat and there is an allegation of abuse and threatening and also the use of the word caste. It appears that above allegation has been made in a loud voice where so many people reside. Public view does not mean that it should be within the range of eye rather if it is within the range of ear then public view is made out.

11. So far as the other aspect is concern, the Police after proper investigation has submitted the charge sheet for the offence under the SC/ST Act and upon that cognizance has been taken.

12. Thus, this Court finds no reason to interfere with the impugned order taking cognizance as the basic ingredients of the offence under the SC/ST Act and the criteria laid down by the Hon'ble Apex Court is

satisfied. It is not necessary to disclose the caste words used in the FIR because abusing a person once and again is nothing but humiliation. Victim is not supposed to disclose in public document regarding the use of abusive words. It is enough if it has been submitted by taking the caste name. There is abuse involved in a loud voice audible to the various persons because it is a residential area.

13. With above observation and direction, the present criminal appeal stands disposed of.

14. However, the appellants are at liberty to work out their further remedy in accordance with law.

15. It is made clear that any observation made herein is only for the purpose of present proceeding it will not affect in any way to the appellants.

(**Rajesh Kumar, J.**)

04.11.2026
Vedanti/
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