IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 89 of 2025.

Date of Decision: 31.03.2026.

Ishwar Thakur & Ors. ...Petitioners.

Versus

State of H.P. & Anr. ...Respondents

Coram

Hon'ble Mr Justice Sandeep Sharma, Judge.

Whether approved for reporting?[1] Yes.

For the Petitioners	:	Mr. Sudhir Thakur, Senior Advocate with Mr. Karun Negi and Mr. Somesh Sharma, Advocates.
For Respondent No.1	:	Mr. Vishal Panwar, Additional Advocate General.
For Respondent No.2	:	Mr. R.L. Verma, Advocate.

Sandeep Sharma, J.

The instant criminal revision petition filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023, lays challenge to order dated 07.01.2025 passed by the learned Special Judge, Solan, District Solan, H.P. in Case No. 5-S/7 of 2019, titled as State of H.P. vs. Ishwar Thakur & Ors., whereby the afore Court while rejecting the prayer made on behalf of the petitioners (hereinafter, "accused") for their discharge,

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[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

proceeded to frame charges against them for the offences punishable under Sections 307, 341 of the IPC and Section 3(1)(s), 2(va) of the Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter, 'Act').

2. Precisely the grouse of the petitioners, as has been highlighted in the petition and further canvassed by Shri Sudhir Thakur, learned Senior Advocate representing the accused is that the Court below while framing charge under Section 307 of the IPC and Section 3(1)(s), 2(va) of the Act has fallen in grave error, for the reason that no cogent and convincing evidence ever came to be adduced on record by the prosecution suggestive of the fact that the alleged injuries inflicted by the petitioners on the person of the complainant besides being grievous, were dangerous to his life. While referring to Section 307 of the IPC, Mr. Thakur, learned Senior Counsel further argued that to invoke provisions of Section 307 of the IPC, it is incumbent upon the prosecution to prove the intention and knowledge of the accused, if any, to inflict injury on the person of the complainant which could be dangerous to his life. While referring to MLC adduced on record by the prosecution to prove the injuries sustained by the complainant in the alleged incident, Mr.

Thakur, learned Senior Counsel vehemently argued that doctor attending upon the complainant nowhere opined the injuries, which were though opined to be grievous, to be dangerous to life. If it is so, no case under Section 307 of the IPC is made out against the accused named in the FIR and at the best accused could have been charged under Section 325 of the IPC for theirs having inflicted grievous injuries on the person/body of the complainant. While referring to MLC, Mr. Thakur, learned Senior Counsel further argued that no injury was ever inflicted by the accused on the vital organs/parts of the body of the complainant, rather as per the own case of the prosecution blow of danda/stick was given by the accused on the arms and shoulders of the complainant, as a result of which, he suffered dislocation and fracture which was subsequently opined to be grievous injury. He further argued that bare perusal of statement of the complainant recorded under Section 154 of the Cr.P.C. and thereafter under Section 161 of the Cr.P.C., suggestive of the fact that the accused inflicted injuries on the person of the complainant with the intention to kill him, are not sufficient to attract the provisions of Section 307 of the IPC. Mr. Thakur, further argued that bare perusal of statement of

complainant under Section 154 Cr.P.C., nowhere suggests that casteist remarks/abuses, if any, were made/hurled by the accused, rather in his statement under Section 154 of the Cr.P.C., he simply stated that accused, namely, Ankush Dharmender Thakur and Pushpender Sharma came to him and forcefully took him to Garima Dhaba, where accused Ishwar Thakur was already present. He alleged that accused named in the FIR thereafter gave him beatings with danda, fist and kicks. Mr. Thakur, learned senior counsel submitted that there is no specific mention with regard to hurling of abuses and making of casteist remarks, if any, by the accused in the FIR, but subsequently, with a view to falsely implicate the accused named in the FIR, in his supplementary statement recorded under Section 161 of the Cr.P.C, he alleged that, while giving beatings the accused also hurled abuses and called him 'chamar'. Mr. Thakur, submitted that though FIR, which is lodged at the first instance immediately after the incident, was lodged on 29.01.2019, wherein there is no specific mention with regard to casteist remarks made by the accused, but on 30.01.2019, the complainant made allegations of casteist remarks allegedly made by the accused on the date of incident.

While referring to supplementary statement recorded under Section 161 of the Cr.P.C., Mr. Thakur, learned senior counsel further argued that the allegations in the afore statements are made by the complainant with a view to falsely implicate the accused. He further submitted that since none of the persons had an occasion to see the alleged incident as has been stated by the complainant himself, the alleged casteist remarks, claimed to have been made by the accused, otherwise cannot be said to have been made in public view, which is otherwise necessary ingredient for invoking the provisions of Section 3(1)(s), (2)(va) of the Act. Mr. Thakur, learned Senior Advocate further submitted that no evidence has been adduced on record by the prosecution to prove the aforesaid allegations of casteist remarks allegedly made by the accused. He submitted that since there is no independent witness to corroborate the version of the complainant coupled with the fact that there are material contradictions in the statements given by the complainant under Section 154 of the Cr.P.C. and Section 161 of the Cr.P.C., trial, if permitted to be continued against the accused named in the FIR for the offence punishable under Section 3(1)(s), (2)(va) of the Act, would amount to sheer abuse of process of law. He

further submitted that otherwise also for want of evidence, the case of the prosecution is likely to fail and as such no fruitful purpose would be served by subjecting the accused to protracted trial. In support of his afore contentions, learned senior counsel placed reliance on certain judgments of the Hon'ble Apex Court which shall be discussed in the later part of this judgment.

3. To the contrary, Mr. Vishal Panwar, learned Additional Advocate General and Mr. R.L. Verma, learned counsel representing the respondent/complainant supported the impugned order passed by the learned Special Judge thereby framing charges against the petitioners for the offences punishable under Sections 325, 341 of the IPC and Section 3(1)(s), (2)(va) of the Act.

4. Mr. Vishal Panwar, learned Additional Advocate General for the State and Mr. Verma, learned counsel for the complainant argued that very opinion of the doctor that the injuries suffered by the complainant are grievous in nature coupled with the fact that had the complainant not raised his arms to save himself, he would have received injuries on his head which could further result in serious consequences are

sufficient to invoke Section 307 of the IPC. Learned Additional Advocate General and Mr. Verma, learned counsel further argued that there is ample material adduced on record suggestive of the fact that the accused named in the FIR actually had made an attempt to inflict injuries on the head of the complainant but since complainant had raised his arms to save himself, he received injuries on his arms. They further submitted that whether the accused had any intention or knowledge to commit the crime punishable under Section 307 of the IPC, is a question to be decided by the Court below in totality of evidence, but here in the present case mere availability of MLC on record is sufficient to conclude the complicity of the accused in the commission of offence punishable under Section 307 of the IPC. Learned Additional Advocate General for the respondent-State and Mr. Verma, learned counsel representing the complainant further argued that once it is not in dispute that the complainant was given beatings in open place i.e. bazar and they had also made casteist remarks, it cannot be said that casteist remarks were not made in public view. It is further submitted by the aforesaid counsel that the complainant alleged that the accused, while giving beatings to him, also made

casteist remarks. They further argued that the statement of complainant itself is sufficient to prove the guilt, if any, of the accused in the commission of offence punishable under Section 3(1)(s), (2) (va) of the Act and even if the afore version is not corroborated by independent witness, the act can be said to be done in public view, as such it would be sufficient to charge the accused under Section 3(1)(s), (2) (va) of the Act. They further submitted that otherwise also it is matter of trial whether the casteist remarks were made in public view and were heard by any other person or not?

5. Learned Additional Advocate General for the State/respondent No.1 and Mr. Verma, learned counsel representing the complainant/respondent No.2 further argued that it is well settled law that, while framing the charge, the court is not required to appreciate the evidence, rather at that stage it is to be be seen, whether prima facie case, if any, is made out from the documents filed along with the final report submitted under Section 173 of the Cr.P.C., or not?

6. Learned Additional Advocate General as well as learned counsel representing the complainant further

contended that this Court, while exercising the revisional jurisdiction has no wider powers to re-appreciate the evidence.

7. I have heard learned counsel for the parties and have also gone through the entire record carefully.

8. Since, specific issue with regard to the limited jurisdiction under Section 397 of the Cr.P.C. (now Section 438 of the BNSS) has been raised at the behest of the respondents, this Court deems it fit to deal with it at the first instance.

9. True it is that this Court has limited jurisdiction under Section 397 of the Cr.P.C. (now Section 438 of the BNSS) to re-appreciate evidence in view of the law laid down by the Hon'ble Apex Court in case ***"State of Kerala vs. P:uttumana IIIath Jathavedan Namboodiri"*** (1999) 2 SCC 452, wherein it has ben held as under:-

> "In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate

> jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice."

10. Hon'ble Apex Court in ***Krishnan and another v. Krishnaveni and another, (1997) 4*** Supreme Court Case 241; has held that in case Court notices that there is a failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/ incorrectness committed by inferior criminal Court in its judicial process or illegality of sentence or order.

11. Now being guided by the aforesaid principle of law, this Court, while exercising the powers under Section 397 of the Cr.P.C. (now Section 438 of the BNSS), shall make an endavour to find out, whether the Court below while passing the impugned order, has failed to deliver justice or misused the judicial mechanism or procedure.

12. In nut shell, the case of the petitioners is that no cause is made out against them under Section 307 of the IPC and Section 3 (1)(s), (2) (va) of the Act since the injuries suffered by the complainant in the alleged incident have been opined to be grievous by the doctor attending upon him and there is no specific mention that the injuries opined to be grievous in nature could be dangerous to life, accused could not have been charged under Section 307 of the IPC, rather at the best they could have been charged under Section 325 of the IPC. At this stage, it would be apt to take note of Section 307 of the IPC. Section 307 of the IPC reads as under:-

> "Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned."

13. A bare perusal of the afore provisionsof law clearly reveals that the prosecution is under obligation to prove that the person charged with the aforesaid provisions of law had intention or knowledge that any act of him may cause death of a

person, against whom such act is done. In the case at hand, as per the complainant, accused namely Ankush Verma, Dharmender Thakur and Pushpender firstly took him to Garima Dhaba where fourth accused Ishwar Thakur was already present and thereafter they gave him beatings. If statements of the complainant recorded under Section 154 Cr.P.C. and Section 161 of the Cr.P.C. are read in conjunction, it transpires that he nowhere stated that accused named in the FIR gave him beatings with an intention to kill him. It appears from the statement of the complainant recorded under Section 161 of the Cr.P.C. that there was some rivalry inter se Ishwar Thakur and the complainant on account of gram panchayat elections, but such fact, if any, may not be sufficient to conclude the intention or knowledge of the petitioners to do away the life of complainant. Complainant, nowhere specifically stated that while he was being given beatings by the accused, they also threatened to kill him, rather, as per own case of complainant, accused gave him beatings with the help of a danda/stick and he with a view to save his head, raised his arms, as a result of which he suffered injuries on his arms/shoulder. MLC adduced on record nowhere suggests injuries on the vital part of the body.

Though, the injuries suffered by the complainant on his arms and shoulder were found to be grievous in nature but doctor nowhere mentioned the kind of weapon, used to cause the injuries and whether the injuries inflicted could be dangerous to life, which is otherwise essential to attract the provisions of Section 307 of the IPC.

14. At this stage, Mr. R.L. Verma, learned counsel representing the complainant, made a reference to the judgment of the Hon'ble Apex Court in case titled as ***Shoyeb Raja vs. State of Madhya Pradesh & Ors., Cr. Appeal No. 3327 of 2024,*** decided on 25.09.2024 wherein it came to be ruled that the nature or extent of injury suffered are irrelevant factors for conviction under Section 307 of the IPC , so long as the injury is inflicted with animus. However, on careful perusal of the afore judgment, this Court finds no application of the same, as far as the case of the complainant is concerned, rather the same is applicable to the case of the petitioners. Hon'ble Apex Court while taking the note of the judgments passed in State of ***Maharashtra vs. Kashirao, (2003)10 SCC 434*** has held as under:-

"11.1 In State of Maharashtra v. Kashirao, the Court identified the essential ingredients for the applicability of the section. The relevant extract is as below:

> "The essential ingredients required to be proved in the case of an offence under Section 307 are:
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> (i) that the death of a human being was attempted;
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> (ii) that such death was attempted to be caused by, or in consequence of the act of the accused; and
>
> (iii) that such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as : (a) the accused knew to be likely to cause death; or (b) was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause (a) death, or (b) such bodily injury as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury."

11.2 This Court in Om Prakash v. State of Punjab,1961 SCC OnLine SC 72 as far back as 1961, observed the constituents of the Section, having referred to various judgments of the Privy Council, as under:

> "a person commits an offence under Section 307 when he has an intention to commit murder and, in pursuance of that intention, does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. It is to be clearly understood, however, that the intention to commit the offence of murder means

> that the person concerned has the intention to do certain act with the necessary intention or knowledge mentioned in Section 300. The intention to commit an offence is different from the intention or knowledge requisite for constituting the act as that offence. The expression "whoever attempts to commit an offence" in Section 511, can only mean "whoever : intends to do a certain act with the intent or knowledge necessary for the commission of that offence". The same is meant by the expression "whoever does an act with such intention or knowledge and under such circumstances that if he, by that act, caused death, he would be guilty of murder" in Section 307. This simply means that the act must be done with the intent or knowledge requisite for the commission of the offence of murder. The expression "by that act" does not mean that the immediate effect of the act committed must be death. Such a result must be the result of that act whether immediately or after a lapse of time." (Emphasis supplied)

15. As per the aforesaid judgment most relevant ingredients of Section 307 of the IPC are that the death of a human being was attempted and such an act was done with the intention of causing death or that it was done with the intention of causing such bodily injury which the accused knows is likely to cause death or is sufficient, in the ordinary course of nature,

to cause death or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous, that it must, in all probabilities cause death, or such bodily injury, as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury.

16. In the case in hand, the description of the weapon of offence has not been mentioned and it is also not opined that with which weapon the injuries have been caused. There is also no specific opinion that the injuries caused could be dangerous to life. The doctor attending upon the complainant after having examined the complainant opined the injuries to be grievous in nature, which does not appear to be sufficient to invoke the provisions of Section 307 of the IPC, rather at best case under Section 325 could have been registered against the accused.

17. Another argument raised at the behest of the accused is that no case is made out under Section3(1) (s), 2(va) of the Act for the reason that the alleged casteist remarks were neither made in public view nor in the presence of any independent witness. To ascertain correctness of the afore claim made by the learned senior counsel representing the petitioners, this Court

perused the record of the court below, which was summoned. Bare perusal of the statement of the complainant recorded under Section 154 of the Cr.P.C. clearly suggests that the complainant nowhere alleged that the accused named in the FIR while giving him beatings also made casteist remarks. It is after a day from his recording of statement under Section 154 Cr.P.C, he got recorded supplementary statement under Section 161 of the Cr.P.C. on 30th January, 2019 alleging therein that the accused also made casteist marks and called him 'chamar'. No doubt, supplementary statement recorded under Section 161 of the Cr.P.C. is the part of the final report submitted under Section 173 of the Cr.P.C. and as such it cannot be overlooked, but this Court is persuaded to accept the submission made by the learned senior counsel for the petitioners that there is no explanation that what prevented the complainant from stating with regard to the alleged "casteist remarks" made by the accused at the first instance. Omission on the part of the complainant to make specific mention with regard to "casteist remarks" allegedly made by the accused at first instance certainly compels this Court to agree with the learned senior counsel, that an attempt has been made by the prosecution to

improve the case. Most importantly, as per the own statement of the complainant, none was present at the time of his being beaten by the accused, hurling of abuses and making of casteist remarks. Though, there is no reason to disagree with the submission of Mr. R.L. Verma, learned counsel representing the complainant that the statement of complainant, wherein he has alleged that accused made casteist remarks, is sufficient to invoke the provisions of Section 3(1) (s), (2)(va) of the Act, but in the entirety of the facts as discussed above coupled with the fact that there is no witness to corroborate the version of the complainant, this Court is of the view that no fruitful purpose would be served in case charge under Section 3(1) (s), (2)(va) of the Act is permitted to sustain at this stage, rather in that situation petitioners/accused herein would be unnecessarily subjected to protracted trial.

18. Though, this Court is not persuaded to agree with the Mr. Sudhir Thakur, learned senior counsel representing the petitioners that the place of occurrence cannot be said to be "public place" in terms of Section 3 (1)(s), (2)(va) of the Act merely on the ground that none save and except the complainant heard utterances of casteist remarks, if any, made

by the accused named in the FIR, but since, it is not in dispute that the complainant was allegedly given beatings in the bazar that too in front of one 'dhaba', the place of occurrence beside being a "public place" can also be construed to be a place in public view in terms of Section 3(1) (s),(2)(va) of the Act but relevant factor for construing the case, if any, under Section 3 (1)(s), (2)(va) of the Act against the accused is whether casteist remarks allegedly made in public view were heard by any third person or not. In FIR, which came to be lodged at the first instance, there is no specific mention with regard to casteist remarks, if any, made by the accused. Secondly, as per the own statement of the complainant, none at the time of alleged incident was present on the spot. Otherwise also documents adduced on record along with the chargesheet filed under Section 173 of the Cr.P.C., nowhere suggest that any third person had an occasion to see the alleged incident. Though, the place of occurrence was a public place and the alleged incident also can be said to have happened in public view, but since, none save and except the accused and the complainant, were witness to such incident, the version put forth by the complainant with regard to the casteist remarks allegedly made by the accused

named in the FIR, has become doubtful on account of omission on the part of the complainant to report such act at the first instance i.e at the time of lodging of FIR.

19. Similarly, the bare perusal of supplementary statement of the complainant recorded under Section 161 of the Cr.P.C., which was recorded after 23 days of lodging of FIR, further reveals that the allegations of making casteist remarks, if any, by the accused named in the FIR, has been made in most casual manner by the complainant, which act of his certainly compels this Court to draw an inference that the act of adducing new facts thereby levelling serious allegation of hurling abuses and making casteist remarks is afterthought. At this juncture, it would be apt to take note of the judgment of the Hon'ble Apex Court in case of ***Ramesh Chandra Vaishya vs. The State of Uttar Pradesh & Ors., Cr. Appeal No. 1617/2023,*** decided on 19.05.2023, wherein it has been held as under:-

> "16. The first F.I.R., registered at the instance of the complainant, is silent about the place of occurrence and who, being a member of the public, was present when the appellant is alleged to have hurled caste related abuses at the complainant. However, on a reading of the second F.I.R. registered at the behest of the appellant, it appears that the incident took place at the house of the appellant.

17. The first question that calls for an answer is whether it was at a place within public view that the appellant hurled caste related abuses at the complainant with an intent to insult or intimidate with an intent to humiliate him. From the charge-sheet dated 21 st January, 2016 filed by the I.O., it appears that the prosecution would seek to rely on the evidence of three witnesses to drive home the charge against the appellant of committing offences under Sections 323 and 506 IPC and 3(1)(x), SC/ST Act. These three witnesses are none other than the complainant, his wife and their son. Neither the first F.I.R. nor the charge-sheet refers to the presence of a fifth individual (a member of the public) at the place of occurrence (apart from the appellant, the complainant, his wife and their son). Since the utterances, if any, made by the appellant were not "in any place within public view", the basic ingredient for attracting Section 3(1)(x) of the SC/ST Act was missing/absent. We, therefore, hold that at the relevant point of time of the incident (of hurling of caste related abuse at the complainant by the appellant), no member of the public was present.

18. That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of Section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses

were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x)of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract Section 3(1)(x) unless such words are laced with casteist remarks. Since Section 18 of the SC/ST Act bars invocation of the court's jurisdiction under Section 438 Cr.PC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under Section 3(1)(x) the utterances made by him in any place within public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognisance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21 st January, 2016 does not make out any case of an offence

> having been committed by the appellant under section 3(1)(x) warranting him to stand a trial."

20. In the afore case Hon'ble Apex Court though held that the place outside the house of the complainant can be said to be a public place or the alleged incident has occurred within public view, but since in the instant case, the alleged incident of hurling abuses and making casteist remarks was not seen by any third party, as fairly admitted by the complainant in his statement, the provisions of Section 3(1)(s),(2)(va) of the Act cannot be invoked.

21. Reliance is also placed upon a judgment of the Hon'ble Apex Court in ***Hitesh Verma vs. The State of Uttarakhand and Ors., Criminal Appeal No. 707 of 2020,*** decided on 05.11.2020, wherein it has been held that the key ingredient of the offence under Section 3(1)(r) of the Act is insult or intimidation in any place within public view. The Hon'ble Apex Court taking note of of earlier decision in ***Swaran Singh & Ors. v. State though Standing Counsel and Ors., (2008)8 SCC 435***, has held that if an offence is committed outside the building or 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, then it would not be an offence since it is not in the public view. In the afore case before Hon'ble Apex Court, the allegations of abusing the informant were within the four walls of her building and the informant nowhere stated that there was any member of public present at the time of incident, rather in that case the alleged incident was seen by the family members. Hence, the Hon'ble Apex Court has held that since the alleged incident had taken place within the four walls of the building, as such it cannot be said to be a "place within public view". In the instant case none was present at the place of incident though the alleged incident took place at a public place which can also be said to be within public view but none other than the accused and the complainant had the occasion to see the alleged incident.

22. In afore case the Hon'ble Apex Court further held that offence must have been committed against the person on the ground that such persons is a member of a Scheduled Caste or a Scheduled Tribe. Though, in the instant case there is no dispute that the complainant belongs to scheduled caste

category but there is no evidence to show that the offence was committed only on the ground that the complainant was a member of scheduled caste, therefore, the case under Section 3 (1)(s), (2)(va) of the Act is not sustainable. Most importantly, in the afore judgment of the Hon'ble Apex Court it has been held that the offence under Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. Though, in the instant case, as per the own statement of complainant no person was there on the spot to witness the incident but if the supplementary statement of the complainant recorded under Section 161 of the Cr.P.C. is perused, he made a specific averment that he had past rivalry with one of co-accused Ishwar Thakur on account of gram panchayat elections. The relevant paras No.15 to 23 of ***Hitesh Verma's*** case (supra) read as under:-

> "15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic

ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.

16. There is a dispute about the possession of the land which is the subject matter of civil dispute between the parties as per respondent No.2 herself. Due to dispute, appellant and others were not permitting respondent No.2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the Civil Court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

17. In another judgment reported as Khuman Singh v. State of Madhya Pradesh,2019 SCC OnLine SC 1104 this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

> "15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar"- Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. This Court in a judgment reported as Dr. Subhash Kashinath Mahajan v. State of Maharashtra & Anr.(2018) 6 SCC 454 issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as Union of India v. State of Maharashtra & Ors.,(2020) 4 SCC 761 reviewed

the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under:

> "52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC."

20. Later, while examining the constitutionality of the provisions of the Amending Act (Central Act No. 27 of 2018), this Court in a judgment reported as Prathvi Raj Chauhan v. Union of India & Ors.,(2020) 4 SCC 727 held that proceedings can be quashed under Section 482 of the Code. It was held as under:

> "12. The Court can, in exceptional cases, exercise power under Section 482 CrPC for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised."

21. In Gerige Pentaiah, one of the arguments raised was non-disclosure of the caste of the accused but the facts were almost similar as there was civil dispute between parties pending and the allegation was that the accused has called abuses in the name of the caste of the victim. The High Court herein has misread the judgment of this Court in Ashabai Machindra Adhagale as it was not a case about the caste of the victim but the fact that the accused was belonging to upper caste was not mentioned in the FIR. The High Court of Bombay had quashed the proceedings for the reason that the caste of the accused was not mentioned in the FIR, therefore, the offence under Section 3(1)(xi) of the Act is not made out. In an appeal against the decision of the Bombay High Court, this Court held that this will be the matter of investigation as to whether the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. Therefore, the High Court erred in law to dismiss the quashing petition relying upon later larger Bench judgment.

22. The appellant had sought quashing of the charge-sheet on the ground that the allegation does not make out an offence under the Act against the appellant merely because respondent No. 2 was a Scheduled Caste since the

property dispute was not on account of the fact that respondent No. 2 was a Scheduled Caste. The property disputes between a vulnerable section of the society and a person of upper caste will not disclose any offence under the Act unless, the allegations are on account of the victim being a Scheduled Caste. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar, any person to protect his rights by way of a procedure established by law.

23. This Court in a judgment reported as Ishwar Pratap Singh & Ors.v. State of Uttar Pradesh & Anr., (2018) 13 SCC 612 held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under:

> "9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is

> whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed."

23. Recently, the Hon'ble Apex Court in ***Konde Nageshwar Rao vs. A. Srirama Chandra Murty and Ors., Criminal Appeal No. 555 of 2018,*** decided on 23.07.2025, held that merely because the complainant belongs to the Scheduled Caste or Scheduled Tribe cannot be sole ground for prosecution. The offences alleged must have been committed solely on the basis of the victim's caste status. Misuse of the statute to settle personal scores or to harass individuals cannot be permitted if it is apparent. Most importantly, the Hon'ble Supreme Court has held that the prosecution needs to be quashed at an early stage to prevent undue harassment of the accused where there is clear legal infirmity in the prosecution case, such as the allegations,

even if taken at their face value, do not disclose an offence or the entire case is a bad faith exercise weaponized to settle personal scores, rather than seeking justice. The relevant paragraphs No. 22 to 24 of the aforesaid judgment read as under:-

> "22. Perusal of the complaint would also indicate that the grievance was not really relatable to the false and malicious involvement in the criminal proceedings against the Appellant and his family members because of them belonging to Scheduled Caste. The very intent being absent, the offences for which the prosecution has been launched are not made out. That apart, merely because a number of cases and various litigations are pending between the Appellant and Respondent No. 2, in itself cannot be a ground for presuming that the prosecution initiated against the appellant was at the behest of and with a false and malicious intent, by now deceased Respondent No. 1. For attracting the offences, as alleged to have been committed by the private respondents, specific instances and incidents supported by evidence are required to be present, which is missing in this case.
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> 23. In Masumsha Hasanasha Musalman v. State of Maharashtra, (2000) 3 SCC 5571, this Court has emphasized that merely because the complainant belongs to the Scheduled Castes or Scheduled Tribes cannot be the sole ground for prosecution. The offences alleged must have been committed solely on the basis of the victim's caste status. Misuse of the statute to settle personal scores or to harass individuals cannot be permitted if it is apparent. The Court should in such situation be not hesitant to step in and stop the said misuse. Prosecution

> needs to be quashed at an early stage to prevent undue harassment of the accused where there is clear legal infirmity in the prosecution case, such as the allegations, even if taken at their face value, do not disclose an offence or the entire case is a bad faith exercise weaponized to settle personal scores, rather than seeking justice (Ravinder Singh v. Sukhbir Singh and others, (2013) 9 SCC 245 ').
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> 24. This court in Dr. Subhash Kashinath Mahajan v. State of Maharashtra and another, (2018) 6 SCC 454 had also observed that there has been an alarming increase in false complaints under the SC/ST Act, particularly against public servants and judicial officers with an oblique motive to settle personal scores or to harass individuals. Such acts cannot be allowed to be perpetuated and need to be stopped at the very outset so that there is no miscarriage of justice."

24. True it is that the complainant cannot be expected to disclose each and every fact at the time of his recording FIR and as such the police at the time of preparing or presenting the challan under Section 173 of the Cr.P.C. is permitted to take note of the supplementary statement, if any, recorded under Section 161 of the Cr.P.C. of the complainant as well as of the other witnesses, who had the occasion to see the alleged incident or had the knowledge of the same. However, in the instant case the very omission on the part of the complainant to lodge the complaint with regard to his having been humiliated or insulted

on account of his being from Scheduled Caste category coupled with the fact that the allegations with regard of casteist remarks allegedly made by the accused were reported on the next day of the lodging of the FIR certainly compels this Court to draw an inference that an attempt has been made by the complainant to misuse the provisions of the Act on account of his being a member of Scheduled Caste category. Otherwise also for the detailed discussion made above, no case is made out against the accused named in the FIR under Section 3(1)(s), (2)(va) of the Act.

25. Though, at this stage, Mr. R.L. Verma, learned counsel representing the complainant made an attempt to argue that at the time of framing of charge the court cannot sift entire evidence but he was unable to dispute that at the time of framing of charge the court concerned is required to sift/peruse the material adduced on record along with final report for inferring prima facie case, if any. For inferring a prima facie case, the court concerned is expected to arrive at a conclusion that the basic ingredients of sections with which the accused are proposed to be charged are met. As such, at the time of framing of charge in a criminal case, the Court concerned after going

through the material on record can also proceed to discharge the accused in case it comes to the conclusion that no prima facie case is made out against the accused named in the FIR. Since, the consequence of framing of charge is serious because in that situation the accused may have to face the ordeal of protracted trial, the court concerned while framing charge is expected to apply its mind to ascertain that the material adduced on record to bring home the guilt of accused is sufficient to frame charge.

26. Recently, the Hon'ble Apex Court in ***Dr. Anand Rai vs. State of Madhya Pradesh & Anr., Special Leave Petition (Criminal) No. 10711 of 2025,*** decided on 10.02.2026 has held as under:-

> "19. A different discipline governs cases arising at the stage of discharge, framing of charge, or prima facie satisfaction. The Court has consistently held that at this stage the Court is not concerned with proof of guilt or the sufficiency of evidence for conviction. In State of Bihar v. Ramesh Singh(1977) 4 SCC 39 and later in Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4 , the Court clarified that the test is whether the material on record, taken at face value, discloses the essential ingredients of the alleged offence and gives rise to a strong or grave suspicion against the accused. The Court is expressly cautioned against conducting a roving inquiry or weighing the evidence as if at trial. When these generally applicable principles are applied to an appeal under Section 14-A of the SC/ST Act arising from

> a threshold order, the High Court's role, though appellate in nature, stands circumscribed by the limits governing discharge. The High Court may examine whether the allegations disclose the basic statutory ingredients of the offence under the Act, including whether the alleged act was committed on account of the victim's caste and whether other foundational requirements are satisfied. Where these ingredients are conspicuously absent, interference is justified, as continuation of proceedings would amount to an abuse of the process of law. This form of scrutiny does not amount to appreciation of the material but is an exercise in legal evaluation of the allegations as they stand....."

27. After having gone through the entire material adduced on record along with the final report filed under Section 173 of the Cr.P.C., before the Court below, this Court is fully convinced that no case is made out under Section 307 of the IPC and Section 3(1)(s), (2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the accused, as such this Court, while exercising its revisional jurisdiction under Section 397 of the Cr.P.C., can interefere to prevent the abuse of process of law or miscarriage of justice. Further this Court, is of the view that the material adduced on record along with final report suggests prima facie case under Sections 325 and 341 of the IPC against the accused named in the

FIR and as such they are only required to be charged with the aforesaid provisions of law.

28. Consequently the instant petition is allowed. Order dated 7.1.2025 passed by learned Special Judge, Solan is set aside. Accused shall be discharged from commission of offence punishable under Section 307 IPC and S. 3(1)(s), (2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. However, since this court has already observed that case under Section 325 and 341 read with Section 34 of the IPC is made out for framing of charge, learned Special Judge, Solan is directed to assign/transfer the case to the court of competent jurisdiction, for proceeding further, in accordance with law.

(Sandeep Sharma)
Judge

31st March, 2026
(jai)