2025(1) eILR(PAT) HC 545

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.17102 of 2023

Arising Out of PS. Case No.-3 Year-2022 Thana- BASOPATTI District- Madhubani

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1. Kailash Thakur @ Kailash Bihari Thakur S/o Late Mathura Thakur R/o village- Jaso, P.S.- Basopatti, Distt- Madhubani.
2. Rajan Pandey @ Rajan Kumar Pandey S/o Binod Pandey R/o village- Jaso, P.S.- Basopatti, Distt- Madhubani.
3. Rajendra Thakur S/o Yugeshwar Thakur R/o village- Jaso, P.S.- Basopatti, Distt- Madhubani.

... ... Petitioners

Versus

1. The State of Bihar
2. Vikash Kumar Das S/o Kishun Das R/o Village- Jaso, P.S.- Basopatti, Distt- Madhubani.

... ... Opposite Parties

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Acts/Sections/Rules:

- Sections 323, 341, 379, 324, 325,307, 504 and 506 read with Section 34 of the Indian Penal Code
- Sections 3(i)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
- Section 482 of CrPC

Cases referred:

- Madhavrao Jiwajirao Scindia Vs. Sambhajirao Chandrojirao Angre [(1988) 1 SCC 692]
- State of Haryana Vs. Bhajan Lal [1992 Suppl (1) SCC 335]
- Zandu Pharmaceutical Works Ltd. Vs. Mohd. Sharaful Haque [(2005) 1 SCC 122]
- State of Orissa Vs. Saroj Kumar Sahoo, [(2005) 13 SCC 540]
- Indian Oil Corpn. Vs. NEPC India Ltd., [(2006) 6 SCC 736]
- Rishipal Singh Vs. State of Uttar Pradesh and Another, (2014) 7 SCC 215

- Neeharika Infrastructure Private Limited Vs. State of Maharashtra and Others, (2021) 19 SCC 401
- Mahendra K.C. Vs. State of Karnataka and Another, (2022) 2 SCC 129
- State Vs. M. Maridoss and Another, (2023) 4 SCC 338
- State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222
- State of Maharashtra v. Ishwar Piraji Kalpatri, (1996) 1 SCC 542
- Vineet Kumar v. State of U.P., (2017) 13 SCC 369;
- State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522;
- State of Karnataka v. M. Devendrappa, (2002) 3 SCC 89
- Mahmood Ali and Ors. Vs. State of Uttar Pradesh and Ors., (2023) 15 SCC 488
- Shashikant Sharma Vs. State of U.P., 2023 SCC OnLine SC 1599
- Gorige Pentaiah Vs. State of A.P., (2008) 12 SCC 531
- Dinesh Vs. State of Rajasthan, (2006) 3 SCC 771, Hon'ble Supreme Court
- Khuman Singh Vs. State of M.P., (2020) 18 SCC 763
- Hitesh Verma Vs. State of Uttarakhand, [(2020) 10 SCC 710]
- Masumsha Hasanasha Musalman Vs. State of Maharashtra, (2000) 3 SCC 557
- Swaran Singh Vs. State, [(2008) 8 SCC 435]
- State of U.P. Vs. Naresh, [(2011) 4 SCC 324]
- Ashabai Machindra Adhagale Vs. State of Maharashtra, (2009) 3 SCC 789

Petition - filed for quashing the FIR registered against eleven accused persons including the petitioners herein for offence punishable under Sections 323, 341, 379, 324, 325,307, 504 and 506 read with Section 34 of the Indian Penal Code and Sections 3(i)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Held - If the allegation is taken at face value without going into its veracity, one can easily find that there is commission of offence punishable under Sections 323, 341, 379, 324, 325, 307, 504, 506 read with Section 34 of the Indian Penal Code. (Para 31)

To constitute an offence punishable under the SC and ST (POA) Act, 1989, there must be an allegation that the Accused belongs to other than Scheduled Caste or Scheduled Tribe Community and he has committed the offence against the Victim because he belongs to Scheduled Caste or Scheduled Tribe Community. The offence should have been also committed at a place in public view. Though the FIR is not an encyclopaedia to contain all the details of the alleged offence, the FIR read with the charge-sheet must contain all the ingredients of the alleged offence, failing which the criminal proceedings would be liable to be quashed. Similarly, in case of a criminal complaint, the complaint read with the statements of the complainant and his witnesses during enquiry under Section 200 CrPC must fulfil all the ingredients of the alleged offence, failing which continuance of the criminal proceeding would be abuse of the process of the court and miscarriage of justice.(Para 42)

Informant has been subjected to the offence on account of the informant being a harijan or a member of the scheduled caste with intent to humiliate him and this humiliation has taken place in public view of the co-villagers. Hence, in view of the aforesaid allegation, offence is prima facie made out under the SC/ST Act. (Para 43)

Even allegation of malafide or ulterior motive of the informant in lodging the impugned F.I.R. on account of inimical relationship between the informant and the accused side cannot help the petitioners at this initial stage. Only after investigation, the Court could be in position to examine such allegation of the accused/petitioners. Only previous litigation or inimical terms between the parties could not be sole ground for quashing the F.I.R. Investigation has to follow to unearth the truth regarding alleged cognizable offence. (Para 45)

Petition is dismissed. (Para 46)

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17102 of 2023

Arising Out of PS. Case No.-3 Year-2022 Thana- BASOPATTI District- Madhubani

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1. Kailash Thakur @ Kailash Bihari Thakur S/o Late Mathura Thakur R/o village- Jaso, P.S.- Basopatti, Distt- Madhubani.
2. Rajan Pandey @ Rajan Kumar Pandey S/o Binod Pandey R/o village- Jaso, P.S.- Basopatti, Distt- Madhubani.
3. Rajendra Thakur S/o Yugeshwar Thakur R/o village- Jaso, P.S.- Basopatti, Distt- Madhubani.

... ... Petitioners

Versus

1. The State of Bihar
2. Vikash Kumar Das S/o Kishun Das R/o Village- Jaso, P.S.- Basopatti, Distt- Madhubani.

... ... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Banwari Sharma, Advocate Mr. Sahjanand Sharma, Advocate
For the State	:	Mr. Rajendra Nath Jha, APP
For the Opposite Party No.2	:	Ms. Vagisha Pragya V. Advocate Ms. Ankita Roy, Advocate Mr. Binod Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

CAV JUDGMENT

Date : 07.01.2025

The present petition under Section 482 Cr.PC has been preferred for quashing the First Information Report of Basopatti P.S. Case No. 03 of 2022 registered on 03.01.2022 against eleven accused persons including the petitioners herein for offence punishable under Sections 323, 341, 379, 324, 325,307, 504 and 506 read with Section 34 of the Indian Penal Code and Sections 3(i)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The prosecution case as emerging from the written report of the informant is that on 29.12.2021 at 7:00 AM, he was taken by accused Binod Pandey for some labour work. As per his direction, the informant cut grass from his field. Thereafter the informant was asked to come at 1:00 P.M. for his labour charge and when the informant went to the accused Binod Pandey for labour charge, he was asked to clean his toilet and only then he would get his labour charge. But the informant refused to clean toilet. Then the accused Binod Pandey stated to him that he would not pay his labour charge because he has not cleaned the toilet despite being a *harijan*. Hot talk ensued between the two. In the meantime, Rajan Pandey, son of Binod Pandey came to him and started abusing him, using the word *Madhar Chod Harijan* and asking how he was daring to disobey the order of his father. He also threw the plate with leftover food, which he was carrying in his hand, on his face and he pushed him down. Both Binod Pandey and Rajan Pandey continued abusing him, using the word *harijan*. On hearing *hulla*, Bhogendra Mandal, Rajendra Mandal and others came there. After seeing these people, both the accused went back into their house. The informant returned to his home without getting labour charge.

3. It is further alleged that at 7 PM, accused Birendra Jha arrived at the house of Binod Pandey with arms in his hand and made unlawful assembly and proceeded towards the house of the informant with intent to commit loot. Accused Rishi Thakur was carrying iron rod, Abhay Thakur @ Chhotu and Rajendra Thakur were carrying lathi in their hands, Rakesh Thakur was carrying iron rod, Keshav Thakur was also carrying rod, Kailash Thakur was carrying lathi, Raju Thakur was carrying pistol and Mukesh Thakur was carrying lathi. They reached the house of the informant. Birendra Jha and Binod Pandey started loot-pat in his house. Birendra Jha also stated to him that despite being *harijan*, he was daring to disobey the order of Binod Pandey. He also stated that he would be forced to flee away from here that day. The informant protested against the entry of the accused persons into his house, whereupon accused Binod Pandey and Rakesh Kumr spit on his face and abused him and threatned that he had become arrogant and he would not be allowed to live. By that time, accused Sukmari Devi, Raj Kumari Devi, Bimla Devi, Malti Devi, Mandi Mandal, Yogendra Mandal also rushed to the place of occurrence and prohibited the accused persons from entering into the house of the informant. But, accused Binod Pandey,

Rajendra Thakur and Birendra Jha exhorted their men to assault these persons also, who had come to protect harizan, whereupon, accused Rajan Pandey assaulted Bimla Devi on her head. However, Bimla Devi escaped from the attack on head but sustained injury on her shoulder and her shoulder got broken. Sukmari Devi was assaulted by Rakesh Thakur by iron rod resulting into breaking of her hand. Rishi Thakur assaulted Sukmari Devi on her waist. Malti Devi was assaulted by Rajendra Thakur on her head. Binod Pandey assaulted the informant causing injury to him and Raj Kumari Devi was assaulted by Kailash Thakur and she was asked about the whereabouts of her husband Nage Mandal to kill him. But fortunately Nage Mandal was not at his home. Birendra Jha and Mangal were also displaying their pistols to cause fear in their mind. Due to *hulla*, many people also came there but seeing these persons, the accused persons fled away. While going, Binod Pandey also took away the box containing money and ornaments worth Rs.25,000/-. Thereafter, the injured persons were taken to Basopatti Primary Health Centre for their treatment. Some of them were grievously injured, hence they were referred to Madhubani, where they are getting treated. On account of such treatment, the informant had given the written

statement with some delay.

4. On the basis of the said written report, Basopatti P.S. Case No. 03 of 2022 was registered against eleven accused persons including the petitioners. Hence, being aggrieved by this F.I.R., the petitioners have preferred the present petition to quash the present F.I.R.

5. I heard learned counsel for the petitioners, learned Additional Public Prosecutor for the State and learned counsel for the Opposite Party No.2 (informant).

6. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated. He further submits that even going by the uncontroverted allegation made in the written report, no offence is made out against the petitioners. Hence, the F.I.R. is liable to be quashed against the petitioners to prevent the abuse of process of the Court and meet the ends of justice.

7. He further submits that the impugned F.I.R. Basopatti P.S. Case No. 03 of 2022 lodged by Vikash Kumar Das has been filed malafide with ulterior motive to wreak vengeance in view of Basopatti P.S. Case No. 02 of 2022 lodged by mother of the petitioner no.2 for offence punishable under Sections 323, 341, 379, 354(B), 307, 504, 506 read with Section

34 of the Indian Penal Code against the informant and other co-accused. Elaborating Basopatti P.S. Case No. 02 of 2022 learned counsel for the petitioners submits that one Nagendra Mandal was a candidate of Mukhiya in the Panchayat Election of 2021 and had lost the election, and on account of this he and his supporters Jitendra Thakur and Abhinay Thakur were extending threat to her husband to kill. On 29.12.2021 there was an election of Prakhand Pramukh and at 7 pm accused Nagendra Mandal, Sanjeev Kumar, Sukmari Devi, Binde Das, Vikash Das, Yogendra Mandal, Srimandal, Mahendra Mandal, Rajendra Mandal, Vinod Mandal, Medi Mandal, Jitendra Thakur and Abhinay Thakur came to the door of the informant celebrating the victory of their candidate in the election of the Prakhand Pramukh and Nagendra Mandal started abusing and on protest by the informant, altercation took place in which the offence was committed.

8. However, learned Additional Public Prosecutor for the State and learned counsel for the Opposite Party No.2/informant vehemently submit that as per the allegation made in the written report, all the ingredients of the alleged offence are made out. Hence, allegation of malafide made by the accused become secondary and police is duty bound to

investigate into the subject matter of the F.I.R. and hence, the F.I.R. cannot be quashed at this initial stage of prosecution. Learned counsel for the O.P. No.2 also submits that the case lodged by the accused persons vide Basopatti P.S. Case No. 02 of 2022 is false and fabricated and lodged with intent to save their skin from the present case. Moreover, the impugned F.I.R. and the F.I.R. lodged by the accused side are based on separate and distinct occurrence.

9. Before I proceed to consider the rival submissions of the parties, it would be pertinent to examine the scope and ambit of power of this Court under Section 482 of the CrPC with reference to quashing of F.I.R.

10. Section 482 CrPC saves inherent power of High Court and it reads as follows:-

> "482. **Saving of inherent powers of High Court.-** Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

11. In **Madhavrao Jiwajirao Scindia Vs. Sambhajirao Chandrojirao Angre, [(1988) 1 SCC 692],** Hon'ble three-Judge Bench of Supreme Court has held as follows in regard to quahsment of criminal proceedings under Section 482 CrPC:

> "7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."
>
> (Emphasis supplied)

12. State of Haryana Vs. Bhajan Lal [1992 Suppl (1) SCC 335], delivered by **Hon'ble Supreme Court** is celebrated judgement on the subject and still holding the field and consistently being followed by all Courts including the Apex Court. Here it has been held as follows:

> **"102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
>
> (1) Where the allegations made in the first

information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

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

103. We also give a note of caution to the effect

> that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."
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> (Emphasis supplied)

13. Hon'ble Supreme Court in **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Sharaful Haque [(2005) 1 SCC 122**] observed as follows:

> "8. … It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."
>
> (Emphasis supplied)

14. Hon'ble Supreme Court in **State of Orissa Vs. Saroj Kumar Sahoo, [(2005) 13 SCC 540]** explaining the ambit and scope of Section 482 CrPC observed as follows:

> **"8.** ………. While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section, though wide, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be

exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has the power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto."

(Emphasis supplied)

15. In **Indian Oil Corpn. Vs. NEPC India Ltd., [(2006) 6 SCC 736], Hon'ble Supreme Court** has observed as follows:

"12. .... The principles, relevant to our purpose are:
(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.
For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.
(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.
(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.
(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.
13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged…"

(Emphasis supplied)

16. In **Rishipal Singh Vs. State of Uttar Pradesh and Another, (2014) 7 SCC 215, Hon'ble Supreme Court** has observed as under:

"**13.** What emerges from the above judgments is that

> when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made in the complaint prima facie establish the case. The courts have to see whether the continuation of the complaint amounts to abuse of process of law and whether continuation of the criminal proceeding results in miscarriage of justice or when the court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the court can exercise the power under Section 482 CrPC. While exercising the power under the provision, the courts have to only look at the uncontroverted allegation in the complaint whether prima facie discloses an offence or not, but it should not convert itself to that of a trial court and dwell into the disputed questions of fact."
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> (Emphasis supplied)

17. In **Neeharika Infrastructure Private Limited Vs. State of Maharashtra and Others, (2021) 19 SCC 401, Hon'ble Supreme Court** has comprehensively dealt with the ambit and scope under Section 482 Cr.PC or under Article 226 of the Constitution of India regarding quashing the F.I.R./Complaint and has summarized the principles as follows:

> "**13.** From the aforesaid decisions of this Court, right from the decision of the Privy Council in *Khwaja Nazir Ahmad* [*King Emperor* v. *Khwaja Nazir Ahmad*, 1944 SCC OnLine PC 29: (1943-44) 71 IA 203: AIR 1945 PC 18], the following principles of law emerge:
>
> **13.1.** Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences.
>
> **13.2.** Courts would not thwart any investigation into the cognizable offences.
>
> **13.3.** However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.
>
> **13.4.** The power of quashing should be exercised sparingly with circumspection, in the "rarest of rare cases". (The rarest of rare cases standard in its application

for quashing under Section 482CrPC is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.)

13.5. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

13.6. Criminal proceedings ought not to be scuttled at the initial stage.

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the above of the process by Section 482CrPC

13.9. The functions of the judiciary and the police are complementary, not overlapping.

13.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

13.13. The power under Section 482CrPC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court.

13.14. However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly

> the parameters laid down by this Court in *R.P. Kapur* [*R.P. Kapur* v. *State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and *Bhajan Lal* [*State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , has the jurisdiction to quash the FIR/complaint.
>
> **13.15.** When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section 482CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."
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> (Emphasis supplied)

18. In **Mahendra K.C. Vs. State of Karnataka and Another, (2022) 2 SCC 129, Hon'ble Supreme Court** has observed as under:

> "**22.** Based on the above precedent, the High Court while exercising its power under Section 482 CrPC to quash the FIR instituted against the second respondent-accused should have applied the following two tests : (*i*) whether the allegations made in the complaint, prima facie constitute an offence; and (*ii*) whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint….."
>
> (Emphasis supplied)

19. In **State Vs. M. Maridoss and Another, (2023) 4 SCC 338, Hon'ble Supreme Court** has observed as under:

> "**8.** Even otherwise, it is a settled position of law that while exercising powers under Section 482CrPC, the High Court is not required to conduct the mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR prima facie disclose the commission of the cognizable offence or not.
>
> **11.** As per the settled position of law, it is the right conferred upon the investigating agency to conduct the investigation and reasonable time should be given to the

investigating agency to conduct the investigation unless it is found that the allegations in the FIR do not disclose any cognizable offence at all or the complaint is barred by any law."

(Emphasis supplied)

20. Hon'ble Supreme Court, on several occasions, has considered the allegation of malafide or ulterior motive behind lodging of F.I.R. or criminal complaint in the context of quashment of F.I.R. In this regard **Hon'ble Supreme Court** in **Bhajan Lal** case (supra) has already observed where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, High Court may invoke his inherent jurisdiction under Section 482 CrPC or writ jurisdiction under Article 226 of the Constitution to quash the criminal proceeding. It is also noteworthy that in **Bhajan Lal** case (supra) **Hon'ble Supreme Court** has refused to quash the F.I.R. despite the informant Dharam Pal being on inimical terms with the accused.

21. In **State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222, Hon'ble Supreme Court** had again occasion to consider the issue of malafide or ulterior motive and had held as follows:

"22. The question of mala fide exercise of power

> assumes significance only when the criminal prosecution is initiated on extraneous considerations and for an unauthorised purpose. There is no material whatsoever in this case to show that on the date when the FIR was lodged by R.K. Singh he was activated by bias or had any reason to act maliciously. The dominant purpose of registering the case against the respondents was to have an investigation done into the allegations contained in the FIR and in the event of there being sufficient material in support of the allegations to present the charge-sheet before the court. There is no material to show that the dominant object of registering the case was the character assassination of the respondents or to harass and humiliate them. This Court in *State of Bihar* v. *J.A.C. Saldhana* [(1980) 1 SCC 554] has held that when the information is lodged at the police station and an offence is registered, the mala fides of the informant would be of secondary importance. It is the material collected during the investigation which decides the fate of the accused person. This Court in *State of Haryana* v. *Ch. Bhajan Lal* [1992 Supp (1) SCC 335] permitted the State Government to hold investigation afresh against Ch. Bhajan Lal in spite of the fact that prosecution was lodged at the instance of Dharam Pal who was inimical towards Bhajan Lal."
>
> (Emphasis supplied)

22. In **State of Maharashtra v. Ishwar Piraji Kalpatri, (1996) 1 SCC 542, Hon'ble Supreme Court** had again occasion to consider the issue of malafide or ulterior motive and had held as follows:

> "22. In fact, the question of mala fides in a case like the present is not at all relevant. If the complaint which is made is correct and an offence had been committed which will have to be established in a court of law, it is of no consequence that the complainant was a person who was inimical or that he was guilty of mala fides. If the ingredients which establish the commission of the offence or misconduct exist then, the prosecution cannot fail merely because there was an animus of the complainant or the prosecution against the accused. Allegations of mala fides may be relevant while judging the correctness of the

> allegations or while examining the evidence. But the mere fact that the complainant is guilty of mala fides, would be no ground for quashing the prosecution. In the instant case, specific averments of facts have been made whereby it was alleged that the respondent had disproportionately large assets. Mala fide intention of the appellant in launching prosecution against the respondent with a view to punish him cannot be a reason for preventing the court of competent jurisdiction from examining the evidence which may be led before it, for coming to the conclusion whether an offence had been committed or not…..”
>
> (Emphasis supplied)

23. Similar view has been expressed by **Hon’ble Supreme Court** in the following judgments also**:**

(i) **Vineet Kumar v. State of U.P.,** (2017) 13 SCC 369;
(ii) **Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque,** (2005) 1 SCC 122;
(iii) **State of A.P. v. Golconda Linga Swamy,** (2004) 6 SCC 522;
(iv) **State of Karnataka v. M. Devendrappa,** (2002) 3 SCC 89.

24. In **Mahmood Ali and Ors. Vs. State of Uttar Pradesh and Ors.,** (2023) 15 SCC 488, **Hon’ ble Supreme Court** has observed as follows:

> **“**11. 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.
>
> 12. 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.

13. 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 482CrPC 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."

(Emphasis supplied)

25. Hence, it emerges from the statutory provisions and the case laws that the First Information Report can be quashed if the uncontoroverted allegation made in the F.I.R. or complaint do not disclose cognizable offence justifying an investigation by the police or where the allegations made in the FIR are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused or where there is an express legal bar engrafted in any of the

provisions of the Criminal Procedure Code or the concerned Act to the institution or continuance of the proceedings or where a criminal proceeding is manifestly attended with mala fide or an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

26. It also emerges that while exercising the power under Section 482 Cr.PC or under Article 226 of the Constitution, the Court does not function as a Court of Appeal or Revision. It further emerges that the F.I.R./Complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry, nor a meticulous analysis of the material, nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted, while examining prayer for quashment of a F.I.R. In other words, the Court is not required to conduct a mini trial.

27. It also emerges that the F.I.R. is not an encyclopedia containing all details and verbatim reproducing all the ingredients of the offence alleged. If the necessary factual foundation is laid in the F.I.R./complaint, merely on the ground that a few ingredients have not been stated in detail, the F.I.R. could not be quashed.

28. It also emerges that the power to quash the F.I.R.

cannot be used to stifle or scuttle a legitimate prosecution. The police has statutory duty and right to investigate the allgation of cognizable offence. It also emerges that the power under Section 482 Cr.PC and Article 226 of the Constitution should be used sparingly and with abundant caution.

29. It further emerges that when malafide or ulterior motive is alleged by the accused in institution of the F.I.R., Court is duty bound to look into it and if it is manifested from the material on record that F.I.R. has been lodged with malafide and ulterior motive to wreak vengeance and the allegation is frivolous and vexatious, the Court can quash the F.I.R. However, if, as per the uncontroverted allegation, there is disclosure of cognizable offence, the prosecution cannot be scuttled at the initial stage. The police has to be allowed to investigate the matter. The police has statutory right and duty to investigate into alleged cognizable offence and the allegation of malafide cannot be considered at the initial stage without clinching material on record. The allegation of malafide may be relevant while examining the evidence. But at the initial stage of F.I.R., prosecution cannot be scuttled only on account of allegation of malafide or ulterior motive. Mere previous litigations or inimical relationship between the informant and

the accused side could not be sole ground of quashing the F.I.R. Even in **Bhajan Lal** case (supra), **Hon'ble Apex Court** had declined to quash the F.I.R. despite the fact that the informant Dharam Pal had inimical terms with the accused Bhajan Lal.

3**0.** Now, the question for consideration of this Court is whether uncontroverted allegation made in the written report/F.I.R. constitutes cognizable offence and whether the F.I.R. is frivolous, vexatious and prompted by malafide and ulterior motive to wreak vengeance against the accused/petitioner.

31. I find that the F.I.R. has been registered for offence punishable under Sections 323, 341, 379, 324, 325,307, 504 and 506 read with Section 34 of the Indian Penal Code and Sections 3(i)(r)(s)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and if the allegation is taken at face value without going into its veracity, one can easily find that there is commission of offence punishable under Sections 323, 341, 379, 324, 325, 307, 504, 506 read with Section 34 of the Indian Penal Code.

32. However, before I consider whether the uncontroverted allegation made in the written report constitutes any offence under Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989, it would be imperative to refer to observation of Hon'ble Supreme Court made in this regard.

33. In **Shashikant Sharma Vs. State of U.P., 2023 SCC OnLine SC 1599**, **Hon'ble Supreme Court** has observed as follows:

> "**14.** From a bare perusal of the provision, it is crystal clear that for the above offence to be constituted, there must be an allegation that the accused not being a member of Scheduled Caste or Scheduled Tribe committed an offence under the IPC punishable for a term of 10 years or more against a member of the Scheduled Caste or Scheduled Tribe knowing that such person belongs to such 'community'."
>
> (Emphasis supplied)

34. In **Gorige Pentaiah Vs. State of A.P., (2008) 12 SCC 531, Hon'ble Supreme Court** has observed as follows:

> "6. In the instant case, the allegation of Respondent 3 in the entire complaint is that on 27-5-2004, the appellant abused them with the name of their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he (Respondent 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the appellant-accused was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate Respondent 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law."
>
> (Emphasis supplied)

35. In **Dinesh Vs. State of Rajasthan, (2006) 3 SCC 771, Hon'ble Supreme Court** has observed as follows:

> "15. Sine qua non for application of Section 3(2)(*v*) is that an offence must have been committed against a person on the ground that such person is a member of the Scheduled Castes or the Scheduled Tribes. In the instant case no evidence has been led to establish this requirement. It is not the case of the prosecution that the rape was committed on the victim since she was a member of a Scheduled Caste. In the absence of evidence to that effect, Section 3(2)(*v*) has no application. Had Section 3(2)(*v*) of the Atrocities Act been applicable then by operation of law, the sentence would have been imprisonment for life and fine."
>
> (Emphasis supplied)

36. In **Khuman Singh Vs. State of M.P., (2020) 18 SCC 763**, **Hon'ble Supreme Court** has held as follows:

> "14. ……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."
>
> (Emphasis supplied)

37. In **Hitesh Verma Vs. State of Uttarakhand, [(2020) 10 SCC 710]**, **Hon'ble Supreme Court** has held as follows:

> "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."
>
> (Emphasis supplied)

38. In **Masumsha Hasanasha Musalman Vs. State of Maharashtra, (2000) 3 SCC 557, Hon'ble Supreme Court** has observed as follows:

> "9. Section 3(2)(*v*) of the Act provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, commits any offence under the Penal Code, 1860 punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine. In the present case, there is no evidence at all to the effect that the appellant committed the offence alleged against him on the ground that the deceased is a member of a Scheduled Caste or a Scheduled Tribe. To attract the provisions of Section 3(2)(*v*) of the Act, the sine qua non is that the victim should be a person who belongs to a Scheduled Caste or a Scheduled Tribe and that the offence under the Penal Code, 1860 is committed against him on the basis that such a person belongs to a Scheduled Caste or a Scheduled Tribe. In the absence of such ingredients, no offence under Section 3(2)(*v*) of the Act arises. In that view of the matter, we think, both the trial court and the High Court missed the essence of this aspect. In these circumstances, the conviction under the aforesaid provision by the trial court as well as by the High Court ought to be set aside."
>
> (Emphasis supplied)

39. In **Swaran Singh Vs. State, [(2008) 8 SCC 435], Hon'ble Supreme Court** has observed as follows:

> "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 supplied)

40. In **State of U.P. Vs. Naresh, [(2011) 4 SCC 324], Hon'ble Supreme Court** has observed as follows:

> "32. It is a settled legal proposition that an FIR is not an encyclopaedia of the entire case. It may not and need not contain all the details ......"
>
> (Emphasis supplied)

41. In **Ashabai Machindra Adhagale Vs. State of Maharashtra, (2009) 3 SCC 789], Hon' ble Supreme Court** has observed as follows:

> "10. It needs no reiteration that the FIR is not expected to be an encyclopædia. As rightly contended by learned counsel for the appellant whether the accused belongs to Scheduled Caste or Scheduled Tribe can be gone into when the matter is being investigated. …………………..
>
> 12. After ascertaining the facts during the course of investigation it is open to the investigating officer to record that the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. After final opinion is formed, it is open to the court to either accept the same or take cognizance. Even if the charge-sheet is

filed at the time of consideration of the charge, it is open to the accused to bring to the notice of the court that the materials do not show that the accused does not belong to Scheduled Caste or Scheduled Tribe. Even if charge is framed at the time of trial materials can be placed to show that the accused either belongs or does not belong to Scheduled Caste or Scheduled Tribe."

(Emphasis supplied)

42. As such, it emerges that to constitute an offence punishable under the SC and ST (POA) Act, 1989, there must be an allegation that the Accused belongs to other than Scheduled Caste or Scheduled Tribe Community and he has committed the offence against the Victim because he belongs to Scheduled Caste or Scheduled Tribe Community. The offence should have been also committed at a place in public view. Though the FIR is not an encyclopedia to contain all the details of the alleged offence, the FIR read with the charge-sheet must contain all the ingredients of the alleged offence, failing which the criminal proceedings would be liable to be quashed. Similarly, in case of a criminal complaint, the complaint read with the statements of the complainant and his witnesses during enquiry under Section 200 CrPC must fulfill all the ingredients of the alleged offence, failing which continuance of the criminal proceeding would be abuse of the process of the court and miscarriage of justice.

43. Coming to the case on hand, I find that the

informant has been subjected to the offence on account of the informant being a harijan or a member of the scheduled caste with intent to humiliate him and this humiliation has taken place in public view of the co-villagers. Hence, in view of the aforesaid allegation, offence is *prima facie* made out under the SC/ST Act.

44. However, one may find that there is no direct allegation in the written report/F.I.R. that the accused persons/petitioners belong to other than Scheduled Castes and Scheduled Tribes communities. But if one reads between the lines, one finds that there is clear implication/indication as per the alleged facts and circumstances that the accused/petitioners belong to other than Scheduled Castes and Scheduled Tribes community. Here, it is also relevant to point out that the F.I.R. is not an encyclopedia containing all details of the allegation and it is open to the Investigating Officer to do investigation regarding the social status of the accused/petitioners and record whether they belong to other than Scheduled Castes and Scheduled Tribes community or not.

45. Even allegation of malafide or ulterior motive of the informant in lodging the impugned F.I.R. on account of inimical relationship between the informant and the accused

side cannot help the petitioners at this initial stage. Only after investigation, the Court could be in position to examine such allegation of the accused/petitioners. Only previous litigation or inimical terms between the parties could not be sole ground for quashing the F.I.R. Investigation has to follow to unearth the truth regarding alleged cognizable offence. It may be pointed out that Hon’ble Apex Court had refused to quash the F.I.R in Bhajan Lal Case (supra) despite the fact that the informant Dharampal was on inimical terms with the accused Bhajan Lal and had allowed fresh investigation.

46. Hence, in view of the aforesaid facts and circumstances, I find no merit in the present petition and, accordingly, it is dismissed.

(Jitendra Kumar, J.)

Chandan/S.Ali-

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