

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 2599 of 2023

Professor Bidyut Chakraborty and Ors.

Versus

The State of West Bengal & Anr.

For the Petitioners	:	Mr. Rajdeep Mazumder, Ld. Sr. Adv. Mr. Moyukh Mukherjee, Adv. Mr. Pritam Roy, Adv. Ms. Sagnika Banerjee, Adv. Ms. Aishwarya Bazaz, Adv.
For the Opposite Party No. 2	:	Mr. Subhamoy Bhattacharya, Adv. Mr. Shankar Mukherjee, Adv.
For the State	:	Mr. Ranabir Roy Chowdhury, Adv. Mr. Sandip Chakraborty, Adv.
Heard on	:	26.02.2025
Judgment on	:	30.04.2025

Ajay Kumar Gupta, J:

1. This instant Criminal Revisional application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC') by the three petitioners praying for quashing of the proceedings being Shantiniketan Police Station Case No. 89/2023 dated 05.07.2023 under Section 500 of the Indian Penal Code read with Sections 3(1)(r)(u)(p)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 now pending before the Learned Additional District Judge, 1st Court, Suri, Birbhum.

FACTS OF THE CASE:

2. The background facts, leading to filing of this Criminal Revisional application, are as under: -

2a. Petitioner no. 1 was the Vice-Chancellor, Visva Bharati University (hereinafter referred to as 'the said University') on the date of lodging FIR. He was an acclaimed academic who has been appointed as the Vice-Chancellor of the said University by the Hon'ble President of India in terms of the "Visva Bharati Act, 1951".

2b. The Petitioner no. 2 is in-charge of Public Relation Officer at the said University as well as is an Associate Professor at the

said University and petitioner no. 3 is holding the post of the Deputy Registrar at the said University. The petitioners have blemish free standing in the society which was/is attempted to being malevolently tarnished at the behest of the opposite party no. 2

2c. A written complaint was lodged by the opposite party no. 2 against the petitioners herein alleging, *inter alia*, as under: -

1. *On 16.01.2023, an application for the higher post of Controller of Examination at the Central University of Odisha was forwarded by Visva-Bharati with a no-objection letter dated 30.01.2023.*

2. *Opposite party no. 2 was selected for the said post and then submitted a release request on 24.02.2023 to the Registrar (Acting) but received no response despite several reminders.*

3. *The Registrar (Acting), under Vice-Chancellor Prof. Bidyut Chakrabarty's instructions, issued letters on 28.03.2023, 31.03.2023, and 18.04.2023 containing baseless allegations, which were refuted by the opposite party no. 2 in replies on 06.04.2023, 12.04.2023, and*

27.04.2023. The University's failure to dispute the refutations implies acceptance.

4. The letters from the University appear to be retaliatory, based on discriminatory and malicious intent against SC/ST communities, as opposite party no. 2 belongs to such communities.

5. On 21.05.2023, a complaint was filed with the National Commission for Scheduled Castes regarding discrimination and harassment by the Visva-Bharati administration.

6. On 14.06.2023, a Press Release issued by the In-charge PRO, at the behest of Prof. Bidyut Chakrabarty, falsely linked the opposite party no. 2 to financial defalcation, a claim not supported by the audit report.

7. The Press Release contained false allegations not substantiated by the Inspection Report, aimed at justifying the unlawful hindrance in his release, driven by discriminatory motives.

8. On 26.06.2023, during a meeting, Prof. Bidyut Chakrabarty verbally abused the opposite

party no. 2 for his complaint to the National Commission, identified officers from reserved categories in derogatory terms, and barred them from his office and phone contact.

2d. On the basis of aforesaid written complaint, a Shantiniketan Police Station Case No. 89/2023 dated 05.07.2023 under Section 500 of the Indian Penal Code read with Sections 3(1)(r)(u)(p)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been registered against the petitioners herein and initiated investigation.

2e. Whereas, the contention of the petitioners is that the written complaint was lodged and registered on 05.07.2023 although the last date of incident mentioned in the written complaint is 26.06.2023 with no satisfactory explanation for the significant delay. As such, whatever allegations made against the petitioners are afterthought to ensure the false implication of the petitioners as well as for the sole purpose of shielding himself in an illegal manner to prevent the actual state of affairs to transpire with regard to the financial irregularity being committed by the opposite party no. 2.

2f. A CAG report highlights the mode, manner and extent of financial irregularity committed by the opposite party no. 2.

Notably, as the individual retained lien to his original post as Accounts Officer at Visva Bharati while simultaneously holding the post of Finance Officer at IGN Tribal University, Amarkantak, Madhya Pradesh where he was eventually suspended for financial misconduct.

2g. The Ministry of Human Resource Development issued a direction to the former Vice-Chancellor, Visva Bharati not to allow the opposite party no. 2 to rejoin Visva Bharati without obtaining vigilance clearance from IGN Tribal University. Additionally, the opposite party no. 2 was erroneously designated as Joint Registrar with high grade pay of Rs. 8,700/- after completion of five years as Accounts Officer which is a promotional scheme applicable only for Deputy Registrar.

2h. Subsequently, the opposite party no. 2 reverted back to his original post of Accounts Officer with grade pay of Rs. 7,600/-. It is concerning that the opposite party no. 2 withdrew an arrear of Rs. 5 Lakhs for the post of Joint Registrar at a higher grade pay of Rs. 8,700/-. Multiple correspondences have been exchanged between the parties regarding the issues.

2i. The opposite party no. 2, on the self-same cause of action, also informed the National Commission for Schedule Caste and the

said University also participated at the said proceeding. Furthermore, in the light of various false reports published in various local media in respect of the facts of the instant case, the said University is compelled to clarify its stand through a press release.

2j. It is further contention of the petitioners that the FIR filed against them is riddle with contradictions, lacks faucal basis, and is fundamentally flawed. The allegations are unfounded, baseless and fabricated as the opposite party no. 2 has failed to establish any grounds for criminal proceedings. Such baseless and frivolous FIR and charge sheet thereof are needed to be quashed at the earliest to prevent gross abuse of process of law. Hence, this application.

SUBMISSION ON BEHALF OF THE PETITIONERS:

3. Mr. Mazumder, learned senior counsel along with others representing the petitioners, argued that the allegations made by the opposite party no. 2 do not fulfil the required elements for offences under Sections 500/120B/34 of the IPC and Section 3(1)(r)(p)(s) of the SC/ST (Prevention of Atrocities) Act, 1989. The complaint fails to specify the offences committed by the petitioners or their individual roles, and thus, lacks the necessary particulars

to sustain the charges. This case exemplifies a clear attempt to initiate proceedings with the sole purpose of tarnishing the petitioners' reputation and harassing them, revealing the mala fide intentions of the opposite party no. 2. Therefore, both the FIR and the charge sheet should be quashed, as they are based on frivolous and baseless allegations, to prevent the petitioners from suffering unjust harm.

3a. The petitioners complied with the notice under Section 41A of the CrPC issued during the investigation and were not arrested due to the protections granted by this Court, which were extended to them from time to time.

3b. It was further submitted that the written complaint was lodged with a significant delay. The complaint indicated the last incident occurred on 26.06.2023, yet the FIR was registered on 05.07.2023, and the delay has not been satisfactorily explained. This unexplained delay renders the proceedings vitiated, as it fails to meet the necessary legal requirements for the timely institution of criminal proceedings.

3c. The opposite party no. 2 invoked provisions of a stringent statute, which is evident from his attempt to use them as a tool for harassing the petitioners. This clearly demonstrates his personal

vendetta and malicious intent in initiating a false case against the petitioners.

3d. The opposite party no. 2 was involved in financial irregularities at Visva-Bharati University. A complaint was filed in August 2022, and the university issued a notice in March 2023. The opposite party no. 2 contested the claims, but the university clarified an overpayment issue. Disciplinary proceedings were initiated, leading to a charge sheet and the revocation of his release order. His denial of the NOC for the Central University of Odisha appointment was directly linked to these irregularities. This sequence shows his actions were retaliatory and intended to harm the petitioners.

3e. Financial irregularities were also discovered in relation to three other individuals—Gouranga Dutta, Progalanka Bhikku, and Amit Sengupta. An Enquiry Committee investigated their involvement and submitted an adverse report. Despite their direct role in the misconduct, these individuals have been included as witnesses in the current case, raising serious concerns about the integrity of their testimonies. Their involvement as witnesses, despite being implicated in the irregularities, suggests a coordinated attempt to intimidate and harass the petitioners,

underscoring their personal interests in supporting the opposite party no. 2.

3f. It was further added that another false and frivolous case was instituted against the petitioner no. 1 being Santiniketan Police Station Case No. 112 of 2020 dated August 01, 2020, under Sections 341/323/325/392/506/34 of the Indian Penal Code, 1860. Being aggrieved from the initiation of such mala fide proceedings, the petitioner no. 1 had approached the Hon'ble High Court at Calcutta by filing Criminal Revisional application being CRR 1338 of 2020. The matter was taken up for hearing several times and finally, vide order dated 05.03.2024, the Co-ordinate Bench of this Court observed as follows:

“Accordingly, as none of the ingredients required to constitute the offences alleged are even prima facie present, permitting the proceedings to continue would clearly amount to an abuse of the process of the Court.

The materials on record herein clearly do not make out a prima facie case under Sections 341/323/325/392/506/34 of the Indian Penal Code against the accused/petitioner as alleged and there are no materials in this case for proceeding against the accused/petitioner towards trial and this is a fit case where the inherent power of the court should be exercised.”

3g. The complaint filed by the opposite party no. 2 is devoid of merits and does not meet the essential conditions required to prosecute a person under Sections 500/1208/34 of the Indian Penal Code read with 3(1)(r)(p)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 as the petitioner merely stated the petitioners committed offence as alleged. The mala-fide and malicious intent of the opposite party no. 2 is clearly reflected from the mere perusal of the mode and manner in which the instant case was malevolently given a shape and colour of criminal proceedings.

3h. To bolster his contentions learned senior counsel has placed reliance of the several judgments as follows:

- i. Swaran Singh & Ors. Vs. State through Standing Counsel & Ors.*¹;
- ii. R.P. Kapur Vs. State of Punjab*²;
- iii. State of Haryana and Ors. Vs. Bhajan Lal & Ors.*³;
- iv. Salib alias Shalu alias Salim Vs. State of UP and Ors.*⁴;
- v. Haji Iqbal alias Bala through S.P.O.A. Vs. State of UP and Ors.*⁵;

¹ (2008) 8 SCC 435;

² AIR 1960 SC 866;

³ 1992 Supp(1) SCC 335;

⁴ 2023 SCC OnLine SC 947;

⁵ 2023 SCC OnLine SC 948;

*vi. Abhishek Vs. State of MP*⁶;

*vii. Rajiv Thapar & Ors. Vs. Madan Lal Kapoor*⁷;

*viii. Hitesh Verma Vs. State of Uttarakhand and Anr.*⁸;

*ix. Ramesh Chandra Vaishya Vs. The State of UP & Anr.*⁹;

*x. Ravinder Singh Vs. Sukhbir Singh and Ors.*¹⁰.

SUBMISSION ON BEHALF OF THE OPPOSITE PARTY NO. 2:

4. The petitioners' request for quashing the proceedings is opposed, as the allegations made against Opposite Party No. 2 are frivolous, stemming from a personal grudge of Petitioner No. 1. Despite applying for the post of Controller of Examination at the Central University of Odisha on 16.01.2023, his application was forwarded with no-objection by Visva-Bharati, confirming no disciplinary proceedings against him. He was selected for the post, which is a statutory position higher than Joint Registrar, with a tenure of five years or until age 62. He requested a lien on his current post for two years, but was denied due to false allegations of financial irregularities, which he denies.

⁶ 2023 LiveLaw (SC) 731;

⁷ 2013 (3) SCC 330;

⁸ (2020) 10 SCC 710;

⁹ 2023 SCC OnLine SC 628;

¹⁰ JT 2013 (1) SC 515.

4a. Opposite Party No. 2 made repeated requests for release with lien, but the Registrar (Acting) did not respond, instead issuing false allegations against him on 28/31.03.2023, 31.03.2023, and 18.04.2023, which were unrelated to his application for release.

4b. These baseless allegations were retaliatory and discriminatory due to Opposite Party No. 2's SC status, leading him to lodge a complaint with the National Commission for Scheduled Castes regarding discrimination, harassment, and denial of career opportunities.

4c. Following this, the National Commission issued summons to the university administration, leading to a hearing on 12.06.2023 as the matter was subjudiced before the National Commission. In response, the university issued a press release on 14.06.2023, maligning Opposite Party No. 2 with false claims of financial defalcation to undermine his career progression, insult and humiliation before the general public.

4d. The allegations of financial defalcation were false, and the real motive behind the press release was to harm Opposite Party No. 2's career due to his SC status. The National Commission, in

its order dated 20.06.2023, directed the university to release him with lien, confirming no wrongdoing on his part.

4e. On 26.06.2023, during a meeting, the Vice Chancellor of Visva-Bharati publicly humiliated Opposite Party No. 2 and other officers from reserved categories, making derogatory remarks and restricting their communication with him either in office or in phone, which caused irreparable damage to his reputation.

4f. These actions were malicious, resulting in a violation of the SC and ST Act, and caused significant personal and professional harm to Opposite Party No. 2.

4g. Despite these actions, the investigation has gathered sufficient prima facie evidence against the petitioners and established prima facie case under Section 500 of the Indian Penal Code read with Sections 3(1)(r)(p)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, and, therefore, a charge being charge sheet No. 101/2023 dated 29.08.2023 under Sections 500/120B/34 IPC read with Section 3(1)(r)(p)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 was filed. Therefore, the petitioners' application seeking for quashing of the proceedings should be dismissed.

4h. Learned counsel also has placed reliance of the same judgments referred by the petitioners to support of his contention that the petitioners intentionally insults with intent to humiliate a member of a schedule caste in a place within public view. Those judgments are as follows:-

*i. Swaran Singh & Ors. Vs. State through Standing Counsel & Ors.*¹¹;

*ii. R.P. Kapur Vs. State of Punjab*¹²;

*iii. State of Haryana and Ors. Vs. Bhajan Lal & Ors.*¹³;

SUBMISSION ON BEHALF OF THE STATE:

5. Learned Advocate appearing on behalf of the State argued and supported the submission made on behalf of the opposite party no. 2. Moreover, in course of investigation sufficient materials were found and collected against the Petitioners herein. It has been established prima facie case against the petitioners for commission of offence alleged by the Opposite party no.2. Therefore, application deserved to be dismissed and the proceeding is allowed to be continued to uncover the actual truth.

¹¹ (2008) 8 SCC 435;

¹² AIR 1960 SC 866;

¹³ 1992 Supp(1) SCC 335;

DISCUSSIONS AND ANALYSIS BY THIS COURT:

6. Heard the arguments advanced by the rival parties and submissions made therein, this Court finds some important questions arise for consideration are as under: -

1. Whether press release by the accused persons damaged the opposite party no. 2's career, future prospect, his service (career progression), financial damage, damage to his reputation, mental injury, agony and defamed etc. and thereby committed offence punishable u/s 500/120B/34 of the IPC?

2. Whether calling the opposite party no. 2 and his colleagues that they are belongs to reserved categories by saying 'you are SC', 'you are OBC', 'you are ST' etc and further petitioner no. 1 ordered that no SC, ST or OBC Categories officers would be allowed to enter inside his office chamber in future and those categories officers would not make any mobile call to him constitute prima facie case under Section

3(1)(r)(p)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989?

3. Whether allegations made against the petitioners do not constitute offence or fulfilled the ingredient of the alleged offences and thereby liable to be quashed to prevent from abuse of process of law and/or to secure ends of justice?

7. Before dealing/entering into the arguments advanced by the parties and for proper adjudication of this case, it would be appropriate and convenience to refer the important sections/provisions as follows:

Section 500 of IPC reads as under: -

“S. 500. Punishment for defamation. -Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Section 499 of IPC reads as under: -

S. 499. Defamation- Whoever, by words, either spoken or intended to be read, or by signs or by visible representations, makes or publishes any

imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1. —It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2. —It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3. —An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4. —No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

*First Exception. —**Imputation of truth which public good requires to be made or published.** —*

It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

*Second Exception. —**Public conduct of public servants.** —It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.*

*Third Exception. —**Conduct of any person touching any public question.** —It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.*

*Fourth Exception. —**Publication of reports of proceedings of courts.** —It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.*

Explanation. —A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

*Fifth Exception. —***Merits of case decided in Court or conduct of witnesses and others concerned.** *—*

It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

*Sixth Exception. —***Merits of public performance.** *—*

It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation. —A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

*Seventh Exception. —***Censure passed in good faith by person having lawful authority over another.**

—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in

good faith any censure on the conduct of that other in matters to which such lawful authority relates.

*Eighth Exception. —***Accusation preferred in good faith to authorised person.** *—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.*

*Ninth Exception. —***Imputation made in good faith by person for protection of his or other's interests.** *—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.*

*Tenth Exception. —***Caution intended for good of person to whom conveyed or for public good.***—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.”*

Section 120B of IPC reads as under: -

“120B. Punishment of criminal conspiracy. --(1)

Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.”

Section 34 of IPC reads as under: -

“S. 34. Acts done by several persons in furtherance of common intention. —*When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.”*

Section 3(1)(r)(p)(s) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 reads as under: -

“3. Punishments for offences atrocities. — 3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, —

(p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;”

8. Upon bare perusal of aforesaid provisions, it reveals Section 499 of the Indian Penal Code defines the term ‘Defamation’. The punishment for Defamation has been laid in Section 500 of Indian Penal Code. In order to make out an offence punishable under Section 500 of the IPC, defamation must be proved by showing that a person through words either spoken or intended to be read or by signs or by visible representations, makes or publishes any

imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of that person is said to defame subject to some exception mentioned in Section 499 of the Indian Penal Code.

9. In the present case, it was an admitted fact that a complaint was lodged by the opposite party no. 2 before the National Commission for Scheduled Castes alleging interalia, for his discrimination, harassment and denying of opportunity of working on higher position by the Visva-Bharati administration under the leadership of Prof. Bidyut Chakrabarty, Vice-chancellor, Visva-Bharati, in collusion with other officers.

10. The allegations against the Petitioner no. 1 and the Visva-Bharati administration were under inquiry and investigation by the National Commission of Scheduled castes.

11. On the basis of said complaint, the National Commission for Scheduled Castes issued summons to the Secretary, Ministry of Education, Govt. of India, Prof. Bidyut Chakrabarty, Vice-Chancellor, Visva-Bharati, and the Registrar (Acting), Visva Bharati asking them for personal appearance on 09.06.2023 at the Commission's Head Quarters at New Delhi. The hearing was taken place on 12.06.2023 at the Commission's Head Quarters at New

Delhi. All of them as well as the opposite party no. 2 attended the hearing. Due to hearing fixed by National Commission's Head Quarters at New Delhi, on 14.06.2023 some local newspaper published news on summoning of Prof. Bidyut Chakraborty, Vice Chancellor. The said facts of complaining and hearing date fixed are not denied by the parties.

12. On the same date i.e. on 14.06.2023 in the afternoon, to counter the above-mentioned news items, Dr. Mahua Banerjee, In-charge, PRO, issued a Press Release and reason best known to them. They also shared and circulated the press release in a WhatsApp group of press reporters.

13. The press release contained the name and designation of the opposite party no. 2 and mentioned him as complainant before the National Commission for Scheduled Castes and it is fact that the Press Release also indicated certain Audit objections which came in the inspection report. The press release further stated that, *'Since the objections involved financial defalcation, the university is extra-careful given university's ignominious record in regard to financial irregularities but not to stop one of employees' career progression as is alleged in the complaint by Mr. Prashant Meshram. The readers' attention is drawn to the Audit objection in the Inspection Report to show why the decision was taken in regard to*

Mr. Prashant Meshram although he was formally released with the note that the nature of leave - lien or deputation will be intimated to him immediately as it is decided by the university (University order of 21.04 and 15.05)'.

14. According to the contention of the accused/petitioners, the University issued press release only to clarify the stands of the university and not to insult, humiliate and harm the opposite party no. 2's reputation. However, this court unable to convince with the contention of the petitioners. The press release on guise of audit report towards financial irregularities was not at all necessary. Financial irregularities, whatsoever, are the internal matter of the university. Opposite party no.2 has denied the allegations. All these matters or disputes were between the Opposite Party No.2 and the University and those internal issues should not have been published without final conclusions. The issuance of the press release appears to have been driven by a malicious intent only to defame and discredit opposite party no. 2 by explicitly naming him and referring to the position he held, while also citing the university's decisions—all with prima facie the objective of tarnishing his reputation. Such actions were undertaken with full knowledge or at the very least with sufficient reason to believe, that these imputations would cause reputational harm. Any allegations

pertaining to financial irregularities are currently sub judice and ought to be adjudicated exclusively by the competent authority upon a thorough examination of the evidence and material placed before it, rather than being prematurely and prejudicially disclosed entire facts through public statements.

15. In addition, what prompted the University to issue the press release when the matter is pending before the National Commission for Scheduled Castes with regards to allegation of discrimination, harassment and denying of opportunity of working on higher position by the Visva-Bharati administration under the leadership of Prof. Bidyut Chakrabarty, Vice-chancellor, Visva-Bharati, in collusion with other officers. Allegation of financial defalcation naming the Opposite party No.2 in general public without any final conclusion, prima facie it appears that it is the act of Defamation. Moreover, it was not essential to bring those facts in public domain because the matter was/is under consideration of the authority or authorities.

16. Some other allegations are alleged against the opposite party no. 2 but those disputes or allegations are within the scope of inquiry by the University.

17. So far as the allegations against the Petitioners/accused persons for commission of offence under Sections 3(1)(r)(p)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 are concerned, this Court finds the opposite party no. 2 alleged that a meeting held on 26.06.2023 at 11.30 am at the Central Conference Hall of the said University. All the Joint Registrars, Deputy Registrars, Assistant Registrars and Other senior officers of the University including opposite party no. 2 were invited.

1) In course of meeting, the officers attending the meeting experienced worst ever humiliation in their service tenure at Visva-Bharati.

2) Prof. Bidyut Chakrabarty first abused the opposite party no. 2 for filing a complaint to the National Commission for Scheduled Castes and uttered abusive remarks, on his protest. He did not allow him to speak on his abuses.

3) He identified all the officers belonging to reserved categories by saying 'you are SC', 'you are OBC', 'you are ST' etc. and then directed his Confidential Secretary not to allow any of the officers of these categories in his office.

4) He also instructed the officers of the reserved categories not to call him on phone”.

18. In course of investigation, the Investigating officer recorded statements of the witnesses under Section 161 of the CrPC. The witnesses on similar gamut stated that the Petitioner no. 1 abused the opposite party no. 2 openly by mentioning his caste. He further humiliated opposite party no. 2 by mentioning his caste repeatedly and did not give any scope to speak anything to him even repeated request. Moreover, petitioner no. 1 ordered that no SC, ST or OBC Categories officers would be allowed to enter inside his office chamber in future and those categories officers would not make any mobile call to him. The opposite party no. 2 got mental pain, humiliation, disrespect and insult due to such abuse and misconduct caused by the petitioner no. 1 in presence of other officers.

19. A Statement was also recorded under Section 164 of the CrPC of one vital witness, who was present in the meeting. He stated in his statement as under:

“On 26th June, 2023 a meeting was called for discussing of releasing of DR. Prashant Meshram, opposite party no. 2 for joining the higher post of Controller of Examinations in Central University of

Odisha. A few days before the meeting, Petitioners and few others of the University were summoned by the Schedule Caste commission, where the University was directed to release Dr. Meshram within one week. Petitioner no.1 was upset regarding that matter and strongly criticized the Opposite Party no. 2 for taking the issue to the Schedule Caste commission, when Opposite party no. 2 tried to clarify himself, he was not allowed to do so for at least two occasions. Officers' belongings to reserve categories were asked not to visit the Petitioner no.1 Vice-Chancellor and also not to call him on phone. They were advised to call or contact the confidential Secretary to the Vice-Chancellor, if needed. As such Opposite party no.2 was visibly hurt by and upset due to such happening in the meeting".

20. Upon careful perusal of both the statements recorded under Sections 161 and 164 of CrPC, it reveals the Petitioner no. 1 abused the opposite party no. 2 openly by mentioning his caste. He further humiliated opposite party no. 2 by mentioning his caste repeatedly and did not give any scope to speak anything to him even repeated request. Moreover, petitioner no. 1 ordered that no SC, ST or OBC Categories officers would be allowed to enter in future inside his office chamber and those categories officers would not make any mobile call to him. Though calling a person belongs

to SC, ST or OBC may not be an offence but it would prima facie appears that the ingredients are fulfilled to constitute offence under section 3(1)(r)(p)(s) of the schedule castes and scheduled tribe (POA) Act, 1989, when petitioner no. 1 ordered that no SC, ST or OBC Categories officers would be allowed to enter inside his office chamber in future and those categories officers would not make any mobile call to him in presence of other officers, More so, the place where meeting held was also public place and it was within the view of public as place was owned by the Government and not by a private persons or private bodies. The aforesaid view taken by this Court in view of the proposition as laid down by the Hon'ble Supreme Court in ***Swaran Singh (supra)*** wherein the Hon'ble Supreme Court held 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.

21. Utterance a person's belonging SC, ST or OBC Categories officers would not be allowed inside his office chamber and those categories officers would not make any mobile call to him from the date of meeting in the Central Conference Hall by the petitioner no. 1 being administrative and academic head in presence of other

Registrars and other officers really prima facie constitute offence under Section 3(1)(r)(p)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 therefore, petitioners are requiring to face the trial. Trial is necessary to uncover the truth.

22. In ***Hitesh Verma V. State of Uttarakhand and Another***¹⁴, the Hon'ble Supreme Court held in Paragraphs Nos. 12, 13 and 14 as under: -

12. *The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as “(1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (2) in any place within public view”.*

13. *The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section*

¹⁴ (2020) 10 SCC 710

of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.

14. *Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is*

stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below:

“Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”].

The Court held as under : (SCC pp. 443-44, para 28)

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private

place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

(emphasis in original)

23. In *Ramesh Chandra Vaishya v. The State of Uttar Pradesh & Anr.*¹⁵, the Hon’ble Supreme Court held in paragraph no. 18 as under: -

“18. ... *The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract Section 3(1)(x) unless such words are laced with casteist remarks. Since Section 18 of the SC/ST Act bars*

¹⁵ 2023 SCC OnLine SC 668

invocation of the court's jurisdiction under Section 438 CrPC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under Section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the FIR (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge-sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognizance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21-1-2016 does not make out any case of an offence having been committed by the appellant under Section 3(1)(x) warranting him to stand a trial.”

24. In *Ravinder Singh V. Sukhbir Singh and Ors.*¹⁶, the Hon’ble Supreme Court held in paragraph no. 11 as under:-

11. *To invoke the provisions of the 1989 Act, it is not enough that the complainant belongs to a Scheduled Caste or Scheduled Tribe, as it must*

¹⁶ (2013) 9 SCC 245

further be established that the alleged offence was committed with the intention to cause harm to the person belonging to such category. Moreover, the term false, malicious and vexatious proceedings must be understood in a strictly legal sense and hence, intention (mens rea), to cause harm to a person belonging to such category must definitely be established.....”

25. In the light of above discussion and judgments passed by the Hon’ble Courts, this Court finds the Central Conference Hall of the University within the four walls of the building of the University is considered to be a public place because it was/is a venue for conferences and owned by the Government. The meeting was attended by senior officers including the Joint Registrars, Deputy Registrars, Assistant Registrars of the University including opposite party no. 2 and some other officers. The meeting was held on 26.06.2023 at 11.30 am. In the said meeting, the petitioner no. 1 abused opposite party no. 2 and further made a statement that officers from SC, ST or OBC Categories would not be allowed to enter inside his office chamber and those categories officers would not make any mobile call to him from the date of meeting though member of SC, ST or OBC categories are the employees of the said university. This statement was directly specified to the opposite

party no. 2. At the time of utterance, other officers of the university were very much present as public witness or hear the utterance made by the accused to the victim. If the alleged offence takes place in the Central Conference Hall of the said university, then it can be said that it has taken place in public place within the view of public. Therefore, such utterance prima facie constitutes an offence under Section 3(1)(r)(p)(s) of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989. Intention of the accused persons are also prima facie established to humiliate or insult by asking SC, ST or OBC Categories officers would not be allowed to enter inside office chamber and those categories officers would not make any mobile call to petitioner no. 1 from the date of meeting. Such restrictions based on specific caste identity, and the act takes place in a public view.

26. It was the case of the Opposite Party No. 2 that the accused persons had specifically targeted him since he belongs to Schedule Caste and, accordingly, humiliated him by withholding his release order to join in his newly appointed post Controller of Examination at the Central University of Odisha. An FIR was registered against the Petitioners for offences under Section 500 of the Indian Penal Code read with Sections 3(1)(r)(u)(p)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 Earlier, also a

complaint was made against Bidyut Chakrabarty. The said case was, however, quashed by the Hon'ble Single Bench of this High Court in CRR No. 1338 of 2020.

27. The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as :1) intentionally insulting or intimidating with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) The act taking place within public view”.

28. In the present case, it was an accepted fact that the scene of action happened inside the four walls of the Central Conference Hall of the University in presence of some official members of the University, the actions would satisfy the first and the second conditions of Section 3(1)(r) of the Act.

29. I have also gone through the number of authorities cited by the Learned Counsel for the Petitioners. Like serial number 1 to 7 mentioned above are mostly dealt with the power of the High Court under Section 482 of the CrPC and when it applicable. It is settled position of law that the Power of the High Court under Section 482 of CrPC is wide to protect and secure the ends of justice and also to prevent from abuse of process of law but here the petitioners failed to establish their case in positive. At this stage, this Court

cannot embark upon a roving trial as to the reliability, genuineness or otherwise correctness of the allegations made in the FIR and materials collected during the investigation by the investigating officer. Hence, the application has devoid of merits.

30. Accordingly, **C.R.R. 2599 of 2023** is, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.

31. Interim order, if any, stands vacated.

32. Case Diary, if any, is also returned to the learned counsel appearing on behalf of the State.

33. Let a copy of this judgment and order be sent to the Learned Court below for information and taking necessary action.

34. Parties shall act on the server copies of this Judgment uploaded on the website of this Court.

35. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)