IN THE HIGH COURT OF JHARKHAND, RANCHI
W.P. (Cr.) No. 580 of 2024

Sunil Tiwari @ Sunil Kumar Tiwari aged about 63 years, son of late Dr. Rajendra Tiwari, resident of 81, Old AG Colony, Kadru, P.O. and P.S. Argora, District-Ranchi .... Petitioner

-- Versus --

1.The State of Jharkhand through the Director General of Police, officiating from his office at Project Bhawan, P.O. and P.S. Dhurva, District-Ranchi
2. The Station Incharge, Argora, officiating from his office at Argora Police Station, P.O. and P.S. Argora, District-Ranchi
.... Respondents

With

W.P. (Cr.) No. 588 of 2024

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.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner :- Mr. Prashant Pallava, Advocate
Mr. Parth Jalan, Advocate
Mrs. Shivani Jaluka, Advocate

For the State :- Mr. Gopal Shankar Narayanan, Sr. Advocate (through V.C.)
Mr. Manoj Kumar, G.A.-III
Mr. Deepankar Roy, A.C. to G.A.-III

For the Victim : Mr. Amrendra Pradhan, Advocate

C.A.V. on: 03/10/2024 **Pronounced on: 21/10/2024**

By order dated 31.07.2024 in W.P.(Cr.) No. 580 of 2024 the Court directed that till the next date charge shall not be framed against the petitioner in connection with Argora P.S. Case No. 229

of 2021, corresponding to ST/SC Case No. 70 of 2022 and on the same day by order dated 31.07.2024 considering the submission of the learned counsel for the petitioner and vehemently opposed by the learned counsel for the State, interim protection was granted in connection with Argora P.S. Case No. 180 of 2024 (W.P. (Cr) No. 588 of 2024.

2. Against the order dated 31.07.2024 passed in W.P.(Cr) No. 580 of 2024 the respondent-State moved before the Hon'ble Supreme Court in SLP (Crl.) No. 012181 of 2024 and against the order dated 31.07.2024 passed in W.P.(Cr.) No. 588 of 2024 the respondent-State moved before the Hon'ble Supreme Court in SLP (Crl.) No. 012213 of 2024 and by order dated 09.09.2024 the Hon'ble Supreme Court has been pleased to dismiss the aforesaid SLPs however request was made to the High Court to expeditiously decide both the cases in accordance with law preferably within one month from the date of receipt of a copy of that order.

3. The matter was listed on 09.09.2024 and on that date the learned counsel for the respondent-State further took two weeks time for filing counter-affidavit in both the cases and time was allowed and on 30.09.2024 further request was made by the respondent-State to take up these matters on 03.10.2024 and time was allowed and these matters were posted on 03.10.2024.

4. Thereafter both the cases were heard on merit with the consent of the parties as Arogra P.S. Case No. 180 of 2024 is

consequence F.I.R. of Argora P.S. Case No. 229 of 2021 and after hearing the matters judgements were reserved.

5. Heard Mr. Prashant Pallav, learned counsel appearing for the petitioner in both the cases, Mr. Gopal Shankar Narayanan, learned senior counsel appearing through V.C. along with Mr. Manoj Kumar and Mr. Deepankar who were present in the Court on behalf of State and Mr. Amrendra Pradhan, learned counsel appearing for the Victim.

6. In W.P.(Cr.) No. 580 of 2024 prayer is made for quashing the order taking cognizance dated 05.07.2022 passed in connection with F.I.R. being Argora P.S. Case No. 229 of 2021 corresponding to ST/SC. Case No. 70 of 2022 whereby the learned AJC-II-cum-Special Judge (ST/SC), Ranchi has been pleased to take cognizance for the offence under sections 376(1), 354(A), 354(D), 504, 506 and 509 of the I.P.C. and under section 3(2) (V) (Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Further prayer is made for quashing the chargesheet dated 30.06.2022 and further prayer is made for quashing the entire criminal proceeding in connection with Argora P.S. Case No. 229 of 2021 corresponding to ST/SC. Case No. 70 of 2022 AJC-II-cum-Special Judge (ST/SC), Ranchi.

7. In W.P.(Cr) No.588 of 2024 prayer is made for quashing the F.I.R. being Argora P.S. Case No. 180 of 2024 dated 16th of July, 2024 registered under sections 506 and 34 of I.P.C.

and section 3(1) (r) and section 3 (1) (s) of SC/ST (POA) Act pending in the Court of learned Special Judge, ST/SC (Ranchi) and for stay the investigation.

Facts

8. Argora P.S. Case No. 229 of 2021 has been instituted alleging therein that the informant was assured by one Laxmi Barula, that she would secure a job of a 'computer operator'. However, upon coming to Ranchi she was assigned to house hold work at the residence of the accused. The Informant used to do the house hold work at the Petitioner's house (which included cooking meals) after which she would attend college.

It is further alleged that the behaviour of the petitioner was never good with respect to the informant. He gradually started outraging her modesty.

It is further alleged that whenever the informant would go to give tea to the Petitioner, he would touch her inappropriately and have an evil eye on her.

It is further alleged that during the month of March, 2020, at night, the Petitioner started touching her inappropriately. The Petitioner was in an intoxicated state. The informant slapped the petitioner and rushed upstairs but the petitioner came upstairs and outraged her modesty and also demanded sexual favours. When the informant started to scream but no one heard her plea and ultimately Petitioner forced himself upon her. The informant told her

ordeal to the other staff members.

It is further alleged that in the meantime, the petitioner started to call the informant and apologize and not to disclose the incident to anyone. However, the informant left the house of the accused in the month of July 2020.

It is lastly alleged that whenever the informant would rebuke the advances of the petitioner, she would be abused in the name of caste.

Petitioner's Submission

9. Mr. Prashant Pallava, learned counsel appearing on behalf of the petitioner in both the cases submitted that earlier the petitioner has filed Criminal Appeal (SJ) No. 351 of 2021 which was dismissed as withdrawn by order dated 31.09.2021. The petitioner has preferred another criminal appeal being Criminal Appeal (SJ) No. 403 of 2021 and that appeal was allowed by order dated 08.10.2021 by which the petitioner was granted the privilege of bail. The petitioner has also filed application under section 482 of Cr. P.C. being Cr.M.P. No. 2085 of 2021 which was dismissed as withdrawn by order dated 07.07.2022 contianed in annexure 1 series.

10. Mr. Prashant Pallav, learned counsel for the petitioner by inviting the attention of the Court to para 8 of the petition submitted that the petitioner is the political advisor to Sri Babulal Marandi, the Ex-Chief Minister of the State of Jharkhand and the

current State President of Bhartiya Janta Party who is opponent of the incumbent ruling party-Jharkhand Mukti Morcha. He further submitted that it has been initiated by misleading and coercing the informant as part of an organized conspiracy against the petitioner due to political vendetta. He then submitted that in August, 2020 a lady approached Shri Babulal Marandi alleging that she was raped by the current Chief Minister of The State Of Jharkhand in the year 2013. She filed a complaint before the competent authorities, however she was coerced to withdraw the same. On request of Shri Marandi, the petitioner helped the woman by using his own resources and filed an application being Criminal Writ Petition 177 of 2021 before the Hon'ble Bombay High Court and the petitioner acted as the 'parivikar', on behalf of the lady. However, later that lady on pressure changed her lawyer and sought for the withdrawal of writ petition. He further submitted that the petitioner filed an intervention petition being I.A No. 787 of 2021, which was allowed and the matter is sub-judice. He then submitted that the petitioner also filed an application before the Hon'ble Apex Court, praying for registration of case against the incumbent Chief Minister of The State of Jharkhand for the atrocities committed by him. He submitted that because of the steps taken by him as against the Chief Minister of the State of Jharkhand, the entire State machinery conspired to implicate him in a false case on one pretext or another. By way of inviting the attention of the Court to annexure-3 he

submitted that an information was given to the Chief Secretary, Government of Jharkhand that he is intervener in a criminal case before the Bombay High Court and for that he has got information that false cases will be filed against him. He further submitted inspite of such letter, no action was taken and finally on the 15th of August 2021, the informant and her family were illegally detained by the police with an intention to lodge false case against the petitioner from the informant. On 16th of August 2021, the authorities released the family members of the informant, however, the informant was sent under the custody of the Child Welfare Committee and only the family members were released that when the informant agreed to give a statement as against the petitioner and co-operate in the registration of an FIR against him. By way of drawing the attention of the court to Annexure-4 of the writ petition he further submitted that in order to trap the petitioner in another false and fabricated case, one more innocent girl namely Pushmani Kumari, was also illegally detained by the police. She was kept at a house in Kanke along with the informant of the instant case and the said Pushmani Kumari in her deposition before the Child Welfare Committee on 16th of August 2021 has categorically stated that she and the informant of the instant case were kept together and were being pressurized to give false statements against the petitioner. He also placed the said statements contained in annexure-4 in course of argument. He submitted that the entire facts were

brought to the knowledge of the Investigating Officer. However, the Investigating Officer was predetermined and a chargesheet dated 30th of June 2022, was filed against the petitioner. He further submitted that the petitioner was cooperating in the investigation inspite of that chargesheet was submitted and thereafter the learned court has been pleased to take cognizance by order dated 5th of July 2022 under Section 376(1), 354(A), 354(D), 504, 506 and 509 of the Indian Penal Code, 1860 and Section 3(2)(V)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the petitioner. On these grounds he submitted that the petitioner is victim of the political vendetta and all the actions of the investigating authority is at the whims of their political masters. He submitted that all these happened because the petitioner has supported a helpless lady on the advice of Sri Babulal Marandi. He submitted that the informant was working at the residence of the petitioner and she was treated like the family members and the education aspect of the informant was also looked by the petitioner. He further submitted that the petitioner has already filed petition for discharge before the learned court however the informant suo motu appeared before the learned court and filed a petition on 11.07.2024 in which she has stated that she is not interested in pursuing the said matter against the petitioner which has been brought on record by way of supplementary affidavit in a sealed cover. He then submitted that allegations are

made that in March, 2020 she was abused and she has not raised her voice and further allegations are made that in July 2022, she left the house of the petitioner and the F.I.R. being Argora P.S. Case No. 229 of 2021 was lodged on 16.08.2021. He submitted that on 14.10.2021 medical examination of the girl was made and the report was in favour of the petitioner and the mobile number of the petitioner was recovered. Again by way of drawing the attention of the Court to the statement of another girl before the Child Welfare Committee and submitted how the false case has been registered against the petitioner. He submitted that the petitioner has treated the informant as family member. He submitted that maliciously the present case has been lodged against the petitioner.

11. He relied in the case of ***" Mahmood Ali and others Vs. State of U.P. and Others"*** reported in ***2023 SCC Online SC 950***. He referred to paras 12 and 13 of the said judgment which is quoted hereinbelow:-

> *"12. We are of the view that the case of the present appellants falls within the parameters Nos. 1, 5 and 7 resply of Bhajan Lal (supra).*
>
> *13. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the Inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the*

Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRS assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

12. Relying on the aforesaid judgment, he submitted that now the scope of 482 Cr.P.C. and Article 226 of the Constitution of India has been enhanced and if the malicious prosecution is proved before the High Court, the High Court can pass the order of quashing.

13. He further relied in the case of ***" Vineet Kumar and others V. State of U.P."*** reported in ***(2017) 13 SCC 369***. He referred to paras 39 and 40 of the said judgement which is quoted hereinbelow:-

" 39. The fact is that no medical examination was got done on the date of incident or even on the next day or on 7-11-2015, when the 10 asked the complainant and her husband to get done the medical examination. Subsequently it was done on 20-11-2015, which was wholly irrelevant. Apart from baid assertions made by the complainant that all the accused have raped her, there was nothing which could have led the courts to form an opinion that the present case is a fit case of prosecution which ought to be lätinched. We are conscious that the statement given by the prosecutrix/complainant under Section 164 CrPC is not to be lightly brushed away but the statement was required to be considered along with antecedents, facts afid circumstances as poted above.

40. Reference to the judgment of this Court in Prashant Bharti v. State (NCT of Delhi)13 is relevant for the present case. In the above case the complainant lady aged 21 years lodged an FIR under Sections 328 and 354 IPC with regard to the incident dated 15-2-2007. She sent a telephonic information on 16-2-2007 and on her statement FIR under Sections 328 and 354 IPC was registered against the appellant. After a lapse of five days on 21-2-2007 she gave a supplementary statement alleging rape by the appellant on 23-12-2006, 25-12-2006 and 1-1-2007. The statement under Section 164 CrPC of the prosecutrix was recorded. Police filed charge-sheet under Sections 328, 324 and 376 IPC. Charge-sheet although mentioned that no proof in support of crime under

Sections 328/354 could be found. However, on the ground of statement made under Section 164 C:PC charge-sheet was submitted."

14. He submitted that in view of the above judmgment and in the fact of the present case no proof of rape is there and inspite of that it has been registered under several sections of I.P.C. as well as under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

15. He further relied in the case of ***"Narinder Singh and others Vs. State of Punjab and Another"*** reported in ***(2014) 6 SCC 466.*** He referred to para 29 and 29.6 of the said judgment which is as under:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Coun would be guided in giving adequate treatment to the settlement between the parties and exercising its g power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/ delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the a Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship."

16. By way of referring the above judgment he submitted that the High Court can examine as to whether there is strong

possibility of conviction or the chances of conviction are remote and bleak, High Court can pass appropriate order.

17. Learned counsel for the petitioner further relied in the case of ***"B.S. Joshi and others Vs. State of Haryana and Another"*** reported in ***(2003) 4 SCC 675***. He referred to para 10 of the said judgment which is as under:-

> *"10. In State of Karnataka v. L. Muniswamy considering the scope of inherent power of quashing under Section 482, this Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that the ends of justice so require was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature. This Court said that the compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction. On facts, it was also noticed that there was no reasonable likelihood of the accused being convicted of the offence. What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would be almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has tobe in the "negative". It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides."*

18. Relying on the above judgment he submitted that in the interest of justice the materials on which the structure of the prosecution rests the High Court can quash the proceeding.

19. Lastly, learned counsel for the petitioner relied in the

case of **" *Shivam Vs. the State of Madhya Pradesh and Others" reported in MANU/MP/0452/2024*** and submitted that on the basis of settlement even if POCSO case is there the High Court quashed the proceeding. However, in the case in hand, the petitioner has not settled the dispute by way of filing any petition rather the informant has suo motu appeared before the learned court as such the case of the petitioner is more merit and in view of that the entire criminal proceeding may kindly be quashed.

20. With regard to W.P.(Cr) No. 588 of 2024 he submitted that Argora P.S. Case No. 180 of 2024 was registered on 16.07.2024 under sections 506 and 34 of I.P.C. and section 3(1) (r) and section 3 (1) (s) of SC/ST (POA) Act alleging therein that the informant had written alleged letter to the public prosecutor claiming that she and known relatives were being harassed by the petitioner including the police personnel to influence the outcome of Argora P.S. Case No. 229 of 2021 corresponding to ST/SC. Case No. 70 of 2022 and in the light of that the public prosecutor of the trial case has lodged the F.I.R. He submitted that genesis of the above F.I.R. was the Argora P.S. Case No. 229 of 2021. He again repeated the same ground with regard to malicious prosecution which has been taken in the first writ petition. He further submitted that informant has filed a petition in which she has stated that she is not ready to pursue the matter any further. The said petition was filed on 11.07.2024 before the learned court. The petitioner applied for the

certified copy which has been brought on record by way of filing supplementary affidavit in the first writ petition. He further submitted that on the basis of letter of F.I.R. dated 26.06.2024 wherein the informant has appeared before the learned court on 11.07.2024 stating that she does not want to proceed with the case and the case was lodged on misunderstanding. On this background, he submitted that the second F.I.R. itself is malicious that too it has been filed under the Indian Penal Code which has been repealed by Bhartiya Nagrik Suraksha Sahinta, 2023 w.e.f. 01.07.2024 wherein the F.I.R. was registered on 16.07.2024. He submitted that registration of F.I.R under the I.P.C. further strengthens the case of the petitioner as second F.I.R. is also malicious in view of above the entire criminal proceeding in both the cases may kindly be quashed including chargesheet and order taking cognizance. He further submitted by way of making stress made in the complaint dated 26.06.2024 to the effect by the informant that it is her signature and she knows it. The said certificate made in a complaint made by the complainant on her signature further proves that in absence of any complaint by her by way of manufacturing the said letter the second F.I.R. has been lodged and in view of that entire criminal proceeding may kindly be quashed.

Respondent-Victim Submission

21. Mr. Amrendra Pradhan, learned counsel appeared suo

motu on behalf of the victim by way of filing vakalatnama and submitted that he has got instruction that informant does not want to pursue Argora P.S. Case No. 229 of 2021 and application with regard to same has been filed before the learned court on affidavit dated 11.07.2024 and the victim has no grievance against the petitioner that is disclosed in paras 4 and 5 of the counter affidavit. He further submitted that said application has been brought on record by way of filing supplementary affidavit by the petitioner. He further submitted that with regard to second F.I.R. which is subject matter of Argora P.S. Case No. 180 of 2024 the victim has stated that she does not want to proceed with the case and contents of F.I.R. is denied which is disclosed in paras 4 and 5 of the counter affidavit. He further submitted that it is further disclosed therein that neither the petitioner nor any person tried to contact the informant with respect to Argora P.S. Case No. 229 of 2021 or any other purpose either directly or indirectly. He submitted that in both the cases the informant is not willing to proceed. On these grounds, he submitted that the entire criminal proceeding in both the cases may kindly be quashed.

Respondent-State Submission

22. On the other hand, Mr. Gopal Shankar Narayanan, learned senior counsel has appeared on behalf of the respondent-State through Video Conferencing along with Mr. Manoj Kumar and Mr. Deepankar who were present in the Court.

23. Mr. Gopal Shankar Narayanan, learned senior counsel for the respondent-State submitted that this is not trial. This petition is meant for quashing of the entire criminal proceeding. He submitted that the statement made under sections 164 Cr.P.C. and under section 161 Cr.P.C. are there. The call data records including the exchanges medical report is against the petitioner and looking all these aspects and the charagesheet the learned court has been pleased to take cognizance. He submitted that the judgments relied by learned counsel for the petitioner are distinguishable. By way of referring the judgement of the Hon'ble Supreme Court in the case of ***" Gian Singh Vs. State of Punjab and Another" reported in (2012) 10 SCC 303*** he submitted that if serious offence like rape, murder or dacoity etc or offences of mental depravity under the I.P.C or offence of moral turpitude or special statutes are there on the compromise the cases cannot be quashed. He referred to para 58 and 61 of the said judgment which reads as under:-

> *"58. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the*

offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

24. Relying on the above judgment he submitted that in

the nature of crime of the present case, the case is not fit to be quashed. He then submitted that victim's statement has got no value in the crime like this. He submitted that not only I.P.C. sections even Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are there and cognizance is also there under section 3(2) (V) (Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. On this background, he further submitted that if a hint of compulsion of force is there no relief can be granted as has been held by the Hon'ble Supreme Court in the case of ***"Ramawatar Vs. State of Madhya Pradesh" (2022) 13 SCC 635***. He referred to paras, 15, 16 and 19 of the said judgement which is quoted hereinbelow:-

> *"15. The Constitution Bench decision in Supreme Court Bar Assn. v. Union of India has eloquently clarified this point as follows: (SCC p. 432, para 48)*
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> *"48. The Supreme Court in exercise of its jurisdiction under Article 142 has the power to make such order as is necessary for doing complete justice "between the parties in any cause or matter pending before it", The very nature of the power must lead the Court to set limits for itself within which to exercise those powers and ordinarily it cannot disregard a statutory provision governing a subject, except perhaps to balance the equities between the conflicting claims of the litigating parties by "ironing out the creases" in a cause or matter before it. Indeed this Court is not a court of restricted jurisdiction of only dispute-settling. It is well. recognised and established that this Court has always been a law-maker and its role travels beyond merely dispute-settling. It is a "problem-solver in the nebulous areas" (see K. Veeraswami v. Union of India) but the substantive statutory provisions dealing with the subject-matter of a given case cannot be altogether ignored by this Court, while making an order under Article 142. Indeed, these constitutional powers cannot, in any way, be controlled by any statutory provisions but at the same time these powers are not meant to be exercised when their exercise may come directly in conflict with what has been expressly provided for in a statute dealing expressly with the subject."*
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> *(emphasis in original)*
>
> *16. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the*

depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

19. We may hasten to add that in cases such as the present, the courts ought to be even more vigilant to ensure that the complainant-victim has entered into the compromise on the volition of his/her free will and not on account of any duress. It cannot be understated that since members of the Scheduled Caste and Scheduled Tribe belong to the weaker sections of our country, they are more prone to acts of coercion, and therefore ought to be accorded a higher level of protection. If the courts find even a hint of compulsion or force, no relief can be given to the accused party. What factors the courts should consider, would depend on the facts and circumstances of each case."

25. Relying on the above judgment he submitted that in a case like this where Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is there even the Hon'ble Supreme Court has held that quashing cannot be made. He then submitted that Argora P.S. Case No. 229 of 2021 was registered on 16.08.2021 and the allegations of threatening is there. He submitted that while the petitioner was granted bail and he was asked to remain out of Jharkhand. He then submitted that chargesheet was submitted on 30.06.2022 in which the statement under section 164 Cr.P.C. and 161 Cr.P.C. was considered and even the CFSL report and call record was analyzed and multiple conversation was there and pursuant to that chargesheet was submitted. He submitted that cognizance was taken on 05.07.2022 in the first F.I.R. and after three years the present quashing application has been filed on 19.07.2024. On 24.04.2022 the public prosecutor prayed for framing of charge and on 26.06.2024 the complainant wrote to the public prosecutor of threatening pursuant to that second F.I.R. was

registered being Argora P.S. Case No. 180 of 2024.

26. He submitted that the affidavit was sworn on 10.07.2024 and on 11.07.2024 the Public Prosecutor informed the Court of influence and on 11.07.2024 the complainant filed petition for withdrawing the complaint. He further submitted that second F.I.R. was registered by the State with regard to threatening which is subject matter of second writ petition. He further drew the attention of the Court to page 24 of the second writ petition and submitted that complaint is made with regard to influence made by the petitioner for money and lobbying also. He further drew the attention of the Court to page 27 which is part of F.I.R and submitted that she has certified that signature is of her and she knows the signature. On this ground he submitted that entire criminal proceeding may not be quashed as materials are there on record and the chargesheet has been submitted which can be subject matter of trial. He further submitted that belatedly the writ petition is filed the and same is fit to be dismissed.

Petitioner's Submission

27. In reply Mr. Pallava, learned counsel for the petitioner submitted that the signature is ante dated in the second F.I.R. of the complainant in the second writ petition and in view of that second case has also been filed maliciously.

Analysis

28. In view of above submissions of the learned counsel

for the parties, the Court has gone through the materials on the record which are subject matter of the aforesaid two writ petitions. It is stated that on introduction by some person the informant was engaged in the house of the petitioner for domestic work whereas the petitioner was residing along with his wife who always remained there and children were outside and they used to come. The informant stated that after such work she used to go to St. Paul College to study. It is alleged the behavior of the petitioner was not good with the informant. Further allegations are made of molestation. It is further disclosed that at the residence of the petitioner Sham Hasha, Pushmani, Manoj Kachhap, Suliyas, Birbal and Bikram were also remain there and they were doing the domestic work. Allegations are made of certain incident in March, 2020. The allegation is also made of rape and she left the house in July, 2020. It is alleged thereafter the petitioner was again calling her and the caste name was taken by the petitioner. On this background the F.I.R. was registered on 16.08.2021. From the statement of the F.I.R. it is crystal clear that she left the house in July, 2020 wherein the F.I.R. was registered on 16.08.2021.

29. It was pointed out in course of argument that statement is also made in para 8 (A to F) that this petitioner happened to be political advisor of the then Chief Minister of the State of Jharkhand. On the request of a lady who has come for help Mr. Marandi has asked the petitioner to help her pursuant to that writ petition was

filed against the present Chief Minister which was subsequently withdrawn by way of changing the lawyer in which the petitioner filed the intervener petition which was allowed and that matter is still pending. The petitioner has also filed petition before the Hon'ble Supreme Court against the incumbent Chief Minister of State of Jharkhand. It is further disclosed that one Pushpani Kumari who is also kept in the house along with the informant has stated before the Child Welfare Committee that she along with the informant were pressurized to make false statement against the petitioner contained in annexure-4 to the writ petition and that has not been denied in the counter affidavit filed by the respondent-State and only it is stated that the same is self declaratory statement which is required to be proved before the trial court. Thus, enmity and political vendetta are prima facie there which further strengthens in the light of non-denial by the State of the statement made in para 8 (A to F) of the writ petition. Annexure-3 is a document addressed to the Chief Secretary of the State of Jharkhand apprehending false cases to be filed against the petitioner due to help made by him to a lady.

30. The informant on affidavit had filed the petition before the learned court on 11.07.2024 after serving a copy to the Special P.P. of SC/ST stating that due to misunderstanding without understanding the veracity of the allegation, the Argora P.S. Case No. 229 of 2021 was filed on 16.08.2021 and the informant has got

no grievance and she does not want to pursue and contest the present case being ST/ST Case No. 70/2022 arising out of Argora P.S. Case No. 229 of 2021 which was affidavited on 10.07.2024. This has been filed suo motu by the informant before the trial court. This is not a case that by way of compromise that petition was filed on behalf of the petitioner and the informant. Mr. Pradhan, learned counsel appeared on behalf of the victim-girl suo motu and he has stated by way of filing the counter affidavit in both the cases that the victim-girl does not want to proceed further and she has filed the petition before the learned court which is disclosed in para 4 and 5 of the counter affidavit filed by the informant. Thus, it is crystal clear that maliciously the present case has been filed and consequently Argora P.S. Case No. 180 fo 2024 has been filed which is the consequence of the present case. The second case is lodged on 16.07.2024 and it was lodged under section 504 and 34 of Indian Penal Code wherein I.P.C. was repealed with effect from 01.07.2024 by way of new Act namely, Bhartiya Nagrik Suraksha Sahinta, 2023 which further strengthens the case of the petitioner that in haste manner second F.I.R. was registered as the Act which was not in existence against in that case, the case was registered. Further the complaint is dated 26.06.2024 wherein the F.I.R. was registered on 16.07.2024 at the behest of the A.P.P. Pecularily if a complaint is there in the signature of the complainant dated 26.06.2024 there was no need of certifying her signature by herself

to the effect that this is her signature and she knows that signature and that is dated 16.07.2024 which further raises a question as to why such certification is there if the complaint is already there in the signature of the informant. Thus, it appears that second F.I.R. is also registered in a mechanical way without application of mind only to make out a case of more complication so that the petitioner may not come out from the case.

31. In view of above discussions, the Court is required to consider in the light of submissions of the learned counsel for the petitioner as well as the victim-girl and respondent-State as to whether at this Stage the Court can quash the entire criminal proceeding or not.

32. There is no doubt if a case is made out the High Court is not required to roam into to come to a conclusion that the case is not made out. However, at the same time if malicious prosecution is made and if the High Court will not interfere it will further amount abuse of process of law for that the High Court is having more responsibility to read the things in between the line so that any innocent person may not put to harassment and face a trial. The Court is in agreement with the judgment relied by the learned counsel for the respondent-State in the case of ***"Gian Singh" (supra).*** There is no doubt that if a serious crime is there and only on the basis of settlement it cannot be quashed which was the ratio in the case of ***"Gian Singh" (supra).*** But in the case in hand

it transpires that the petitioner has not settled the dispute with the informant by way of filing any compromise petition. The informant suo motu appeared before the learned court and filed petition if a such position is there it cannot be said that on the basis of compromise between the parties the said petition has been filed that too in a case of a background of a chequered history as discussed hereinabove.

33. Much having argued on behalf of the respondent-State that the persons coming within the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are being influenced their innocence and on the basis of that case are being compromised which cannot be said that the SC/ST (POA) Act is not attracted for that the learned counsel for the State as relied in the case of ***"Ramavatar (supra)*** and rightly the Hon'ble Supreme Court in para 19 of the said judgment has held that even a hint of compulsion or force is there, no relief can be given to the accused party. However, in the same case, the Hon'ble Supreme Court has been pleased to quash the criminal proceeding on the basis of compromise. In the case in hand there is no compromise petition and suo motu this application has been filed by the informant. The Court finds that there is no iota of evidence to suggest that the petitioner has compelled or forced the informant to file such application before the learned court. Thus, the case of ***"Ramavatar" (supra)*** has not much helped to the respondent-

State.

34. It was held by the Hon'ble Supreme Court in the case of ***Mahmood Ali (supra)*** that the Court can look into the F.I.R. that court owes a duty to look into the F.I.R. with care and a little more closely and while exercising power under section 482 of Cr.P.C. or Article 226 of the Constitution of India need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation***.***

35. In the case in hand for the alleged allegations of March, 2020, the F.I.R. was registered on 16.08.2021. What has been disclosed that this petitioner has helped a lady against the sitting Chief Minister of the State of the Jharkhand and that is why all this trap has been made and that is not denied in the counter-affidavit which clearly suggests that maliciously the present case has been registered against the petitioner.

36. Section 164 Cr.P.C. is not to be lightly brushed away but the statement was required to be considered along with antecedents., facts and circumstances as having held in the case of ***" Vineet Kumar" (supra).*** It is further held in the case of ***"Narinder Singh" (supra)*** in para 29 and 29.6 that on the basis of prima facie analysis if the High Court can examine as to whether there is strong possibility of conviction or the chances of

conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties.

37. It is well settled that the Investigating Officer must make clear and complete entries of all columns in the chargesheet.

38. The Court has looked into chargesheet which has been brought on record. There is no mention on which date and what time the victim was sent for medical examination. When the report of medical examination was issued is not mentioned. Mobile of the petitioner and victim was sent for data recovery and data was recovered however, details of that is not disclosed in the chargesheet. The petitioner was arrested on 14.09.2021 and sent to judicial custody. It was disclosed in the chargesheet that mobile, dongal and SIM was sent to the Central Forensic Science Laboratory however discussion is not there of nature of the finding of the said laboratory. The account of the victim is mentioned however there is no disclosure of balance and transaction of the said account. This aspect of the matter has been recently considered by the Hon'ble Supreme Court in the case of ***"Sharif Ahmed and Another Vs. State of Uttar Pradesh and Another"*** reported in ***2024 Livelaw (SC) 337*** wherein paras 20 and 31 the Hon'ble Supreme Court has held as under:-

> *"20. There is an inherent connect between the chargesheet submitted under Section 173(2) of the Code, cognisance which is taken under Section 190 of the Code, issue of process and summoning of the accused under Section 204 of the Code, and thereupon issue of notice under Section 251 of the Code, or the charge in terms of Chapter XVII of the Code. The details set out in the chargesheet have a substantial impact on the efficacy of procedure at the subsequent stages. The chargesheet is integral to the process of taking cognizance, the issue of notice and framing of charge, being the only investigative document and evidence available to the court till that stage. Substantiated reasons and grounds for an offence being made in the chargesheet are a key resource for a Magistrate to evaluate whether there are sufficient grounds for taking cognizance, Initiating proceedings, and then issuing notice, framing charges etc.*
> *31. Therefore, the investigating officer must make clear and complete entries of all columns in the chargesheet so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available on the file. Statements under section 161 of the Code and related documents have to be enclosed with the list of witnesses. The role played by the accused in the crime should be separately and clearly mentioned in the chargesheet, for each of the accused persons."*

39. In view of above discussions, it transpires that maliciously the case has been investigated as petitioner has helped one lady against the allegation of incumbent sitting Chief Minister which is disclosed in para 8(b) of the writ petition which has not been denied in the counter-affidavit filed by the respondent-State which clearly suggests that maliciously the case has been registered against the petitioner and the investigation was also made with pre-occupied mind.

40. In the above background of the present case the Court finds that when the informant herself is not supporting the case and there is no chance of conviction.

41. In the case of ***"Parbat Bhai Aahir V. State of Gujarat (2017) 9 SCC 641*** the Hon'ble Supreme Court has held that the F.I.R. should not be quashed in case of rape as it is an heinous offence but when the respondent/complainant herself takes

the initiative and file affidavits before the Court, stating that she made the complaint due to some mis-understanding and now wants to give guietus to the misunderstanding which arose between the petitioner and respondent in my considered opinion in such cases, there will be no purpose in continuing with the trial ultimately, if such direction is issued, the result will be of acquittal in favour of the accused, but substantial public time shall be wasted.

42. This Court is conscious about the dictum of the Hon'ble Supreme Court in terms of seriousness of the case, however, keeping in view the application filed by the informant, this Court is inclined to quash the entire criminal proceeding which are subject matter of the writ petition as no useful purpose would be served in prosecuting the petitioner any further.

43. The Court under section 482 of Cr.P.C. or under Article 226 of the Constitution of India have wide power to quash the proceedings even in non-compoundable offences in order to prevent abuse of process of law and to secure ends of justice notwithstanding bar under section 320 of Cr.P.C. Exercise of power in a given situation will depend on facts of each case. The duty of the Court is not only to decide a lis between the parties after a protracted litigation but is a vital and extraordinary instrument to maintain and control social order. Resolution of dispute by way of compromise between two warring groups should be encouraged unless such compromise is abhorrent to lawful composition of

society or would promote savagery, as held by Five Judges Bench of the Hon'ble Punjab & Haryana High Court in the case of ***"Kulwinder Singh and others Vs. State of Punjab and Another"*** reported in ***(2007) 59 All IND Cases 435 (P&H)*** wherein the Hon'ble Court has held as under :

> *" 36. In Mrs. Shakuntala Sawhney V. Mrs. Kaushalya Sawhney and others., Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:-*
>
> *The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.*
>
> *37.The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.*
>
> *38. No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C."*

44. Further, it is well settled that even after filing of the chargesheet if case of quashing is made out the Court can exercise the said power of quashing the entire criminal proceeding. Reference may be made to the case of ***" Anand Kumar Mohatta Vs. State of (NCT) of Delhi" (2019)11 SCC 706*** wherein para 14 and 16 it has been held as under"-

> *"14. First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge-sheet is filed, petition for quashing of F.I.R. is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in Joseph Salvaraj A. v. State of Gujarat.*
>
> *16. There is nothing in the words of this section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High Court can exercise jurisdiction under Section 482 Cr.P.C. even when the discharge application is pending with the trial court. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a chargesheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court."*

45. Similar view has been taken by the Hon'ble Supreme Court in the case of ***"Joseph Salvaraj A. Vs. State of Gujarat" (2011) 7 SCC 59, A.M. Mohan Vs. State" 2024 SCC Online 339, Mamta Shailesh Chandra Vs. State of Uttarakhand" 2024 SCC Online SC 136***.

46. This aspect has been recently considered by the Hon'ble Supreme Court in the case of "***Kailashben Mahendrabhai Patel and others" Vs. State of Maharashtra and Anr." in Criminal Appeal No. 4003/2024*** arising out of ***SLP (CRL) No. 4044/2018*** reported in ***2024 INSC 737***.

47. The case of the petitioner is coming within the criteria of ***"State of Haryana Vs. Bhajanlal" 1992 Supp. 1 SCC 335***. The criteria no. 7 of para 102 clearly attracted the facts of the present case as maliciously both the cases have been lodged against the petitioner with ulterior motive which reads as under:-

> *"102(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

48. So far Criminal (SJ) No. 351 of 2021 filed by the petitioner is concerned, it was simply dismissed as withdrawn by order dated 13.09.2021. By order dated 08.10.2021 Criminal Appeal (SJ) No. 403 of 2021 the petitioner was allowed bail. Cr.M.P. No. 2085 of 2021 was dismissed as withdrawn with liberty vide order dated 07.07.2022 and it was withdrawn as chargesheet was

submitted. Thus, on merit all these petitions have not been decided liberty was provided.

49. In the second F.I.R. Sections 3 (1) (r) and (s) of SC/ST (POA) Act is added. Hurling of abuses as obtained under Section 3(1)(r) and (s) of the Atrocities Act is required to be noticed. Section 3(l)(r) of the Atrocities Act directs that the abuses should be hurled in the public place; Section 3(l)(s) directs that the abuses should be hurled in the place of public view. Therefore, the abuses should be either in the public place or in the place of public view. Therefore, the very complaint itself is so frivolous that no further proceedings should be permitted to be continued. Even otherwise, the Apex Court in the case of *Hitesh Verma* v. *State of Uttarakhand*, (2020) 10 SCC 710, at paragraphs 11, 12, 13, 14 and 18, has held as follows:

> *"11. It may be stated that the charge-sheetfiled is for an offence under Section 3(l)(x) of the Act. The said section stands substituted by Act 1 of 2016 w.e.f. 26.1.2016. The substituted corresponding provision is Section 3(1)(r) which reads as under:*
> *"3.(l)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"*
> *12. The basic ingredients of the offence under Section 3(l)(r) of the Act can be classified as "(1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a*
> *Scheduled Tribe and (2) in any place within public view".*
> *13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked*

jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the
procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.
14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression "publicplace" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members ofthe public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below:-
"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."]. The Court held as under : (SCC pp. 443- 44, para 28)
"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."
(emphasis in original)
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.

50. Reference being made to another judgment of the Apex Court which bears consideration in ***Hitesh Verma's case, (supra)*** in the case of ***GORIGE PENTAIAH v. STATE OF A.P.***" reported in

(2008) 12 SCC 531 is apposite wherein the Apex Court holds as under:

> *"5. Learned counsel appearing for the appellant submitted that even if all the allegations incorporated in the complaint are taken as true, even then, no offence is made out under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act") and under Sections 447, 427, 506 of the Penal Code, 1860. As far as Section 3(l)(x) of the Act is concerned, it reads as under:*
>
> *"3. Punishments for offences of atrocities.— (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—*
> *(i)-(ix) xx.xxxxx*
> *(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"*
> *Scope and ambit of courts powers under Section 482 Cr. P.C.*
> *12. This Court in a number of cases has laid down the scope and ambit of courts powers under Section 482 CrPC. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:*
>
> *(i) to give effect to an order under the Code;*
> *(ii) to prevent abuse of the process of court; and*
> *(iii) to otherwise secure the ends of justice.*
> *Inherent powers under Section 482 Cr. P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.*
> *Discussion of decided cases*
> *13. Reference to the following cases would reveal that the courts have consistently taken the view that they must use this extraordinary power to prevent injustice and secure the ends of justice. The English courts have also used inherent power*
> *to achieve the same objective. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. In Connelly v. Director of Public Prosecutions Lord Devlin stated that where particular criminal proceedings constitute an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in Director of Public Prosecutions v. Humphrys tressed the importance of the inherent power when he observed that it is only if the prosecution amounts to an abuse of the process of the court and is oppressive and vexatious that the Judge has the power to intervene. He further mentioned that the courts power to prevent such abuse is of great constitutional importance and should be jealously preserved."*

51. In the light of the afore-narrated judgment of the Apex Court, if the case at hand is considered, as observed hereinabove,

the hurling of abuses is neither in a public place nor in a place of a public view. Apart from the said fact, the timing of the complaint is required to be noticed. The litigations initiated by the complainant for which she has become disgruntled has sought to misuse the provisions and abuse the process of law, only to wreck vengeance . It is due to the cases of this nature where the provisions of the Act are grossly misused engaging the Courts of law, at times, genuine complaints of people who have actually suffered such abuses, would go into the oblivion. In the light of the facts narrated hereinabove, the judgment of the Apex Court in ***Hitesh Verma, (supra) and Gorige Pentaiah(supra)*** would become applicable to the case at hand on all its fours.

50. In view of above facts, reasons and analysis the Court has no hesitation in arriving at the conclusion that if the criminal proceedings are allowed to continue against the petitioner the same will be abuse of process of law.

53. For the reasons mentioned hereinabove, the Court allowed the present writ petitions and quashed the entire criminal including order taking cognizance dated 05.07.2022 and the chargesheet dated 30.06.2022 in connection with Argora P.S. Case No. 229 of 2021 corresponding to ST/SC. Case No. 70 of 2022 and also quashed the entire criminal proceeding and the F.I.R. being Argora P.S. Case No. 180 of 2024 dated 16th of July, 2024 pending in the Court of learned Special Judge, ST/SC (Ranchi).

54. Both these writ petitions are allowed and disposed of in above terms. Pending I.A, if any, stands disposed of.

(Sanjay Kumar Dwivedi, J.)

Jharkhand High Court, Ranchi
Dated 21st of October, 2024
Satyarthi/A.F.R.