

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 18th January, 2022**
Pronounced on: 8th March, 2022

+ **W.P.(CRL) 2453/2021**

PURAN CHAND GUPTA & ORS. ... Petitioners
Through: **Mr. Vikas Bhatia, Advocate**

versus

THE STATE NCT OF DELHI & ANR. ... Respondents
Through: **Ms. Nandita Rao, ASC (CRL) for State.**
Ms. Jyoti Verma and Ms. Anjali,
Advocates for R-2 alongwith R-2.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") on behalf of the petitioners praying for quashing of FIR bearing no. 729/2021 registered on 1st September 2021 at Police Station Dabri, Delhi under sections 3(1)(r) and (3)(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "SC/ST Act").

FACTUAL MATRIX

2. As per the FIR, the prosecution story is as follows:

(a) The Complainant named Vipin Singh, S/O Phool Singh, R/O House no, D-69B, Gali No. 15, Bharat Vihar, Raja Puri, Uttam Nagar, New Delhi carries out the work of painting and tiling in homes. He received one order for tiling, in pursuance thereof he asked Anil Kumar (Petitioner No. 3) to engage his employee Jagan in the work of tiling for a total amount of Rs. 23,000/-.

(b) Upon the completion of the said work, the owner of the house expressed his dissatisfaction as the same was not properly done. Out of the total amount of Rs. 23,000/-, the Complainant gave Rs. 15,000/- to Jagan and assured him that he will receive the balance amount of Rs. 8,000/- within next two days. At this point, Jagan started arguing with the Complainant.

(c) Jagan subsequently complained about the same to Anil Kumar (Petitioner No. 3), following which on 13th September 2021 at about 6.00 pm, Anil Kumar along with Manish Sharma (Petitioner No. 2) and four other persons came, abused, and threatened the Complainant regarding the due amount.

(d) On 1st August 2021 at about 8.00 pm, the Complainant received a call from Puran Chand Gupta (Petitioner No. 1) who abused the complainant, thereafter Anil Kumar (Petitioner No. 3), Manish Sharma (Petitioner No. 2) and Puran Chand Gupta

(Petitioner No. 1) passed caste-based derogatory remarks "*Chamar Chuhar*", abused, and threatened the complainant.

(e) The Complainant made a complaint at the Police Station, Dabri, New Delhi in this regard, however, no FIR was registered. Later, the Complainant/Respondent no.2 made a written complaint to DCP, Dwarka on the basis of which, the FIR bearing no. 729/2021 was registered on 1st September 2021 at Police Station Dabri, New Delhi under sections 3(1)(r) and (3)(1)(s) of the SC/ST Act.

SUBMISSIONS

3. Learned counsel appearing on behalf of the Petitioners submitted that the Petitioners and Complainant/Respondent No. 2 are known to each other and are neighbours. It is submitted that due to some misunderstanding the quarrel took place between them, however, there was no intention to hurt the Respondent No. 2.

4. Learned counsel further submitted that in the present case, the Respondent No. 2 has amicably settled all his grievances/disputes and differences with the Petitioners vide compromise-cum-settlement deed dated 23rd November 2021 out of his free will and without any coercion.

5. While buttressing his arguments, learned counsel has also placed reliance on the judgment of Hon'ble Supreme Court passed in ***Ramawatar v. State of Madhya Pradesh (Criminal Appeal No. 1393 of 2011)*** dated 25th October 2021, which has been dealt with subsequently.

6. Learned counsel appearing on behalf of the Complainant/Respondent No. 2 stated that he has no objection whatsoever to the settlement deed, that the complainant has willfully entered into the said compromise and hence, the present FIR be quashed on the basis of the said compromise.

7. *Per Contra*, Ms. Nandita Rao, learned ASC appearing on behalf of the State vehemently opposed the instant writ petition and submitted that:

(a) the SC/ST Act is a special legislation passed to check and deter crimes against scheduled castes and scheduled tribes. The legislative intent to implement a specialized law has been to curb the incidents of indignities, humiliation and harassment meted out to the members of these communities.

(b) the present FIR is a classic case of mischief sought to be criminalized by this special statute, where accused persons tried to bully the Complainant/Contractor just on the basis of his caste.

(c) in the instant case, the Petitioners sought to terrorize and humiliate the Complainant over a petty sum of Rs. 8,000/- despite the fact that the work done by their employee was sub-standard and not to the satisfaction of the owner. Rather than resolving the matter as a business issue, the accused persons tried to bully and insult the Complainant/Contractor on the basis of his caste. Further, the present matter is still under investigation.

(d) the criminal offences of such grave nature cannot be compounded on the basis of settlement between the parties, otherwise if quashing is allowed on the basis of compromise, it would send a wrong message in the society.

(e) that the case of *Ramawatar (Supra)*, is on a different footing altogether wherein the civil dispute led to the altercation and the said judgment was passed by the Hon'ble Supreme Court in exercise of its powers under Article 142 of the Constitution, is distinguishable from the facts at hand and hence, not binding in the instant case.

ANALYSIS

8. Heard learned counsels appearing on behalf of parties at length and perused the record.

9. The petitioners by way of the instant writ petition have prayed that the FIR in question be quashed based on compromise and no other averments as to the merits of the case have been made. Thus, the task before the Court is limited to the extent of adjudicating that - whether in the facts of this case, the FIR and the criminal proceedings under the SC/ST Act can be quashed on the basis of compromise between the parties.

Section 320 and Quashing on the basis of Compromise

10. Before scrutinizing the facts of the present case and analyzing the powers exercisable by the High Court under Section 482 of Cr.P.C, it is

pertinent to refer to and analyze the mandate of Section 320 of the Cr.P.C.

“320. Compounding of offences.—

- (1) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table:...*
- (2) The offences punishable under the sections of the Indian Penal Code (45 of 1860) specified in the first two columns of the Table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that Table:...*
- (3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under section 34 or 149 of the Indian Penal Code (45 of 1860) may be compounded in like manner.*
- (4) (a) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to contract on his behalf may, with the permission of the Court, compound such offence.*

(b) When the person who would otherwise be competent to compound an offence under this section is dead, the legal representative, as defined in the Code of Civil

Procedure, 1908 (5 of 1908) of such person may, with the consent of the Court, compound such offence.

- (5) *When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.*
- (6) *A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.*
- (7) *No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence.*
- (8) *The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.*
- (9) *No offence shall be compounded except as provided by this section.”*

11. On a bare perusal of sub-Section (9) of Section 320 of Cr.P.C, it is evident that offences which are ‘non-compoundable’ cannot be compounded by a Criminal Court. Any such attempt by the Court would amount to alteration, addition, and modification of Section 320 of Cr.P.C, which is the exclusive domain of the legislature. However, the High Court, in exercise of its inherent powers under Section 482 of Cr.P.C., keeping in view the peculiar facts and circumstances of case and for

justifiable reasons, can quash the criminal proceedings to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The question as to whether and when a non-compoundable offence can be treated as compoundable, has been extensively deliberated by the Judiciary in judgments, few of which have been discussed in the following paragraphs.

13. In ***B.S. Joshi v. State of Haryana*, (2003) 4 SCC 675**, a question as to whether the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint for offences which are not compoundable under Section 320 of Cr.P.C was raised for the consideration of the Court. It was held that the exercise of extra-ordinary powers under Section 482 of the Cr.P.C. would depend on the facts and circumstances of each case and can be exercised with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice.

14. The decisions in ***Nikhil Merchant v. CBI* (2008) 9 SCC, 677**, ***Manoj Sharma v. State* (2008) 16 SCC 1** and ***B.S Joshi v. State of Haryana* (Supra)** were referred to a larger Bench of the Hon'ble Supreme Court in the case of ***Gian Singh v. State of Punjab* (2012) 10 SSC 303**, wherein the Hon'ble Court held as under:

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is

materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction.”

15. The Hon’ble Supreme Court in paragraph 61 of **Gian Singh vs. State of Punjab (Supra)** has carved out an exception by observing that:

“61...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”.

16. The compendium of these broad fundamentals has been recapitulated by another 3-Judge Bench of the Hon’ble Supreme Court in the case of **State of Madhya Pradesh v. Laxmi Narayan & Ors. (2019) 5 SCC 688** elaborating as follows:

“(1) That the power conferred under Section 482 of the Code to quash the criminal proceeding for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

(2) Such power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. Such offences are not private in nature and have a serious impact on society;

(3) Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

xxx

(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

17. The aforementioned ruling has subsequently been reiterated in ***Ramgopal & Anr v. The State of Madhya Pradesh and Others, 2021 (4) RCR (CRIMINAL) 322*** in the following words:

“We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences compoundable within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused

persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

18. Thus, what emerges from the aforesaid discussion is that Section 320 does not limit or affect the powers under Section 482 and the High Court in exercise of its inherent powers can quash criminal proceedings only in appropriate cases in the interest of justice, in line with the guidelines laid down in the aforesaid judgments, and not as a matter of routine in all cases.

Scope of Section 482 *qua* Quashing

19. The petitioners have invoked the power of the Court under Section 482 of the Cr.P.C., therefore, it is appropriate to refer to the said provision and the extent of powers that are exercisable under the same vis-à-vis quashing. The provision reads as under:

"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."

20. The bare language of the provision unambiguously states that the inherent powers of the High Court are meant to be exercised:

- (i) to give effect to any order under the Code; or
- (ii) to prevent abuse of the process of any Court; or
- (iii) to secure the ends of justice.

21. The aforementioned provision has been referred to, analysed and interpreted in a catena of judgments of the Hon'ble Supreme Court, few of which are referred to in the following paragraphs.

22. A seven-Judge Bench in the case of ***P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578*** laid down the principles for exercise of the power under Section 482 Cr.P.C. in a case where the Court was convinced that such exercise was necessary in order to prevent abuse of the process of any Court or to secure the ends of justice. The Hon'ble Supreme Court observed:

*“21. ... In appropriate cases, inherent power of the High Court, under Section 482 can be invoked to make such orders, as may be necessary, to give effect to any order under the Code of Criminal Procedure or to prevent abuse of the process of any court, or otherwise, to secure the ends of justice. The power is wide and, if judiciously and consciously exercised, can take care of almost all the situations where interference by the High Court becomes necessary on account of delay in proceedings or for any other reason amounting to oppression or harassment in any trial, inquiry or proceedings. In appropriate cases, the High Courts have exercised their jurisdiction under Section 482 CrPC for quashing of first information report and investigation, and terminating criminal proceedings if the case of abuse of process of law was clearly made out. Such power can certainly be exercised on a case being made out of breach of fundamental right conferred by Article 21 of the Constitution. The Constitution Bench in ***A.R. Antulay*** case referred to such power, vesting in the High Court (vide paras 62 and 65 of its judgment) and held that it was clear that even apart from Article 21, the courts can take care of undue or inordinate delays in criminal matters or proceedings if they remain pending for too long and putting an end, by making appropriate*

orders, to further proceedings when they are found to be oppressive and unwarranted.”

23. In the case of **Kaptan Singh v. State of U.P.**, (2021) 9 SCC 35, the Hon’ble Supreme Court has held that:

9.2 In the case of Dhruvaram Murlidhar Sonar (Supra) after considering the decisions of this Court in Bhajan Lal (Supra), it is held by this Court that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is further observed that inherent jurisdiction under Section 482 Cr.P.C. though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Similar view has been expressed by this Court in the case of Arvind Khanna (Supra), Managipet (Supra) and in the case of XYZ (Supra), referred to hereinabove.

24. In **Jitul Jantilal Kotecha v. State of Gujarat and Others**, 2021 SCC OnLine SC 1045, the Hon’ble Supreme Court has recently held that:

“27. It is trite law that the High Court must exercise its inherent powers under Section 482 sparingly and with circumspection. In the decision in Jugesh Sehgal v. Shamsher Singh Gogi, this Court has held that, “[t]he inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice.” In Simrikhia v. Dolley Mukherjee, this Court in another context, while holding that the High Court cannot exercise its inherent powers to review its earlier decision in view of Section 362 of the CrPC, observed that the inherent powers of the High Court cannot be invoked to sidestep statutory provisions. This Court held:

“5. ... Section 482 enables the High Court to make such order as may be necessary to give effect to any

order under the Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice. The inherent powers, however, as much are controlled by principle and precedent as are its express powers by statute. If a matter is covered by an express letter of law, the court cannot give a go-by to the statutory provisions and instead evolve a new provision in the garb of inherent jurisdiction.”

XXX

31. Recently, in **Mahendra KC v. State of Karnataka**, this Court has reiterated the well settled test to be applied by the High Court for exercise of its powers under Section 482 for quashing an FIR:

“16... the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, prima facie establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of trial.”

25. The Hon’ble Supreme Court while deciding the case of **State of Orissa v. Pratima Mohanty**, 2021 SCC OnLine SC 1222 on 11th December 2021, has comprehensively dealt with the powers exercisable and extent of the jurisdiction of the High Court while deciding a petition under Section 482 of the Cr.P.C. The Hon’ble Supreme Court has held as under:

*“6. As held by this Court in the case of **State of Haryana and Ors. vs Ch. Bhajan Lal and Ors.** AIR 1992 SC 604, the powers under Section 482 Cr.P.C. could be exercised either to prevent an abuse of process of any court and/or otherwise to secure the*

*ends of justice. In the said decision this Court had carved out the exceptions to the general rule that normally in exercise of powers under Section 482 Cr.P.C. the criminal proceedings/FIR should not be quashed. Exceptions to the above general rule are carved out in para 102 in **Bhajan Lal** (*supra*) which reads as under:*

“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 channelized 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.”

6.2 It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 Cr.P.C. when after a thorough

investigation the chargesheet has been filed. At the stage of discharge and/or considering the application under Section 482 Cr.P.C. the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court.”

26. In ***Jaswant Singh v. State of Punjab and Another***, 2021 SCC OnLine SC 1007, the Hon’ble Supreme Court has held as under:

“15. The power under Section 482 Cr.P.C. is to be exercised to prevent the abuse of process of any Court and also to secure the ends of justice. This Court, time and again, has laid emphasis that inherent powers should be exercised in a given and deserving case where the Court is satisfied that exercise of such power would either prevent abuse of such power or such exercise would result in securing the ends of justice...”

27. The position of law that is crystallised, in light of the aforementioned judgments, is that quashing should be an exception and the Section 482 jurisdiction for the same should be exercised sparingly, with circumspection and in rarest of the rare cases.

28. Further, while examining an FIR for quashing under Section 482, the Court:

- (a) cannot enter into the merits of the case, or
- (b) cannot embark upon a roving enquiry, or
- (c) cannot conduct a trial as to the reliability or genuineness of allegations made in the FIR, or

(d) cannot see the probability of conviction on the basis of evidence on record.

Hence, what is required to be seen is whether there has been an abuse of process or that the interest of justice requires the proceedings to be quashed.

29. In the instant case, quashing has been prayed for on the basis of compromise. In the said compromise, the factum of the incident alleged to have transpired, based on which the instant FIR has been registered, has not been contested. Rather it has been admitted that a quarrel had ensued between the parties that led to the institution of the instant proceedings. Considering the same, there is no requirement of entering into the merits of the case. Hence, the question of any abuse of process does not arise.

Legislative Intent Underlying the SC/ST Act

30. Since, quashing of the FIR wherein the offence has been stated to be committed under Section 3(1)(r) and (3)(1)(s) of the SC/ST Act is in question, it is pertinent to refer to the legislative intent behind the said legislation. The intent can be gauged from the Statement of Objects and Reasons of the Act, which is mentioned hereunder:

“Statement of Objects and Reasons.—Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been

deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons.

2. Because of the awareness created amongst the Scheduled Castes and the Scheduled Tribes through spread of education, etc. they are trying to assert their rights and this is not being taken very kindly by the others. When they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and the Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Castes persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and the Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes. Under the circumstances, the existing laws like the Protection of Civil Rights Act, 1955 and the normal provisions of the Penal Code, 1860 have been found to be inadequate to check these crimes. A special legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary.”

31. The legislative intent has also been referred to by the Hon’ble Supreme Court in the case of **Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710**, wherein the Hon’ble Court held as under:

“10. The Act was enacted to improve the social economic conditions of the vulnerable sections of the society as they have

been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment and commit the offence as defined under Section 3 of the Act. The Act is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.”

32. The long title of the Act makes it evident that the Act is intended to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes communities to provide for Special Courts and Exclusive Special Courts for the trial of such offences and for ensuring relief and rehabilitation of the victims of such offences. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied their civil rights. Thus, an offence under the Act would be made out whenever a member of the vulnerable section of the society is subjected to indignities, humiliations, and harassment.

33. The founding fathers of the Constitution were conscious of the harsh realities of the society and the discrimination that the members of the Scheduled Castes and the Scheduled Tribes have been subjected to. At the time of independence, the lofty ideals of liberty, equality and fraternity were just utopian principles that were although guaranteed by law, but not present on ground. It was for the welfare of the downtrodden and vulnerable that the ameliorative and remedial measures were brought in to ensure that their civil rights are protected and equality in principle is adopted in practice.

34. One of the objectives of the Preamble of Constitution is “fraternity assuring the dignity of the individual and the unity and integrity of the nation”. The Preamble did not originally contain the expression “fraternity” rather it was subsequently inserted by the Drafting Committee. It is relevant to refer to the explanation given by Dr. Bhimrao Ramji Ambedkar for the word “fraternity” wherein he stated that “fraternity means a sense of common brotherhood of all Indians”. In a country like ours with the vivid diversity and the plethora of fault lines, it is necessary to emphasise and re-emphasize that the unity and integrity of India can be preserved only by a spirit of brotherhood.

35. As stated by the Hon’ble Supreme Court in ***Prathvi Raj Chauhan v. Union of India, (2020) 4 SCC 727***, to achieve this ideal of fraternity, three provisions namely - Articles 15, 17 and 24 were included in the Constitution of India. Despite these provisions being in place, the founding fathers of the Constitution expected the Legislature to enact effective measures to root out the caste-based discrimination in the society. First attempt by the Parliament to achieve that end was the enactment of the Untouchability (Offences) Act, 1955 wherein the burden of proof was fixed on the accused and not on the prosecution. Next came the Protection of Civil Rights Act, 1955, that made provisions for outlawing and penalising the social practices associated with untouchability and disabilities. Subsequently, it was felt that the 1955 Act (which was amended in 1976) did not provide for sufficient deterrence to the caste-based discriminatory practices against the Scheduled Castes and Scheduled Tribes communities.

36. Finally, to plug in the loophole, and to ensure the rights which the Constitution has guaranteed to the people, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted to prevent the commission of atrocities against members of Scheduled Castes and Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences. The Act has also for the first time laid down an expansive definition of “atrocities” to cover the multiple manners through which the members of Scheduled Castes and Scheduled Tribes have been humiliated, oppressed and downtrodden for centuries.

37. In light of the aforesaid, it is important to reiterate that unless the provisions of the Act are enforced in their true letter and spirit, and the legislative intent underlying the Act is manifested, the vision of a society free of caste-based discrimination will only remain a distant dream.

Principles as Enunciated in **Ramawatar v. State of Madhya Pradesh**

38. Learned counsel for the petitioner has extensively placed reliance on the judgment of the Hon’ble Supreme Court in **Ramawatar (Supra)**, and hence it is crucial to analyze the same at length.

39. The Hon’ble Supreme Court while deciding the said Appeal was faced with two questions, *first* whether the jurisdiction of the Hon’ble Supreme Court under Article 142 of the Constitution can be invoked for quashing of criminal proceedings arising out of a non-compoundable offence; and if the answer to the first question is in affirmative, *second*

whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act.

40. In response to the first question, the Hon'ble Supreme Court reiterated the finding of ***Ramgopal & Anr v. The State of Madhya Pradesh (Criminal Appeal No. 1489 of 2012)*** dated 29th September 2021, and while holding that Section 320 of Cr.P.C. cannot be construed as a bar on invocation of the inherent powers vested in the Court also held that the touchstone for exercise of the extra-ordinary powers under the inherent jurisdiction would be to do complete justice. The Hon'ble Supreme Court reiterated the note of caution, that the Court must take into consideration while exercising the powers under the provisions, and held:

*“11. The Court in **Ramgopal (Supra)** further postulated that criminal proceedings involving non-heinous offences or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level. The Court, however, being conscious of the fact that unscrupulous offenders may attempt to escape their criminal liabilities by securing a compromise through brute force, threats, bribes, or other such unethical and illegal means, cautioned that in cases where a settlement is struck post-conviction, the Courts should, inter-alia, carefully examine the fashion in which the compromise has been arrived at, as well as, the conduct of the accused before and after the incident in question. While concluding, the Court also formulated certain guidelines and held:*

19... Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the

conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

41. As regards the second question the Hon’ble Supreme Court in the said judgment has observed as under:

“15. 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 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.

xxx

18. 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.”

42. The Hon’ble Supreme Court in the said judgment as regards the second question further held that:

“16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C. is held that whether has held that though offenses under the SC/ST Act can be quashed if the offence is primarily private or civil in nature, however, before quashing, the Court must be satisfied that the victim has not been put under pressure to enter into the settlement.

XXX

19. Having considered the peculiar facts and circumstances of the present case in light of the aforestated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us....”

CONCLUSION

43. Upon a detailed deliberation on the question of quashing of criminal proceedings in offences under the SC/ST Act and in light of the judgments discussed hereinabove, the following principles emerge:

- (i) While dealing with the quashing of the criminal proceedings under the SC/ST Act, the Court should be extremely circumspect in its approach and cognizant of the legislative intent of the said Act.
- (ii) In cases involving the offences under special legislations like the SC/ST Act, while considering the quashing of criminal proceedings, the social discrimination that prevails and the vulnerability of the weaker sections of the society as being prone to coercion, the Court should be more vigilant to ensure that the victim has entered into the compromise on one's own volition and free will and not on account of any duress. If, while considering the same, there is an iota of apprehension of compulsion or coercion, no relief can be given to the accused. The factors to determine the volition/free consent of the victim would depend on the facts and circumstances and would vary from case to case.
- (iii) Upon the aforesaid analysis, in the opinion of the Court, it is found that:

first, if the offence although covered under the SC/ST Act is primarily private or civil in nature; or,
second, where the offence has not been committed on account of the caste of the victim; or,
third, where the continuation of the legal proceedings would be an abuse of process of law; and,
fourth, if the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished,
then the mere fact that the offence is covered under a ‘special statute’ would not be a bar on the exercise of the inherent jurisdiction, and the Court can exercise its powers to quash the proceedings.

44. This Court has perused, analyzed, and meditated upon the case at hand, the case laws and principles of law referred above and specifically the judgment of the Hon’ble Supreme Court in ***Ramawatar (Supra)***. What emerges is that when dealing with offences arising out of special statutes such as the SC/ST Act, the Court should be extremely circumspect in exercising its extraordinary jurisdiction to quash the criminal proceedings.

45. In the ***Ramawatar’s case (Supra)***, there was a pre-existing property dispute between the parties which led to the conflict and the said turn of events which led to the initiation of criminal proceedings under SC/ST Act. However, in the instant case the root of conflict was a paltry

sum not being paid by the complainant and the petitioners abused and threatened the complainant on his caste lines.

46. Further, in light of the peculiar facts and circumstances of the *Ramawatar's case (Supra)*, the powers were exercised by the Hon'ble Supreme Court under Article 142 to quash the criminal proceedings with the sole objective of doing complete justice between the parties before it. However, in this case there is neither any cogent reason nor any travesty of justice being caused or any abuse of process that needs to be prevented thus warranting the exercise of the inherent jurisdiction of this Court.

47. In the instant case, what appears is that the humiliation of the Victim/Complainant was totally unprovoked, uncalled for, with the sole intention of humiliating the victim for a petty sum of money. The offence in the instant case was preceded by a criminal intent of humiliating the victim on the basis of his caste and has been committed solely and consciously on account of the caste of the victim.

48. Furthermore, having regard to the legislative intent underlying the SC/ST Act to deter the acts of indignity, humiliation, and harassment against members of the Schedule Caste and Schedule Tribes, and the facts in the instant case, the compromise does not indicate the settlement of any civil dispute and the possibility of the Complainant being coerced to enter into the compromise cannot be ruled out. There is no rationale as to why the continuation of the legal proceedings would be an abuse of process of law.

49. Therefore, the offence in the instant case being not of a predominantly civil nature and being committed solely on the basis of caste of victim, the rigors of SC/ST Act being a Special statute, enacted with a specific noble legislative intent that must be given effect in its letter and spirit, cannot be diluted by quashing the FIR in question on the basis of compromise. Thus, in the instant case, a case for exercise of extraordinary jurisdiction under Section 482 of the Code of Criminal Procedure is not made out.

50. In light of the aforesaid reasons, the petition being devoid of merits is accordingly dismissed. Pending application, if any, stands disposed of.

51. It is made clear that the observations made herein while dismissing the instant writ petition shall have no bearing whatsoever on the merits of the case during trial.

52. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

March 8, 2022
@j/@k