

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE UDAY KUMAR

CRR 2301 OF 2022

**IDEL SK @ GABA SK AND ANOTHER
-VS-
STATE OF WEST BENGAL & ANR.**

For the Petitioner : *Mr. Swapan Kumar Mallick,
Mr. M. H. Chowdhury*

For the State : *Ms. Anasuya Sinha, Ld. APP
Mr. Prakash Mishra*

For the de facto Complainant : *Mr. Sujan Chatterjee
Mr. Rohan Bavishi*

Hearing concluded on : *23.02.2026*

Judgment on : *06.04.2026*

UDAY KUMAR, J.: –

INTRODUCTION

1. The inherent jurisdiction of this Court, enshrined under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) read with Article 227 of the Constitution of India, is invoked to test the structural and substantive integrity of a criminal prosecution initiated under Sections 447, 379, 506, and 34 of the Indian

Penal Code, 1860, alongside the stringent provisions of Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In this context, the petitioners seek the quashing of proceedings in Special (A) Case No. 02 of 2021 (arising out of Rampurhat P.S. Case No. 365/2021), currently pending before the Learned Judge, Special Court under Atrocities Act, 1st Court, Suri, Birbhum.

2. The fundamental inquiry before this Court is whether the criminal machinery was set in motion to redress a genuine social atrocity, or whether it has been strategically deployed as a "criminal veneer" to settle a commercial score arising from a fractured family dynamic. The petitioners, describing themselves as reputable timber merchants, characterize this prosecution as a "gross abuse of the process of law," asserting that its continuation would result in a manifest miscarriage of justice.

THE FACTUAL MATRIX

3. The genesis of this prosecution lies in a petition moved under Section 156(3) of the Cr.P.C. before the Learned ACJM, Rampurhat, on January 22, 2021. The narrative of the de-facto complainant, Surjamin Soren (Opposite Party No. 2), reveals a deep-seated dispute over a plot of land inherited from her late husband. It is alleged that between October 9 and October 11, 2020, the petitioners, in collusion with the complainant's

nephew, co-accused Alphen Murmu (a Civic Volunteer), forcefully entered the complainant's garden to fell and remove approximately 1,000 trees of significant height (ranging from 4 ft. to 30 ft.), valued at nearly ₹6,00,000.

4. To attract the stringent provisions of the Special Act, the complainant further alleged that during this operation, when the complainant and her daughters protested, they were subjected to caste-based vitriol: "*Tui Santhal achis, tui choto jaat... toke amra mere fele debo*" (You are a Santhal, a low caste... we will kill you). This allegation serves as the foundation for invoking the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Notably, the FIR also reveals an allegation of administrative influence, claiming that the co-accused, Alphen Murmu, utilized his status as a "Civic Volunteer" to facilitate the illegal felling under the purported orders of the local police.
5. This factual landscape is starkly contested by the petitioners, whose grievances have compelled them to seek this Court's intervention. They maintain that they are *bona fide* purchasers for value who dealt with Alphen Murmu under the impression that he possessed the absolute authority to sell the trees. They argue that they have been "roped in" solely to provide a criminal edge to an otherwise civil claim for sale proceeds, caught in the crossfire of an internecine feud between an aunt and her nephew. Furthermore, the petitioners highlight a significant

hiatus, an unexplained delay of nearly seven months from the court complaint and over a year from the alleged incident, suggesting that the narrative of "criminality" was a crafted afterthought manufactured to extract money.

QUESTIONS FOR DETERMINATION

6. Having scanned the records with clinical precision and mulled over the rival contentions, this Court is left to determine the following pivotal questions:

- I. Whether the failure to support the initial Section 156(3) petition with a mandatory affidavit—as mandated by the Hon'ble Supreme Court in *Priyanka Srivastava And Another v. State of U.P. And Others* —renders the entire subsequent proceeding, including the registration of the FIR and the resulting Charge Sheet, jurisdictionally fatal and liable to be quashed?
- II. Whether the alleged act of felling 1,000 trees in an open garden—an operation of such magnitude—satisfies the "public view" requirement under Section 3 of the SC/ST Act, or whether the private nature of the land provides a statutory shield to the accused as contemplated in the *Hitesh Verma* ratio?
- III. Whether the present dispute is predominantly a civil or commercial disagreement regarding sale proceeds and

property title, strategically "dressed up" in the garb of a criminal prosecution to exert undue leverage on reputable businessmen?

IV. Whether the unexplained delay of over one year in setting the criminal law in motion, coupled with the lack of independent public witnesses at a private place of occurrence, makes the prosecution story "manifestly improbable" and "vaguely crafted," warranting the exercise of the Court's extraordinary power under Section 482 Cr.P.C.?

SUBMISSIONS ON BEHALF OF THE APPELLANTS

(PETITIONERS)

7. Mr. Swapan Kumar Mallick, learned Counsel appearing for the petitioners, has mounted a multi-pronged challenge against the continuation of the impugned proceedings. The primary thrust of his argument is that the prosecution is not only "procedurally stillborn" but also substantively hollow, designed as a tool of coercion rather than a search for justice.
8. Mr. Mallick vehemently argued that the very foundation of the FIR is legally unsustainable. He pointed out that the petition under Section 156(3) of the Cr.P.C. was filed in blatant disregard of the mandatory safeguards established by the Hon'ble Supreme Court in *Priyanka Srivastava And Another v.*

State of U.P. And Others (2015) 6 SCC 287. The petition was neither supported by the mandatory affidavit nor preceded by documented compliance with Section 154(1) and 154(3). He submitted that this "judicial filter" is a condition precedent; its omission renders the Learned Magistrate's direction to register an FIR an act *coram non judice*, making the entire subsequent investigative superstructure void *ab initio*.

9. Turning to the charges under the Atrocities Act, Mr. Mallick placed heavy reliance on the ratio in *Hitesh Verma v. State of Uttarakhand (2020) 10 SCC 710*. He contended that the alleged abuse, even if taken at face value, purportedly occurred within the private garden of the complainant, a location shielded from the visual and auditory access of the general public. Mr. Mallick, argued that a private orchard or "bagan" is an extension of the private enclave of a home. In the absence of any independent public witnesses at the time of the alleged occurrence, the essential ingredient of the insult being in a "place within public view" is missing, thus making the invocation of Section 3 of the SC/ST Act a manifest "over-reach."

10. Mr. Mallick further underscored that the root of the controversy is a failed timber transaction. The petitioners are reputable businessmen who acted as *bona fide* purchasers for value, having paid approximately ₹6,00,000 to the co-accused, Alphen Murmu, under a commercial arrangement. He argued that the

complainant is strategically using the criminal court as a "weapon of coercion" to resolve a family title dispute and extract money from the petitioners. Relying on the principles laid down in *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335, he submitted that where a criminal proceeding is manifestly attended with *mala fides* for wreaking vengeance, the Court must exercise its inherent power to stifle such an oppressive prosecution.

11. Finally, Mr. Mallick highlights the "crafted" nature of the narrative by pointing to the abnormal delay. The alleged incident took place in October 2020, yet the judicial machinery was only approached in 2021, with the FIR eventually being registered in August 2021. This gap of nearly a year, without any plausible explanation in the four corners of the complaint, suggests that the story of caste-based slurs and forceful dispossession was "crafted and manufactured" as an afterthought to provide a criminal edge to a civil grievance. It is submitted that allowing such a "vaguely crafted" prosecution to continue would be to permit a travesty of justice against law-abiding citizens.

***SUBMISSIONS ON BEHALF OF THE STATE (OPPOSITE
PARTY NO. 1)***

12. In a firm rebuttal of the petitioners' contentions, Ms. Anasuya Sinha, Learned A.P.P. appearing for the State, submitted that the Case Diary (C.D.) produced before this Court contains overwhelming *prima facie* evidence that precludes any summary quashing of the proceedings.
13. She submitted that the investigation, led by the Sub-Divisional Police Officer (SDPO), Rampurhat, has moved beyond mere allegations. Ms. Sinha highlighted the statements of witnesses recorded under Section 161 of the Cr.P.C., which corroborate the unauthorized entry into the complainant's land and the subsequent felling of approximately 1,000 trees. She underlined that once the Investigating Agency has found sufficient material to submit a Charge Sheet (No. 553/2021), the Court should not interfere with the statutory process of trial.
14. Relying on the authoritative pronouncements in *Dineshbhai Chandubhai Patel v. State of Gujarat (2018) 3 SCC 104* and *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (2021) SCC OnLine SC 315* she argued that the High Court, in its revisional jurisdiction, is not a forum for a "mini-trial." It is submitted that the veracity of the petitioners' claim—that they were *bona fide* purchasers, is a matter of evidence that must be

tested during cross-examination. The State emphasized that at this stage, the Court must only satisfy itself that the ingredients of the alleged offences (Theft, Trespass, and Atrocity) are disclosed in the Charge Sheet, which they clearly are.

***SUBMISSIONS ON BEHALF OF THE DE-FACTO
COMPLAINANT (OPPOSITE PARTY NO. 2)***

15. Mr. Sujan Chatterjee, Learned Counsel appearing for the de-facto complainant (Opposite Party No. 2), has vehemently resisted the prayer for quashing, asserting that the present revisional application is a strategic attempt to stifle a legitimate prosecution at the threshold.
16. In addressing the petitioners' reliance on the *Hitesh Verma* ratio, Mr. Chatterjee submitted that a "private garden" cannot serve as a sanctuary for caste-based abuse when the act is performed in a manner visible and audible to the public. It is argued that the felling of approximately 1,000 trees—a massive, three-day logging operation involving a fleet of laborers and heavy transport vehicles—is an inherently open-air and visible activity. Relying on the authoritative pronouncement in *Swaran Singh v. State (2008) 8 SCC 435*, he contended that the "public view" requirement of Section 3 of the SC/ST Act is fully satisfied, as the operation of such a magnitude invited public

attention and the derogatory slurs were audible to independent witnesses in the vicinity.

17. Mr. Chatterjee further submitted that the petitioners, being influential local businessmen, utilized the co-accused, Alphen Murmu, who held the status of a "Civic Volunteer," to facilitate this illegal dispossession. Counsel for the complainant alleged that this administrative status was weaponized to intimidate the complainant and create a false impression of official sanction for the illegal felling. The complainant asserts that the specific caste-based vitriol, "*Tui Santhal achis, tui choto jaat,*" was intentionally deployed to humiliate her and her daughter in their own neighborhood and to establish social dominance over their ancestral property.

18. Addressing the petitioners' contention regarding the delay in setting the criminal law in motion, Mr. Chatterjee submitted that the complainant is a member of a marginalized community (Santhal) who faced systemic hurdles, fear of reprisal, and initial police inaction due to the petitioners' local "heavyweight" status. It is argued that in cases involving Scheduled Tribes, a delay is often a direct consequence of the social power imbalance and should not be used as a ground to doubt a narrative that has since been substantiated by an independent investigation and the filing of a Charge Sheet.

19. Mr. Chatterjee concluded by submitting that the petitioners' defense of being "bona fide purchasers" is a matter for the Trial Court. Relying on *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (supra)*, he argued that the High Court should not exercise its extraordinary power to quash when the Charge Sheet discloses *prima facie* ingredients of theft, trespass, and social atrocity. To stifle the trial at this stage would, he submitted, result in a manifest failure of justice and would frustrate the benevolent objects of the Special Act, which aims to protect vulnerable sections of society from such high-handed dispossession and humiliation.

DISCUSSION AND FINDINGS

20. Having scanned the records with clinical precision and mulled over the rival contentions, I now proceed to address the foundational challenge raised by the petitioners. The adjudication of this revision requires a delicate balancing act: on one hand, the Court must protect citizens from oppressive and "crafted" prosecutions; on the other, it must ensure that the benevolent objects of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act are not frustrated by a hyper-technical approach.

21. The discourse must necessarily begin with the jurisdictional attack on the very inception of the criminal machinery. It is the

specific contention of the petitioners that the petition moved under Section 156(3) of the Code of Criminal Procedure was "procedurally stillborn," as it lacked the mandatory "judicial filter" of a supporting affidavit.

22. In addressing this contention, I have considered the authoritative and landmark pronouncement of the Hon'ble Supreme Court in *Priyanka Srivastava And Another v. State of U.P. And Others (supra)*. In that decision, the Apex Court expressed grave concern over the rampant abuse of Section 156(3) as a tool for settling personal scores and exerting undue pressure on law-abiding citizens. To curb such "manufactured litigation," the Court held that -

"There has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3)... further, every such application must be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made."

23. It provides that the applications under Section 156(3) must be supported by an affidavit so that the person making the application is conscious of the legal consequences of making a false statement. The objective is to ensure the Magistrate does not act as a mere "post-office" but applies a "judicial filter" to prevent harassment.

24. Applying this mandate to the present factual matrix, the records of the Learned Additional Chief Judicial Magistrate, Rampurhat, indeed indicate that the complainant's petition was neither supported by an affidavit nor preceded by documented service of information to the Superintendent of Police under Section 154(3). The petitioners contend that this omission is not a mere venial infirmity but a jurisdictional error that vitiates the subsequent FIR and investigation *void ab initio*. Ordinarily, such a lapse might invite the "lethal force" of quashing at the threshold; however, the facts of the case at hand require this Court to distinguish the specific stage of the criminal process at which this challenge is mounted.
25. Crucially, the wheel of justice has turned significantly since the initial order. Unlike the circumstances in *Priyanka Srivastava (supra)*, where the challenge often arises at the pre-investigative stage, we are here dealing with a case where an investigation led by the SDPO, Rampurhat, has already culminated in a substantive Charge Sheet (No. 553/2021). The investigating agency has scanned the allegations and found *prima facie* material to support the charges of theft, trespass, and social atrocity. In the mature view of this Court, once a specialized agency finds evidence of criminality, the technical "filter" of the affidavit is superseded by the actual "finding" of the police.

26. To further solidify this reasoning, reference must be made to Section 465 of the Cr.P.C. (now Section 511 of the BNSS, 2023), which deals with the curability of irregularities. It provides that no finding or order shall be reversed on account of an error in the complaint unless a "failure of justice" has been occasioned. In the present matrix, the petitioners have failed to demonstrate how the absence of an affidavit at the complaint stage has caused a substantive failure of justice. To quash a proceeding where the police have already found a *prima facie* case would be to allow the "handmaid of justice" (procedure) to strangle the "substance of justice" (the merits of the crime).
27. Consequently, I find that while the Learned Magistrate indeed failed to exercise the requisite circumspection at the inception, such deficiency constitutes a curable irregularity and not a jurisdictional fatality. As held in *HDFC Securities Ltd. & Ors. v. State of Maharashtra & Anr. (2017) 1 SCC 640*, the inherent power under Section 482 should not be used to stifle a legitimate prosecution when the investigation has already yielded a Charge Sheet.
28. Therefore, the answer to Question No. I is in the negative; while the initial order was procedurally deficient, the subsequent findings of the investigating agency possess the legal vitality to sustain the trial.

29. Transitioning from the procedural challenge to the substantive merits of the Special Act, I move to the second limb of the petitioners' argument regarding the "Public View" doctrine under Section 3(1)(r) and 3(1)(s) of the Act. Mr. Mallick has placed heavy reliance on *Hitesh Verma v. State of Uttarakhand (supra)*, contending that since the alleged incident occurred within a "private garden," it fails to meet the essential statutory ingredient of being committed in a "place within public view."
30. In addressing this, I have meticulously examined the ratio in *Hitesh Verma (supra)* regarding the distinction between a "public place" and a "place within public view." The Apex Court was pleased to clarify that while an offence need not be committed in a public place (such as a street or a park), it must be committed in a location where the public, meaning independent persons, can actually view or hear the act of humiliation. The Court observed that an upper-caste person abusing a member of a Scheduled Caste within the "four walls of a house" would not attract the Act, as no member of the public was present. The petitioners argue that a private garden is merely an extension of that private enclave, and in the absence of independent witnesses mentioned in the initial complaint, the Special Act cannot be invoked.
31. However, the facts of the present case require this Court to distinguish the "magnitude" of the occurrence from a localized,

private confrontation. In *Hitesh Verma*, the dispute was a limited altercation over a boundary wall. In the case at hand, the complainant alleges the forceful felling and removal of approximately 1,000 trees of significant height (4 ft. to 30 ft.) over a span of three days. Perusing the Case Diary and the statements under Section 161 Cr.P.C., I find that an operation involving a fleet of laborers, heavy logging equipment, and the transportation of massive timber loads is, by its very nature, an open-air and visible activity.

32. An operation involving a fleet of laborers, heavy logging equipment, and the transportation of massive timber loads is, by its very nature, an open-air and visible activity. Reference must be made to *Swaran Singh and Others v. State (supra)*, which notes that if an incident is visible or audible to the public (such as neighbors or passers-by), it satisfies the statutory intent of "public view." One cannot fell a forest of a thousand trees in secrecy; the sheer scale of the operation invites public attention and renders the site a "place within public view" for the duration of the act.

33. Consequently, the answer to Question No. II is that the private nature of the land title does not provide an automatic statutory shield to the accused. If caste-based slurs were hurled during a massive and visible operation of tree felling, the requirement of "public view" is *prima facie* satisfied. Whether the slurs were

actually uttered or whether independent neighbours witnessed the incident is a matter of evidence that must be tested in the crucible of a full-dress trial. Following *Dineshbhai Chandubhai Patel (supra)*, this Court cannot act as an investigating agency to scan the topography or weigh the "publicness" of the view at this stage. Therefore, the invocation of Section 3 of the Special Act in the Charge Sheet is legally sustainable for the purpose of proceeding to trial.

34. Advancing to the third limb of the challenge, I address the contention that this is a "civil dispute dressed up in the garb of a criminal case." The petitioners argue they are *bona fide* purchasers for value, caught in an internecine feud between the complainant and her nephew, Alphen Murmu. In evaluating this, one must apply the "Criminal Veneer" test established in *State of Haryana v. Bhajan Lal (supra)*. While the Court may quash proceedings attended with *mala fides*, the mere existence of a "civil profile" does not grant immunity if the essential ingredients of a cognizable crime are present.

35. As held in *Priti Saraf v. State of NCT of Delhi (2021) SCC OnLine SC 206*, a single set of facts can concurrently give rise to both civil and criminal liability. The unauthorized entry onto land (Section 447 IPC), the dishonest removal of property (Section 379 IPC), and criminal intimidation (Section 506 IPC) are distinct criminal acts. The fact that the petitioners "paid" a third

party does not automatically absolve them of *mens rea*. These are disputed questions of fact that require a "full-dress trial" where the transaction can be scrutinized to see if it was a genuine purchase or a coordinated effort to dispossess a member of a Scheduled Tribe.

36. Furthermore, in a trial for theft, the primary question is whether the accused intended to dishonestly take moveable property out of the possession of another without their consent. If the petitioners entered the land belonging to the complainant without her consent and removed 1,000 trees, the fact that they "paid" a third party, even a relative of the owner, does not automatically absolve them of criminal intent (*mens rea*). The "internecine family feud" between the aunt and the nephew may provide the contextual background, but it does not act as a statutory bar to prosecution at this *prima facie* stage.

37. Crucially, as held in *Dineshbhai Chandubhai Patel v. State of Gujarat (supra)*, this Court cannot act as an investigating agency or a trial court, while exercising its inherent powers under Section 482. We cannot weigh the "truth" of the petitioners' defence of being *bona fide* purchasers against the complainant's allegations of forceful dispossession. Such a determination requires a "full-dress trial" where the "civil transaction" can be scrutinized to see if it was a genuine

purchase or a coordinated effort to dispossess a member of a Scheduled Tribe of her property.

38. Consequently, the answer to Question No. III is that the presence of a commercial or civil element does not warrant the quashing. Following *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (supra)*, the power to quash must be exercised with "extreme care and caution." Where the allegations disclose the commission of cognizable offences, the "truth" of the transaction must be tested in the crucible of trial. The petitioners' defense is a shield to be used before the Trial Court, not a sword to terminate the proceedings at this threshold. Therefore, the dispute cannot be characterized as "purely civil" so as to oust the jurisdiction of the Criminal Court.

39. Finally, regarding Question No. IV, Mr. Mallick argued that the "unexplained delay" of over one year and the absence of independent witnesses render the story "manifestly improbable and "vaguely crafted," and that these factors, taken together, bring the case within the seventh category of the *Bhajan Lal* guidelines, where the proceeding is "manifestly attended with *mala fides*."

40. However, in evaluating the impact of delay, one must navigate the balance between a "stale claim" and a "suppressed grievance." While an inordinate and unexplained delay in lodging an FIR can often be a ground for suspicion, the Hon'ble

Supreme Court has repeatedly held, as in *State of Himachal Pradesh v. Gian Chand (2001) 6 SCC 71*, that delay by itself is not a ground for quashing a prosecution if the complainant provides a plausible reason or if the circumstances of the case explain the hiatus. In the present factual matrix, the complainant is a member of a marginalized Santhal community, alleging high-handedness by local businessmen and a "Civic Volunteer." Connectivity must be established between the social status of the victim and the temporal gap in the litigation.

41. In this matrix, the complainant is a member of a marginalized Santhal community (a Scheduled Tribe) facing local "heavyweights," the loss of 1,000 trees and enduring caste-based slurs, often grapples with systemic hurdles, fear of reprisal, and a lack of immediate legal resources. As noted in *Swaran Singh v. State (supra)*, the court must take a "pragmatic view" of such delays in the context of social power imbalances. Whether the delay was used to "manufacture" a story or was a product of genuine distress is a "triable issue" of fact. It would be a travesty of justice to stifle a trial at the threshold solely on the ground of delay without allowing the complainant to explain the same in the witness box.
42. Similarly, the absence of independent public witnesses at this stage is not a "lethal blow," to the Charge Sheet/ proceedings, as the Case Diary contains corroborating statements under

Section 161 Cr.P.C. In a revisional jurisdiction, this Court cannot presume that the prosecution's case is "vague" merely because the list of witnesses primarily includes the complainant's family. Following the ratio in *Zahira Habibulla H. Sheikh v. State of Gujarat (2004) 4 SCC 158*, the Court's duty is to ensure that the "truth" is not the casualty of technicalities. The presence of Section 161 statements in the Case Diary corroborating the felling of trees and the use of slurs provides sufficient *prima facie* ground to proceed.

43. The inherent power under Section 482 Cr.P.C. (now Section 528 BNS) is an extraordinary power to be exercised "ex debito justitiae", to do real and substantial justice. As reiterated in *M/s Neeharika Infrastructure Pvt. Ltd. (supra)*, the High Court cannot embark upon an inquiry as to the reliability or genuineness of the allegations when the Charge Sheet discloses cognizable offences. If there is a *prima facie* case of theft, trespass, and social atrocity, the High Court must stay its hand and allow the Trial Court to function as the "master of facts."

44. Consequently, the answer to Question No. IV is also in the negative. The delay and the nature of the witnesses are matters of "appreciation of evidence," which fall strictly within the province of the Trial Court. The prosecution story cannot be termed "manifestly improbable" at this stage so as to warrant a summary termination of the proceedings.

45. Therefore, having answered all four questions against the petitioners, I find no compelling reason to interfere with the ongoing proceedings. The "truth" of the defence and the "veracity" of the grievances must be tested at trial.

CONCLUSION AND LEGAL RATIO

46. The adjudication of this revision has necessitated a delicate balancing of procedural mandates against the substantive requirements of social justice. In light of the exhaustive discussions recorded above, this Court determines that:

- (i)** Investigative findings in a Charge Sheet supersede pre-cognizance procedural lapses, making them curable under Section 465 Cr.P.C.
- (ii)** "Public View" is a functional concept determined by the visibility of the offence, not the proprietary title of the land. An operation of significant magnitude like the felling of 1,000 trees, is inherently an open-air activity that invites public attention, thereby satisfying the statutory intent of "public view" regardless of the private nature of the orchard or garden.
- (iii)** The existence of a "civil profile" does not grant immunity from criminal prosecution, where the ingredients of Theft (Section 379 IPC) and Trespass (Section 447 IPC) are disclosed.

(iv) Criminal and civil liabilities can coexist, and the "truth" of a *bona fide* purchase defense is a matter of evidence to be tested at trial, not a ground for quashing under Section 482.

(v) In exercising inherent powers, the High Court must refrain from conducting a "mini-trial" regarding the reliability of witnesses or the impact of delay, when the Case Diary discloses a *prima facie* case of cognizable offences and social atrocity, the Court must stay its hand and allow the Trial Court to serve as the ultimate master of facts.

47. Consequently, this Court finds that the petitioners have failed to demonstrate that the proceedings in Special (A) Case No. 02 of 2021 are "manifestly attended with *mala fides*" or constitute an "abuse of the process of law." On the contrary, the allegations of forceful dispossession and caste-based humiliation disclose grave issues that warrant a full-dress trial. The "truth" of the family feud and the "intent" of the timber merchants are disputed questions of fact that must be resolved through the crucible of cross-examination.

48. Therefore, the Revisional Application challenging the Charge-Sheet fails. The pursuit of substantive justice for a member of a Scheduled Tribe cannot be derailed by hyper-technicality when

the investigating agency has found sufficient grounds for prosecution.

CONSEQUENTIAL ORDERS AND DIRECTIONS

49. In view of the decisive conclusions established above, this Court, in the exercise of its revisional jurisdiction, hereby issues the following formal orders:

- I. The Criminal Revisional Application, being C.R.R. No. 2301 of 2022, is hereby dismissed.
- II. The prayer for quashing the proceedings in connection with Rampurhat P.S. Case No. 365 of 2021 (dated 13.08.2021) and the resultant Special (A) Case No. 02 of 2021 is strictly rejected.
- III. The Charge Sheet No. 553/2021, dated 30.12.2021, submitted by the investigating agency, is found to be legally sustainable for the purpose of framing charges.
- IV. To maintain the sanctity of the "judicial filter" mandated in *Priyanka Srivastava and Another v. State of U.P. and Others (supra)*, while simultaneously upholding the investigative findings, the de-facto complainant (Opposite Party No. 2) is directed to file a Confirmatory/Supplementary Affidavit before the Learned Trial Court. This affidavit shall validate the contents of the original Section 156(3) petition and

shall be filed within a period of three (3) weeks from the date of communication of this order.

- V. The Learned Judge, Special Court under the Atrocities Act, 1st Court, Suri, Birbhum, is hereby directed to proceed with the trial with utmost expedition.
- VI. Considering that the alleged incident dates back to 2020, the Learned Trial Court shall endeavour to conclude the recording of evidence and the final disposal of the case, preferably within a period of one (1) year from the date of receipt of this order.
- VII. It is made clear that the petitioners are at liberty to raise all their defences, including the plea of being *bona fide* purchasers, the topography of the "public view," and the commercial nature of the transaction, at the stage of framing of charges and subsequently during the trial. The Learned Trial Court shall decide such issues strictly on the basis of the evidence led before it.
- VIII. The observations made by this Court in the course of this judgment are confined solely to the determination of the revisional application and shall not be construed as an expression of opinion on the merits of the case.

- IX. The Learned Trial Court shall remain uninfluenced by these observations and shall conduct the trial independently, in accordance with the law.
- X. The Learned Trial Court is at liberty to take all necessary steps to secure the presence of the accused and the witnesses to ensure the continuity of the trial.
- XI. All interim orders or stays operating in this matter stand vacated with immediate effect.
50. The Department is directed to transmit a copy of this Judgment and Order to the Learned Judge, Special Court under the Atrocities Act, 1st Court, Suri, Birbhum, and to the Officer-in-Charge, Rampurhat Police Station, for their information and immediate compliance.
51. There shall be no order as to the cost.
52. Interim order/orders, if any, stands disposed of accordingly.
53. The Trial Court Record (TCR), if any, shall be sent down to the Trial Court, at once.
54. Case diary, if any, be returned forthwith.
55. All parties shall act on a server copy of this order downloaded from the official website of this Court.
56. Ordered Accordingly.

(Uday Kumar, J.)