HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

****

CRIMINAL PETITION NO: 12317/2025

Between:

1. PASUPULETI CHINACHENNAIAH, S/O. RATHAIAH,AGED ABOUT 37 YEARS, R/O. 1-129,MITTAPALEM, PEDAPALEM, ATCHAMPETA MANDAL,GUNTUR, ANDHRA PRADESH-522410,PRESENTLY RESIDING IN MELBOURNE, AUSTRALIA.

...PETITIONER/ACCUSED

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY S.H.O, NALLAPDU P.S., GUNTUR DISTRICT REP. THROUGH THE PUBLIC PROSECUTOR,STATE OF ANDHRA PRADESH, HIGH COURT OF ANDHRA PRADESH.
2. GOSI VIJAYAKUMARI, W/O. SRIKANTHSAGAR,AGED ABOUT 37 YEARS, R/O. 10 LANE,SWARNABHARATHI NAGAR, GUNTUR,GUNTUR DISTRICT, ANDHRA PRADESH.

...RESPONDENT/COMPLAINANT(S):

****

DATE OF ORDER PRONOUNCED : 13.03.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copy of Judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

Dr. Y. LAKSHMANA RAO, J

*** THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

+ CRIMINAL PETITION NO: 12317/2025

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...RESPONDENT/COMPLAINANT(S):

! Counsel for the Petitioners : Sri N.Ashwani Kumar

^Counsel for the Respondents : Sri G.Sai Narayana Rao

< Gist:

> Head Note:

? Cases referred:

1. 1992 Supp (1) SCC 335
2. (2023) 11 SCC 182
3. (2021) 2 SCC 427
4. (2020) 10 SCC 710
5. (2019) 9 SCC 608
6. MANU/AP/1268/2012
7. Crl.P.No.525 of 2020
8. MANU/AP/0578/2022
9. 2020 SCC OnLine P&H 671
10. 2023 SCC OnLine Del 5288
11. 2020 SCC OnLine Cal 1860
12. Crl.P.No.100396 of 2022
13. 2024 SCC OnLine All 4591
14. MANU/CG/0237/2019
15. Crl.A.No.7821 of 2023
16. (2025) 3 SCC 612
17. (2007) 11 SCC 265
18. 2025 SCC OnLine Ker 5782
19. (1997) 1 SCC 283
20. (1981) 2 SCC 166
21. (1984) 1 SCC 446
22. (2023) 10 SCC 172
23. 1966 Supp SCR 286

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION No: 12317 of 2025

ORDER:

Criminal Petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS')/Section 482 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.,') by the Petitioner/Accused No.1, seeking to quash the proceedings against him in S.C.No.165 of 2025 on the file of learned IV Additional District Sessions Judge-cum-Speedy Trials Court for SC/ST Cases, Guntur.

FACTUAL MATRIX:

2. The factual matrix of the case is that the Respondent No.2, a member of the Scheduled Caste community, lodged a complaint alleging that the Petitioner borrowed substantial sums of money, partially repaid the same, and thereafter abused her with caste-based remarks while refusing repayment. It was further alleged that Accused No.2, acting in concert with the Petitioner, visited the complainant's residence, took away certain documents, and hurled caste-based slurs. The FIR was registered under Section 79 of 'the BNS'/Section 509 of 'the I.P.C.,' and Sections 3(1)(r), 3(1)(s), and 3(2)(va) of 'the SCs/STs (POA) Act'. The Petitioner, however, asserts that the allegations are false, concocted, and motivated by malice, as he was residing abroad at the relevant time, and that the dispute is essentially civil in nature concerning alleged monetary transactions.

CONTENTIONS OF COUNSEL FOR THE PETITIONER:

3. Sri N.Ashwani Kumar, learned Counsel for the Petitioner submits that the entire substratum of the prosecution case is vitiated by *mala fides*, political vendetta, and a manifest abuse of the process of law. The allegations contained in the FIR and charge sheet, even if taken at their highest value, do not disclose the essential ingredients of the offences alleged under Section 79 of 'the BNS'/Section 509 of 'the I.P.C.,' and Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'the SCs/STs (POA) Act'). The invocation of penal provisions in the absence of foundational facts amounts to a colourable exercise of criminal law, squarely attracting the principles laid down in **State of Haryana v. Bhajan Lal**[1], wherein the Hon'ble Supreme Court delineated categories of cases warranting quashment to prevent vexatious prosecution.

4. Learned Counsel for the Petitioner submits that the allegations of caste-based abuse are omnibus, bereft of particulars, and fail to satisfy the statutory requirement of occurrence "within public view," which is a *sine qua non* for attracting Sections 3(1)(r) and 3(1)(s) of 'the SCs/STs (POA) Act'. The complaint is conspicuously silent on any public presence or independent witnesses to the alleged incident. The statements of LWs.2 to 5, being mere verbatim reproductions of the complainant's version, lack independent corroboration and cannot constitute substantive material. The Hon'ble

[1] 1992 Supp (1) SCC 335

Supreme Court in **B. Venkateswaran v. P. Bakthavatchalam** [2] , has categorically held that private disputes camouflaged as caste-based offences under 'the SCs/STs (POA) Act' amount to abuse of process and deserve to be quashed. The present case falls squarely within that ratio.

5. It is furthermore submitted that the allegations of borrowing and repayment of monies, coupled with execution of a promissory note, are quintessentially civil in nature. The attempt to criminalize a civil dispute by invoking penal provisions is impermissible in law. The Hon'ble Apex Court has consistently held that where the dispute is predominantly civil, continuation of criminal proceedings would amount to harassment and miscarriage of justice. The learned Counsel for the Petitioner submits that the alleged borrowings are unsupported by documentary evidence, and the investigating agency has failed to recover any promissory note or corroborative material. The charge sheet is thus a mechanical reproduction of the FIR, devoid of independent investigation, and liable to be quashed.

6. It is further submitted by the learned Counsel for the Petitioner that the Petitioner was not even present in India at the time of the alleged incident, being employed in Melbourne, Australia. The investigating agency failed to collect call data records, tower location details, or any electronic evidence to establish the Petitioner's presence or involvement. The perfunctory investigation, coupled with suppression of exculpatory material, renders the

[2] (2023) 11 SCC 182

prosecution case inherently improbable. The Hon'ble Supreme Court in **Arnab Manoranjan Goswami v. State of Maharashtra**[3], emphasized that Courts must scrutinize whether *prima facie* ingredients of the offence are made out before allowing prosecution to continue. In the present case, no such ingredients are disclosed, and continuation of proceedings would result in grave prejudice, irreparable harm, and unwarranted deprivation of liberty and it is urged to allow the Petition.

ARGUMENTS OF LEGAL AID COUNSEL FOR RESPONDENT No.2

7. Sri G.Sai Narayana Rao, learned Legal Aid Counsel for Respondent No.2 submits that the allegations levelled against the Petitioner are not only grave but disclose the essential ingredients of the offences under Section 79 of 'the BNS'/Section 509 of 'the I.P.C.,' and Sections 3(1)(r), 3(1)(s), and 3(2)(va) of 'the SCs/STs (POA) Act'. The complainant, a member of the Scheduled Caste community, has categorically narrated the abusive and caste-based slurs hurled at her, coupled with the forcible taking away of documents by the accused persons. The substratum of the complaint clearly establishes that the abuse was directed at her caste identity, thereby attracting the statutory bar against humiliation "within public view." The contention of the Petitioner that the allegations are omnibus or civil in nature is wholly

[3] (2021) 2 SCC 427

untenable, for the complaint discloses specific acts of caste-based insult, intimidation, and criminal misconduct.

8. It is further urged that the plea of alibi sought to be raised by the Petitioner is a matter of evidence, incapable of being adjudicated at the threshold under Section 482 of 'the Cr.P.C.,'/Section 528 of 'the BNSS'. The Hon'ble Supreme Court has consistently held that disputed questions of fact, particularly those relating to presence or absence of the accused, must be tested during trial and not in quash proceedings. The Respondent's testimony, corroborated by other witnesses, demonstrates a consistent narrative of monetary exploitation followed by caste-based abuse. The invocation of 'the SCs/STs (POA) Act' is thus neither *mala fide* nor colourable, but a legitimate invocation of statutory protection against atrocities committed on account of caste identity and it is urged to dismiss the Criminal Petition.

ARGUMENTS OF ASSISTANT PUBLIC PROSECUTOR FOR STATE:

9. Sri A.Sai Rohith, learned Assistant Public Prosecutor would submit that the material collected during investigation, including the complainant's statement and supporting witnesses, *prima facie* discloses the commission of offences punishable under 'the SCs/STs (POA) Act' and 'the I.P.C.' The allegations of caste-based abuse, coupled with the forcible taking of documents, cannot be brushed aside as mere civil disputes. The statutory mandate under 'the SCs/STs (POA) Act' requires the Court to adopt a

victim-centric approach, ensuring that members of Scheduled Castes are not subjected to indignity or humiliation. At this stage, the Court is only required to ascertain whether the allegations, if taken at face value, constitute the offences alleged. Since the complaint and charge sheet disclose such ingredients, the prayer for quashment deserves to be rejected, and the matter ought to proceed to trial for a full and fair adjudication.

10. Heard the learned Counsel for the Petitioner, learned Legal Aid Counsel for Respondent No.2 and the learned Assistant Public Prosecutor.

11. Thoughtful consideration is bestowed on the arguments advanced by the learned Counsel for both sides. I have perused the entire record.

POINT FOR CONSIDERATION:

12. In the light of the case of the prosecution and the contentions of the learned Counsel for both the sides, now the point for consideration is:

> ***"Whether the proceedings in S.C.No.165 of 2025 on the file of learned IV Additional District Sessions Judge-cum-Speedy Trials Court for SC/ST Cases Guntur is liable to be quashed in exercise of the inherent powers of the High Court under Section 482 of 'the Cr.P.C.,'/Section 528 of 'the BNSS'?"***

RELEVANT STATUTORY PROVISIONS:

13. In this regard it is apposite to refer to the judgment of the Hon'ble Apex Court in **Hitesh Verma v. State of Uttarakhand**[4], wherein at paragraph Nos.11 to 14 it is held as under:

> *"11. It may be stated that the charge-sheet filed is for an offence under Section 3(1)(x) of the Act. The said section stands substituted by*

[4] (2020) 10 SCC 710

Act 1 of 2016 w.e.f. 26-1-2016. The substituted corresponding provision is Section 3(1)(r) which reads as under:
"3. (1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"
12. The basic ingredients of the offence under Section 3(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 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 (2008) 8 SCC 435. 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)"*

14. Thus, in **Hitesh Verma** *supra*, the Hon'ble Apex Court explicates that the post-2016 substituted provision, Section 3(1)(r) of 'the SCs/STs (POA) Act', is attracted only where the prosecution discloses the dual *sine qua non* of (i) an intentional insult or intimidation carrying the *mens rea* to humiliate a member of the Scheduled Castes/Scheduled Tribes on account of such membership, and (ii) the occurrence of the act "in any place within public view"; mere acrimony or civil disputes do not suffice absent the requisite caste-based nexus. The Court further distinguishes "public view" from "public place," clarifying that a private locus that is visible to the public (such as a gate or a lawn observable from a road) can satisfy the test; likewise, even an indoor setting will qualify if members of the public, beyond close relatives or friends, are present, whereas a purely private, non-observable exchange would not meet the statutory threshold, thus crystallizing the controlling ratio on ingredients and situs under Section 3(1)(r) of 'the SCs/STs (POA) Act'.

15. The Hon'ble Apex Court in **B. Venkateswaran** *supra* at paragraph No.10 held as under:

> *"10. From the material on record, we are satisfied that no case for the offences under Sections 3(2)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, even prima facie. None of the ingredients of Sections 3(2)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out and/or satisfied. Therefore, we are of the firm opinion and view that in the facts and circumstances of the case, the High Court ought to have quashed the criminal proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure. The impugned judgment and order [B. Venkatesan v. P. Bakthavatchalam, 2020 SCC OnLine Mad 28089] passed by the High Court, therefore, is unsustainable and the same deserves to be quashed and set aside and the criminal proceedings initiated against the appellants deserves to be quashed and set aside."*

16. Consequently, in **B. Venkateswaran** *supra*, the Hon'ble Supreme Court unequivocally held that where the foundational ingredients of the offences under Sections 3(2)(v) and 3(2)(va) of 'the SCs/STs (POA) Act' are wholly absent even on a *prima facie* appraisal, the very continuation of criminal proceedings amounts to a manifest miscarriage of justice, thereby warranting the exercise of the High Court's inherent jurisdiction under Section 482 of 'the Cr.P.C.,' to interdict such prosecution. The Court, finding the charges devoid of statutory substratum, declared the High Court's refusal to quash as legally untenable, set aside the impugned order, and held that the criminal proceedings, being unsustainable in law, were liable to be quashed in toto.

17. The Hon'ble Apex Court in **Pramod Suryabhan Pawar v. State of Maharashtra**[5], at paragraph No.23 held as under:

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[5] (2019) 9 SCC 608

> *"23. Without entering into a detailed analysis of the content of the WhatsApp messages sent by the appellant and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. The messages were not in public view, no assault occurred, nor was the appellant in such a position so as to dominate the will of the complainant. Therefore, even if the allegations set out by the complainant with respect to the WhatsApp messages and words uttered are accepted on their face, no offence is made out under the SC/ST Act (as it then stood). The allegations on the face of the FIR do not hence establish the commission of the offences alleged."*

18. Ergo, in **Pramod Suryabhan Pawar** *supra*, the Hon'ble Supreme Court lucidly held that where the allegations, though taken at their face value, do not reveal any act occurring within public view, nor any assault, coercion, or circumstance demonstrating the accused's dominance over the will of the complainant, the indispensable statutory ingredients of 'the SCs/STs (POA) Act' stand wholly unfulfilled. Consequently, the mere exchange of private WhatsApp messages or utterances in a non-public setting, bereft of the requisite element of public humiliation or caste-centric intimidation, cannot constitute an offence under 'the SCs/STs (POA) Act', and the FIR, on its own showing, fails to disclose the commission of any prosecutable offence.

19. A learned Single Judge of this Court in **U. Sadasivaiah v. State of Andhra Pradesh**[6] at paragraph No.7 held as under:

> *"7. The only allegation levelled against the petitioner is that he abused the de facto complainant in the name of his caste. But, the same was not done in a place within the public view. On the own admission of the de facto complainant, it is clear that except himself and S.I. of Police, no other person was present in the police station. Similarly, PW2 who is no other than the wife of PW1 who went to police station along with PW1, admittedly was not present at that time when the petitioner allegedly abused the de facto complainant in the name of his caste-In view of Asmathunnisa's case (supra), the proceedings*

[6] MANU/AP/1268/2012

> *against the petitioner is liable to be quashed. Accordingly, the criminal petition is allowed quashing the order, dated 15.2.2010 in PRC No. 1 of 2010 in CFR No. 2110 of 2009 on the file of the II Additional Judicial Magistrate of First Class, Proddatur against the petitioner"*

20. Thus, in **U. Sadasivaiah** *supra*, the learned Single Judge categorically held that where the allegation of caste-based abuse is not shown to have occurred "within public view," the indispensable statutory ingredient of Section 3(1)(r) of 'the SCs/STs (POA) Act' stands unfulfilled. The Court noted that, on the complainant's own showing, only he and the S.I. of Police were present inside the police station, and even PW2, the complainant's wife, was admittedly absent. In the absence of any member of the public beyond official or private participants, the essential requirement of public visibility was conspicuously lacking, thereby attracting the ratio in *Asmathunnisa's case*. Consequently, the proceedings were held to be legally unsustainable and were duly quashed.

21. Another learned Single Judge of this Court in **P. Ramesh Babu v. State of A.P**[7] at paragraph Nos.15 & 16 held as under:

> *"15. In view of the above discussion, the allegations made in the complaint do not prima facie constitute any offence or make out a case against the Petitioner/Accused No.2. There are no specific allegations against the Petitioner with regard to the commission of the alleged offences. In the facts and circumstances of the case, this Court is of the view that based on the false and omnibus allegations, the present complaint was lodged against the Petitioner. Therefore, this Court is of the view that, it is a fit case to exercise the inherent jurisdiction of this Court under Section 482 Cr.P.C to quash the proceedings in the above crime.*
> *16. Accordingly, the criminal petition is allowed and the proceedings against Petitioner/Accused No. 2 in Crime No.39 of 2020 of Thulluru Police Station Guntur District, for the offences punishable under*

[7] Crl.P.No.525 of 2020

> *Sections 448, 354-C and 509 read with 34 of IPC, and Section 3 (2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, are hereby quashed."*

22. Thus, in **P. Ramesh Babu** *supra.*, the learned Single Judge held that where the complaint is founded on vague, omnibus, and unspecific allegations that do not *prima facie* disclose the commission of any cognizable offence by the petitioner, the criminal law cannot be permitted to operate as an instrument of harassment. The absence of any particularised attribution of acts constituting the offences alleged, coupled with the patently unfounded nature of the accusations, rendered the continuation of proceedings a manifest abuse of process. Consequently, invoking the Court's inherent jurisdiction under Section 482 of 'the Cr.P.C.,' the proceedings against Accused No.2 were held to be unsustainable and were accordingly quashed in toto.

23. Another learned Single Judge of this Court in **G.P. Hemakoti Reddy v. P.P., Hyderabad**[8] at paragraph Nos.13 to 15 held as under:

> *"13. On a perusal of the abovesaid judgments would go to show that it was held that without entering into a detailed analysis of the content of the Whatsapp messages sent by the appellant therein and the words alleged to have been spoken, it is apparent that none of the offences set out above are made out. It is also held that the messages were not in public view, no assault occurred nor was the appellant in such a position so as to dominate the will of the complainant.*
>
> *14. Under Section 3(1)(x) of the Act, 1989, whoever, not being a member of a Scheduled Caste or a Scheduled Tribe intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view, is punishable. The offence under the Act, 1989 is not established merely on the fact that the informant is a member of scheduled caste unless*

[8] MANU/AP/0578/2022

> *there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste.*
>
> *15. In the case on hand, it is not the case of 2nd respondent-defacto complainant that when the telephonic conversation was taking place, there were people present at that place. It is also not his case that the discussion that went on between 2nd respondent-defacto complainant has been over-heard by the public at large. There are absolutely no averments in respect of the discussion that took place between the petitioner-accused and 2nd respondent-complainant. A reading of the contents in the First Information Report goes to show that no words have been uttered by the petitioner-accused to humiliate 2nd respondent-defacto complainant that he belongs to such caste, and except stating that the accused used unparliamentary language, nothing has been stated in the First Information Report so as to come to the conclusion that the petitioner abused 2nd respondent-defacto complainant by his caste. In the absence of any averments to that effect, mere conversation over phone would not in any way come within the purview of the offence under the provisions of the Act, 1989."*

24. Hence, in **G.P. Hemakoti Reddy** *supra*, the learned Single Judge held that where the allegations rest solely on a private telephonic conversation, devoid of any public presence, visibility, or caste-specific utterance, the indispensable statutory elements of Section 3(1)(x) of 'the SCs/STs (POA) Act' remain wholly unsatisfied. The Court emphasized that mere use of unparliamentary language, absent any intention to humiliate on the ground of caste and occurring entirely outside "public view," cannot attract the rigour of the Act. In the absence of averments indicating public exposure, domination of will, or caste-centric insult, the FIR disclosed no prosecutable offence, and a private telephone exchange was held insufficient to invoke the protective provisions of the Act, thereby rendering the proceedings legally unsustainable.

25. The High Court of Punjab and Haryana at Chandigarh in **Pardeep Kumar v. State of Haryana**[9], at paragraph Nos.15 to 17 held as under:

> *"15. Moreover, the basic ingredients of the offence in the FIR are that there must be intentional insult, secondly the insult must be done in a public place within public view, which is not in the present case. Thus, the essential ingredients which must be fulfilled, are not found in the present case. Since these are the penal provisions, the same are to be given a strict construction and if any of the ingredients are found lacking, it would not constitute the offence under the SC/ST Act.*
> *16. Since no offence under Section 3 of the SC & ST Act is found to be made out, the offence under Section 506 IPC read with Section 34 IPC, which stemmed out of the alleged offence under Section 3 of the SC and ST Act, is also not made out.*
> *17. Keeping in view the above facts and circumstances, both the petitions are allowed. The impugned order dated 9.5.2019, passed by Additional Sessions Judge (Exclusive Court for Heinous Crime against Women), Kurukshetra of framing of charges as well as charge sheet dated 9.5.2019 and the FIR is hereby quashed."*

26. As a corollary, in **Pardeep Kumar** *supra*, the High Court held that where the prosecution fails to satisfy the essential statutory ingredients of 'the SCs/STs (POA) Act', namely, an intentional caste-based insult occurring "within public view", the very edifice of the alleged offence collapses. Finding that neither intentional humiliation nor the element of public view was disclosed, the Court concluded that the penal provisions, which must receive strict construction, stood uninvoked. Consequently, with no offence under Section 3 of 'the SCs/STs (POA) Act' made out, the derivative charges under Sections 506 and 34 of 'the I.P.C.,' also could not survive. The Court therefore quashed the FIR, the charge-sheet, and the order framing charges *in toto*, terming the continuation of proceedings legally unsustainable.

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[9] 2020 SCC OnLine P&H 671

27. The High Court of Delhi in **Varun Bhatia v. State**[10], at paragraph Nos.16 to 43 held as under:

> *"16. Since the charge in the present case has been framed under Section 509 of IPC, it shall be imperative to refer to the same, which reads as under:*
> *"…509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both…"*
> *ii. Essential Ingredients of Section 509 of IPC*
> *17. The essential ingredients of Section 509 IPC are as under:*
> *i. Intention to insult the modesty of a woman;*
> *ii. The insult must be caused by:*
> *a. uttering any words, or making any sound or gesture, or exhibiting any object intending that such word or sound shall be heard or that the gesture or object shall be seen by such woman, or*
> *b. intruding upon the privacy of such a woman.*
> *18. Section 509 of the Penal Code, 1860 delineates two pivotal components for establishing an offence : firstly, the presence of an intention to insult the modesty of a woman, and secondly, the manner in which this insult is perpetrated. The cornerstone of this provision is the requirement of intent, where the accused must possess a deliberate intention to affront or insult the modesty of a woman. This intent sets apart ordinary speech or actions from those that amount to an offence under Section 509. The insult itself can take place through two distinct modes. It can occur verbally or visually by uttering specific words, making sounds, or displaying gestures or objects, with the deliberate intent that these words, sounds, gestures, or objects are heard or seen by the woman involved. Alternatively, insult can manifest as an intrusion upon the woman's privacy, meaning thereby encroaching upon her personal space or violating her sense of privacy intentionally, in a manner that affronts her modesty. In essence, Section 509 emphasizes that intent is the linchpin of this offence, necessitating a deliberate affront to a woman's modesty for the Section to be invoked.*
> *iii. Difference between Section 354 and Section 509 of IPC*
> *19. While discussing the jurisprudence of outraging the modesty of a woman, the discussion cannot be complete without discussing the difference between Section 354 IPC and Section 509 IPC. Section 354 IPC and Section 509 IPC both use the word 'Outraging the modesty of a woman' though by different means.*
> *20. Section 354 IPC reads as under:*

[10] 2023 SCC OnLine Del 5288

"…354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both…"

21. In essence, both Section 354 and Section 509 of Penal Code, 1860 addressed the issue of outraging the modesty of a woman, but they do so in distinct ways. Section 354 primarily deals with cases involving physical assault or the use of force against a woman, wherein her modesty is violated through actions that involve direct contact or physical harm. On the other hand, Section 509 concerns instances where words, gestures, or acts are employed with the deliberate intent to insult or offend a woman's modesty, without necessarily involving physical force. This distinction in legal provisions reflects the recognition that outraging a woman's modesty can take various forms, both physical and verbal, and the law seeks to address each of these forms distinctly to ensure justice and protection for women in different situations. In the present case, the complainant has raised allegations solely under Section 509 of the Penal Code, 1860 against the accused.

iv. Judicial Precedents Apropos 'Outraging the Modesty of a Woman'

22. The Hon'ble Apex Court in State of Punjab v. Major Singh, 1966 Supp SCR 286 had made observations with regard to outraging the modesty of a woman, and the relevant observations read as under:

"3. I would first observe that the offence does not, in my opinion, depend on the reaction of the woman subjected to the assault or use of criminal force. The words used in the section are that the act has to be done "intending to outrage or knowing it to be likely that he will thereby outrage her modesty". This intention or knowledge is the ingredient of the offence and not the woman's feelings. It would follow that if the intention or knowledge was not proved, proof of the fact that the woman felt that her modesty had been outraged would not satisfy the necessary ingredient of the offence. Likewise, if the intention or knowledge was proved, the fact that the woman did not feel that her modesty had been outraged would be irrelevant, for the necessary ingredient would then have been proved. The sense of modesty in all women is of course not the same; it varies from woman to woman. In many cases, the woman's sense of modesty would not be known to others. If the test of the offence was the reaction of the woman, then it would have to be proved that the offender knew the standard of the modesty of the woman concerned, as otherwise, it could not be proved that he had intended to outrage "her" modesty or knew it to be likely that his act would have that effect. This would be impossible to prove in the large majority of cases. Hence, in my opinion, the reaction of the woman would be irrelevant.

4. Intention and knowledge are of course states of mind. They are nonetheless facts which can be proved. They cannot be proved by direct evidence. They have to be inferred from the circumstances of each case. Such an inference, one way or the other, can only be made if a reasonable man would, on the facts of the case, make it. The

question in each case must, in my opinion, be : will a reasonable man think that the act was done with the intention of outraging the modesty of the woman or with the knowledge that it was likely to do so? The test of the outrage of modesty must, therefore, be whether a reasonable man will think that the act of the offender was intended to or was known to be likely to outrage the modesty of the woman. In considering the question, he must imagine the woman to be a reasonable woman and keep in view all circumstances concerning her, such as, her station and way of life and the known notions of modesty of such a woman. The expression "outrage her modesty" must be read with the words "intending to or knowing it to be likely that he will". So read, it would appear that though the modesty to be considered is of the woman concerned, the word "her" was not used to indicate her reaction. Read all together, the words indicate an act done with the intention or knowledge that it was likely to outrage the woman's modesty, the emphasis being on the intention and knowledge.
(Emphasis Supplied)
23. The above stated judgment of the Hon'ble Apex Court underscores that the offence of outraging a woman's modesty hinges primarily on the intention or knowledge of the accused rather than the woman's actual reaction. It clarifies that the legal requirement is that the act must be done "intending to outrage or knowing it to be likely that he will thereby outrage her modesty." This places the emphasis on the accused's intent or awareness, and the woman's emotional response is not the determining factor. The judgment acknowledges the variability in women's senses of modesty and the impracticality of proving the accused's knowledge of an individual woman's standard of modesty. Instead, it suggests that a reasonable person, considering the circumstances and the woman's characteristics, should assess whether the accused intended to or knew that the act was likely to outrage the woman's modesty.
24. The Hon'ble Apex Court in Ramkripal v. State of M.P., (2007) 11 SCC 265 had discussed the essence of woman's modesty. The relevant portion of the judgment has been reproduced as under:
"12. What constitutes an outrage to female modesty is nowhere defined in IPC. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex…"
25. In Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194, the Hon'ble Apex Court while discussing the test for outraging the modesty of a woman under Section 509 of IPC, has observed as under:
"In State of Punjab v. Major Singh (AIR 1967 SC 63) a question arose whether a female child of seven and a half months could be said to be possessed of 'modesty' which could be outraged. In answering the above question Mudholkar J., who along with Bachawat J. spoke for the majority, held that when any act done to or in the presence of a

woman is clearly suggestive of sex according to the common notions of mankind that must fall within the mischief of Section 354 IPC. Needless to say, the 'common notions of mankind' referred to by the learned Judge have to be gauged by contemporary societal standards. The other learned Judge (Bachawat J.) observed that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From the above dictionary meaning of 'modesty' and the interpretation given to that word by this Court in Major Singh's case (supra) it appears to us that the ultimate test for ascertaining whether modesty has been outraged is, is the action of the offender such as could be perceived as one which is capable of shocking the sense of decency of a woman…"
(Emphasis Supplied)
26. The Hon'ble Apex Court in the above Judgment emphasized that IPC does not provide a specific definition of what constitutes an "outrage to female modesty." Instead, it emphasizes that the essence of a woman's modesty is inherently linked to her gender. In determining whether an act amounts to an outrage of modesty, the crucial factor is the culpable intention of the accused. The reaction of the woman involved is relevant but not always conclusive. Modesty, as per Section 509 IPC, is a quality associated with female individuals as a group, stemming from their gender. Essentially, the test for ascertaining an outrage to modesty revolves around whether the actions of the offender could reasonably be perceived as capable of shocking a woman's sense of decency.
27. In Abhijeet J.K. v. State of Kerala, 2020 SCC OnLine Ker 703, the Hon'ble High Court of Kerala had observed that merely insulting a woman is different from outraging her modesty. The relevant portion of the judgment reads as under:
"10. There is distinction between an act of merely insulting a woman and an act of insulting the modesty of a woman. In order to attract Section 509 I.P.C, merely insulting a woman is not sufficient. Insult to the modesty of a woman is an essential ingredient of an offence punishable under Section 509 I.P.C. The crux of the offence is the intention to insult the modesty of a woman."
28. The Hon'ble High Court of Gauhati in Swapna Barman v. Subir Das, 2003 SCC OnLine Gau 196 had observed that the insult should be directed towards the femininity of a woman to constitute an offence under Section 509 of IPC. The relevant portion is extracted as under:
"10. Therefore, the minimum thing what is required is that there should be an act of intruding upon the privacy of such woman with the intention to insult her modesty. Learned Single Judge, has not disbelieved the petitioner/informant but was of the opinion that there should be precise abusive or insulting words in order to bring out the offence under section 509 of IPC and was of the opinion that in order to establish the offence the insult should be directed touching the femininity of the woman…
11. It may be observed on a careful reading of the language used in defining the offence under section 509 that the word 'modesty' does not lead only to the contemplation of sexual relationship of an indecent

character. The section includes indecency, but does not exclude all other acts falling short of downright indenency. In the instant case, the respondent, from the act of entering house-compound at mid-night and uttering petitioner's name in presence of her husband and coupling her name with his own name intended sufficient insult to disturb her modesty."

29. In the background of the precedents as discussed above, alongside the provisions laid out in Section 509 of IPC, this Court proceeds to give its findings. These findings aim to provide a comprehensive assessment of the legal context, offering clarity and guidance in light of the complexities associated with the term 'modesty of woman'.

THE TEST OF OUTRAGING MODESTY OF A WOMEN

i. Defining 'Modesty'

30. According to Shorter Oxford English Dictionary (Third Edition) modesty is the quality of being modest and in relation to woman means "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct". The word 'modest' in relation to woman is defined in the above dictionary as "decorous in manner and conduct; not forward or lewd; shamefast". Webster's Third New International Dictionary of the English language defines modesty as "freedom from coarseness, indelicacy or indecency; a regard for propriety in dress, speech or conduct". In the Oxford English Dictionary (1933 Ed) the meaning of the word 'modesty' is given as "womanly propriety of behaviour; scrupulous chastity of thought, speech and conduct (in man or woman); reserve or sense of shame proceeding from instinctive aversion to impure or coarse suggestions". Cambridge Dictionary defines modesty as 'Correct or socially acceptable behavior and clothes, representing traditional cultural values".

31. In view of the above, "Modesty", as defined by various dictionaries, encompasses a range of meanings that converge on a common theme of propriety, chastity, and adherence to societal norms. In the context of women, modesty signifies a commitment to, scrupulous chastity in thought, speech, and conduct, and a sense of shame-fastness that arises from an aversion to impure or coarse suggestions. It also implies freedom from coarseness or indecency, emphasizing the importance of adhering to accepted social norms in one's actions and expressions. This multifaceted concept underscores the significance of maintaining moral purity, integrity, and decorum in one's conduct, reflecting a sense of reserve and propriety that transcends mere modesty and extends to broader cultural and societal expectations.

ii. Defining 'Outrage'

32. The Shorter Oxford English Dictionary (Third Edition) defines 'outrage' as a strong feeling of shock and anger; an act or event that is violent, cruel or very wrong that shocks people or makes them very angry. Cambridge Dictionary defines outrage as '(an unfair action or statement) to cause someone to feel very angry, shocked, or upset'.

33. 'Outrage' is a term that encapsulates the profound emotions of shock and anger in response to actions, events, or statements perceived as morally reprehensible, cruel, unjust, or deeply offensive. It

signifies an intense and visceral reaction, often triggered by the violation of accepted societal norms or standards. In essence, outrage is a powerful emotional response that highlights the gravity of perceived wrongdoing, aiming to draw attention to and condemn actions or events that shock people's conscience and evoke a sense of moral indignation.

iii. Defining Outraging Modesty of a Women

34. 'Modesty of women' refers to a culturally and socially defined set of behaviors, manners, and dress codes that are intended to preserve a woman's sense of privacy, decency, and dignity. It encompasses the idea of maintaining a respectful and reserved demeanor, particularly in terms of appearance to safeguard a woman's personal space, honor, and reputation. The concept of modesty can vary across different cultures and societies and is often associated with norms related to interactions, and conduct in public and private settings. It is rooted in the belief that certain behaviors and appearances are deemed appropriate to protect a woman's honor and prevent any potential harm or exploitation.

35. The intent of the legislature is to safeguard a woman's integrity and ensuring that she is not subjected to any form of unwarranted or inappropriate behavior that could undermine her self-respect or social standing.

36. Modesty often intersects with traditional gender roles and societal expectations. In many cultures, women are held to higher standards of modesty than men, with emphasis placed on covering the body and maintaining a demure demeanor. This can sometimes lead to gender inequality and restrict women's freedoms.

37. Crucially, the interpretation of what constitutes an outrage to modesty can be context-specific, as it depends on societal norms, cultural values, and individual perspectives. What may be considered an affront to one person's sense of modesty might not be the same for another. Therefore, legal systems often rely on objective standards to evaluate these violations, taking into account the reasonable person's reaction in a given situation.

38. In essence, "outraging the modesty of a woman" transcends a mere definition; it is an embodiment of the collective commitment to respect, equality, and the preservation of individual rights. It underscores the importance of upholding the dignity and self-worth of every woman, acknowledging the unique and multifaceted nature of this concept in different cultural and societal contexts. Ultimately, it reinforces the imperative to protect and empower women, ensuring their right to live free from insults, affronts, or abuses to their feminine sense of propriety and decorum.

iv. Defining Intention in context of Section 509 IPC

39. Outraging modesty has been defined as circumstances involving indecent conduct on the part of the accused, wherein the accused's behaviour or actions are such that they deliberately and egregiously offend or insult the modesty, dignity, and self-respect of a woman.

> *40. Indeed, an essential aspect of outraging the modesty of a woman is the presence of indecent intention. In legal terms, it's not merely the act itself but the intent behind it that matters. To qualify as an outrage to modesty, the accused must have a deliberate and indecent intention in their actions or behaviour. This means that their conduct is not accidental or innocent but is driven by a specific purpose to offend or insult the modesty, dignity, or self-respect of a woman. The requirement of indecent intention serves as a crucial element in distinguishing between regular interactions and actions that constitute an offence against a woman's modesty, emphasizing the need to prove both the act and the intent in such cases.*
>
> *41. In the assessment of an accused individual's intention to outrage the modesty of a woman, a comprehensive examination of numerous factors becomes essential. This evaluation extends beyond the mere act itself, delving into the accused's intent and the context in which the action occurred. Factors such as the nature of the act, the choice of words or gestures, the surrounding circumstances, the accused's background, and the complainant 's perspective are all meticulously considered. Furthermore, cultural and social norms, as well as any independent evidence, play pivotal roles in this determination. By scrutinizing these multifaceted elements, the legal system strives to discern whether the accused possessed the indecent intention to insult, offend, or abuse the woman's modesty. Such a thorough approach recognizes the complexity of human behaviour and ensures that justice is met with a comprehensive understanding of the unique circumstances of each case.*
>
> *42. Indeed, a delicate balance must be struck when construing the intention of the accused in cases of outraging the modesty of a woman. It is not appropriate to automatically presume the existence of this intention without thoroughly considering the multifaceted elements mentioned above. Precise and context-specific assessments are required to ensure that justice is both fair and accurate. This balanced approach acknowledges the need to protect the rights and dignity of women while also recognizing the complexities and nuances of human behaviour, as well as the importance of considering the specific circumstances and background of each case.*
>
> *43. In the background of the above analysis, this Court proceeds to judge on the touchstone of such analysis as to whether the allegations leveled in the complaint by the complainant can be considered sufficient material along with the statement under section 164 Cr. P.C. to prima facie make out a charge under Section 509 IPC against the present accused."*

28. Resultantly, in **Varun Bhatia** *supra*, the High Court of Delhi distilled the controlling principles under Section 509 of 'the I.P.C.,' holding that the offence pivots on a deliberate, culpable intent to affront a woman's modesty and its

manifestation either through words/sounds/gestures intended to be perceived by her or by an intrusion upon her privacy; it further clarified the doctrinal demarcation between Sections 354 and 509 of 'the I.P.C.,' physical force versus verbal/behavioral affront, while reaffirming from binding precedent that the gravamen lies in the accused's intention/knowledge rather than the victim's subjective reaction, and that "modesty" is assessed on an objective, reasonable-person standard anchored in contemporary societal norms.

29. The High Court of Calcutta in **Babul Supriyo v. State of W.B**[11] at paragraph Nos.26, 34 & 43 held as under:

> *"26. It is pertinent to mention that Section 354 which is a penal provision for assault or criminal force to woman with intent to outrage her modesty find place in chapter XVI under the heading "Of Offences Affecting the Body of Offences Affecting Life". On careful reading of the judicial pronouncement by the Hon'ble Supreme Court in various cases, it is found that the test for ascertaining if modesty has been outraging or not lies on determination of the question as to whether the act by the accused is capable of shocking the sense of decency of the woman. The sense of decency of the woman, if considered to explain the term "modesty" within the meaning of Section 354 is her sex. In the words of Bachawat, J., "the modesty of an adult female is writ large on her body. Young or old, intelligent or imbecile, awake or sleeping, the woman possesses the modesty capable of being outraged." Similarly, where a woman is made to feel ashamed of her sexual dignity, i.e, lowering the sexual honour of a woman in her own eyes, she feels insulted within the meaning of Section 509 of the Penal Code, 1860.*
>
> *34. From the above discussion, I have already come to the conclusion that the allegation in the first information report and other materials, accompanying the FIR do not disclose any cognizable offence under Section 509 of the IPC. Therefore, the charge-sheet being No. 27 dated 08.03.2017 filed under Section 509 of the Penal Code, 1860 is liable to be quashed.*
>
> *43. For the reasons aforesaid I have no other alternative but to hold that the charge-sheet does not disclose commission of any offence under Section 509 of the Penal Code, 1860 against the accused. Secondly, the allegations in the FIR constitute only a non-cognizable offence under Section 500 of the Code of Criminal Procedure and no*

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> *investigation is permitted by police officer, unless a Magistrate has issue an order for the same as contemplated under Section 155(2) of the Code of Criminal Procedure. Thirdly, further proceedings of CGR Case No. 62 of 2017 on the basis of charge-sheet No. 27 dated 08.03.2017 will be abused of the process of the Court."*

30. In fine, in **Babul Supriyo** *supra.*, the Calcutta High Court held that the touchstone for determining whether a woman's modesty has been outraged under Sections 354 and 509 of 'the I.P.C.,' is whether the act complained of is capable of "shocking the sense of decency of a woman," modesty being an inherent attribute of her sex; yet, upon a meticulous appraisal of the FIR and accompanying materials, the Court found that no cognizable offence under Section 509 of 'the I.P.C.,' was disclosed. Consequently, the charge-sheet was held to be unsustainable, particularly as the allegations, at best, disclosed only a non-cognizable offence under Section 500 of 'the Cr.P.C.,' for which investigation is barred absent a Magistrate's order under Section 155(2) of 'the Cr.P.C.' The Court therefore concluded that continuation of the proceedings would amount to an abuse of the process of law, warranting quashment *in toto*.

31. The High Court of Karnataka in **Shivalingappa B. Kerakalamatti v. State of Karnataka**[12] at paragraph No.14 held as under:

> *"14. What remains to be noticed would be the offences punishable under the Atrocities Act. The ones that are urged are clauses (r) and (s) of sub-section (1) of Section 3. They read as follows:*
>
> *"3. Punishments for offences of atrocities.— (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—*
>
> *… … …*

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(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;"

For an offence to become punishable under Section 3(1)(r) & (s) what is necessary is hurling of abuses in a public place or in a place of public view. The assault is as indicated hereinabove and hurling of abuses is again as indicated hereinabove. Whether it was in a public place or in a place of public view is not forthcoming in the statements or in the summary of the charge sheet. If it is neither in a public place nor in a place of public view, it can hardly be said that it meets the ingredients of Section 3(1)(r) & (s). The Apex Court in the case of HITESH VERMA v. STATE OF UTTARAKHAND4 has held as follows:

"15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] , it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.

16. There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

17. In another judgment reported as Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P., (2020) 18 SCC 763 : 2019 SCC OnLine SC 1104] , this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar"

Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. This Court in a judgment reported as Subhash Kashinath Mahajan v. State of Maharashtra [Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as Union of India v. State of Maharashtra [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under : (Union of India case [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] , SCC p. 797, para 52)

"52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC."

… … …. …

21. In Gorige Pentaiah [Gorige Pentaiah v. State of A.P., (2008) 12 SCC 531 : (2009) 1 SCC (Cri) 446] , one of the arguments raised was nondisclosure of the caste of the accused but the facts were almost similar as there was civil dispute between parties pending and the allegation was that the accused has called abuses in the name of the caste of the victim. The High Court herein has misread the judgment of this Court in Ashabai Machindra Adhagale [Ashabai Machindra Adhagale v. State of Maharashtra, (2009) 3 SCC 789 : (2009) 2 SCC

(Cri) 20] as it was not a case about the caste of the victim but the fact that the accused was belonging to upper caste was not mentioned in the FIR. The High Court of Bombay had quashed the proceedings for the reason that the caste of the accused was not mentioned in the FIR, therefore, the offence under Section 3(1)(xi) of the Act is not made out. In an appeal against the decision of the Bombay High Court, this Court held that this will be the matter of investigation as to whether the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. Therefore, the High Court erred in law to dismiss the quashing petition relying upon later larger Bench judgment.

22. The appellant had sought quashing of the charge-sheet on the ground that the allegation does not make out an offence under the Act against the appellant merely because Respondent 2 was a Scheduled Caste since the property dispute was not on account of the fact that Respondent 2 was a Scheduled Caste. The property disputes between a vulnerable section of the society and a person of upper caste will not disclose any offence under the Act unless, the allegations are on account of the victim being a Scheduled Caste. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar any person to protect his rights by way of a procedure established by law.

23. This Court in a judgment reported as Ishwar Pratap Singh v. State of U.P. [Ishwar Pratap Singh v. State of U.P., (2018) 13 SCC 612 : (2018) 3 SCC (Cri) 818] held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under : (SCC p. 618, para 9)

"9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a chargesheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed."

24. In view of the above facts, we find that the charges against the appellant under Section 3(1)(r) of the Act are not made out.

> *Consequently, the chargesheet to that extent is quashed. The appeal is disposed of in the above terms."*
> *(Emphasis supplied)*
> *The Apex Court as an extra rider observes that even if it is in a public place or a place of public view, mere utterance of the word of a person belonging to the caste is not enough and it should be with an intention to insult as the provision of law i.e., Section 3(1)(r) & (s) clearly mandate that there should be intention to insult. Therefore, in the facts of the case the happenings of the alleged incident in a public place or in a place of public view is doubtful nor there was any deliberate intention to malign the complainant taking the name of his caste. In the absence of all these ingredients and the judgment of the Apex Court, permitting further proceedings would become a repeated abuse of the process of law."*

32. Thus, in **Shivalingappa B. Kerakalamatti** *supra*, the High Court of Karnataka underscored that the indispensable statutory requirements under Sections 3(1)(r) and 3(1)(s) of 'the SCs/STs (POA) Act', namely, intentional caste-based insult or abuse occurring "in any place within public view", were wholly unfulfilled, as neither the statements nor the charge-sheet disclosed that the alleged utterances occurred in a public setting. Relying on the authoritative exposition in **Hitesh Verma** *supra*, the Court reiterated that abuses made within the four walls of a private building, absent the presence of independent members of the public, fall outside the statutory ambit; further, civil disputes over land or property, unconnected with caste-based humiliation, cannot be transmuted into offences under 'the SCs/STs (POA) Act'. The Court emphasized that mere knowledge of the victim's caste is inconsequential unless the insult is because of such caste identity, and that even the utterance of caste-related words in a public place is insufficient unless accompanied by the requisite *mens rea* to humiliate. Observing that the allegations stemmed

from a property dispute and lacked both public visibility and caste-centric intent, the Court held that continuance of proceedings would amount to a manifest abuse of process and accordingly quashed the charge-sheet to that extent.

33. The High Court of Allahabad in **Kaushar Khan v. State of U.P**[13] at paragraph No.22 held as under:

> *"22. Thus, after perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and as per the contents of the complaint and considering the various case laws referred above, the incident does not appear to happen in a public place or in a public view, thus, Section 3(1)(S) of the SC/ST Act, 1989 is not attracted against the applicants as the incident did not occur in any "place within a public view", as such, considering the law laid down by the Hon'ble Apex Court in the case of Hitesh Verma (Supra), Ramesh Chandra Vaishya (Supra), Fakhruddin Ahmad (Supra) as well as law laid down by co-ordinate Bench of this Court in the case of Ankit (Supra) this Court is of the view that the learned trial court has failed to appreciate the material available on record. The summoning order dated 09.04.2024 passed by the trial court alongwith the entire criminal proceedings of the aforesaid case are liable to be quashed."*

34. Thus, in **Kaushar Khan** *supra* the Allahabad High Court held that where the allegations, even when taken at their face value, do not disclose that the incident occurred in a "public place" or "within public view," the indispensable statutory ingredient of Section 3(1)(s) of 'the SCs/STs (POA) Act' stands wholly unfulfilled. Relying on the governing principles laid down in Hitesh Verma, Ramesh Chandra Vaishya, Fakhruddin Ahmad, and the coordinate Bench decision in Ankit, the Court found that the Trial Court had failed to appreciate the material on record, as the complaint itself negated any element

[13] 2024 SCC OnLine All 4591

of public visibility. Consequently, the summoning order and the entire proceedings were declared legally unsustainable and were quashed *in toto*.

35. The High Court of Chhattisgarh in **Sushil Kumar Agrawal v. State of Chhattisgarh**[14] at paragraph Nos.7 & 12 held as under:

> *"7. A careful perusal of the aforesaid provision would show that there must be intentional insult or intimidation with intent to humiliate the member of a Scheduled Caste or a Scheduled Tribe by a non-Scheduled Caste or a non-Scheduled Tribe member and the insult must have been done in a place within public view. The use of expression "intentionally insults or intimidates with intent to humiliate" makes it abundantly clear that the mens rea is an essential ingredient of the offence and it must also be established that the accused had the knowledge that the victim is SC/ST and that the offence was committed for that reason.*
> *12. Reverting to the facts of the present case in light of the meaning extended by Their Lordships of the Supreme Court and the Delhi High Court in the aforesaid judgments, it is quite vivid that in the present case, the prosecution has only examined complainant Dhanraj Sonwani and nine other persons who had accompanied Dhanraj Sonwani, and no other person has been examined though claimed to be present at the time of incident or it is not the case of the prosecution that any person was present at the place where the present accused person hurled abuses on the basis of caste of complainant Dhanraj Sonwani to him, though the place where the offence is alleged to have been committed is a private place, but since no other independent and impartial person except the complainant and his nine other friends, who were said to be present at the relevant time, was examined even under Section 161 of the CrPC and the incident actually took place inside the cabin or chamber of the petitioner, it cannot be held that the offence under Section 3(1)(x) of the Act of 1989 is committed within public view, even if the allegation in the FIR or the charge-sheet is taken in its entirety and as such petitioner's prosecution for said offence deserves to be quashed."*

36. Thus, in **Sushil Kumar Agrawal** *supra*, the High Court held that the gravamen of an offence under Section 3(1)(x) of 'the SCs/STs (POA) Act' lies in the presence of *mens rea,* an intentional caste-based insult or intimidation, and its occurrence "within public view." Emphasizing that knowledge of the

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[14] MANU/CG/0237/2019

victim's caste and humiliation for that reason is indispensable, the Court found that the incident, having occurred inside the private cabin of the accused and being witnessed only by the complainant and his accompanying companions, lacked any element of public visibility. The absence of independent, impartial witnesses and the purely private nature of the setting rendered the statutory ingredients wholly unfulfilled. Consequently, even accepting the FIR and charge-sheet allegations at their highest, the offence was held not to be made out, and the prosecution was deemed liable to be quashed.

37. The High Court of Allahabad in **Seema Bharadwaj v. State of U.P** [15]at paragraph No.12 it is held as under:

> *"It is clear that the appellant has approached this court against the cognizance order passed against her wherein the cognizance under section 323, 504, 506 I.P.C. and section 3(2)(va) of SC/ST Act was taken against the appellant. The court cannot imagine that under what sections charge would be framed by the trial court. The court has to look into the facts as they are before the court in the present condition and before the court there is only cognizance order dated 2.5.2023 whereby the cognizance has been taken against the appellant u/s 323, 504, 506 I.P.C. and section 3(2)(va) of SC/ST Act. Admittedly, at the time of the incident the appellant was not present on the spot. So in the opinion of the court, in her absence on the spot cognizance under section 323, 504, 506 I.P.C. and section 3(2) va of SC/ST Act cannot be taken against the appellant. For section 3(2)(va) of SC/ST Act also not mere the knowledge of the first informant being a person belonging SC/ST community is enough for the accused to implicate him but as interpreted by the Apex Court in judgment Hitesh Verma Versus The State of Uttarakhand and Another, Criminal Appeal No.707 of 2020 (arising out of SLP (Criminal) No.3585 of 2020, dated 05.11.2020 mere the victim belonging to SC/ST community is not enough for implicating the accused persons under the sections of SC/ST Act. What is necessary is that the offended words must have been used by the accused person against the victim with intent to humiliate her/him because of her/him belonging to SC/ST community. The motive behind the incident as per FIR is that the*

[15] Crl.A.No.7821 of 2023

> *appellant did not want first informant to work as house help in her mother's house. The incident did not take place because the first informant belongs to SC/ST community."*

38. In summation, the Hon'ble High Court in **Seema Bharadwaj** *supra* underscored that cognizance under Sections 323, 504, 506 of 'the I.P.C.,' and Section 3(2)(va) of 'the SCs/STs (POA) Act' cannot be sustained where the accused was admittedly absent from the *locus criminis* at the time of the alleged incident. The Court reaffirmed, in consonance with the dictum of the Hon'ble Supreme Court in **Hitesh Verma** *supra*, that mere knowledge of the victim's caste or the mere fact of the victim belonging to a Scheduled Caste/Scheduled Tribe does not, by itself, attract the rigour of 'the SCs/STs (POA) Act'. It is imperative that the alleged offending conduct must be perpetrated with the specific intent to humiliate the victim on account of such caste identity. Since the FIR itself revealed that the underlying motive pertained solely to a domestic dispute regarding employment as a house-help, and not caste-centric animus, the invocation of the penal provisions was held legally unsustainable.

39. The Hon'ble Apex Court in **Madhushree Datta v. State of Karnataka**[16], at paragraph Nos.27, 28 & 30 it is held as under:

> *"27. For ascertaining whether, prima facie, the provision of Section 509IPC was attracted, it is essential to first understand the meaning of the term "modesty", to determine whether modesty has been insulted. While modesty is not explicitly defined in IPC, this Court has addressed the essence of a woman's modesty in the decision in Ramkripal v. State of M.P. [Ramkripal v. State of M.P., (2007) 11*

[16] (2025) 3 SCC 612

SCC 265 : (2008) 1 SCC (Cri) 674] Excerpts from the decision read as under : (SCC pp. 266-67, para 7)
"7. … '12. What constitutes an outrage to female modesty is nowhere defined in IPC. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex.' "
(emphasis supplied)
28. Further, this Court while discussing the test for outraging the modesty of a woman under Section 509IPC in Rupan Deol Bajaj v. Kanwar Pal Singh Gill [Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , observed as under : (SCC p. 206, para 15)
"15. In State of Punjab v. Major Singh [State of Punjab v. Major Singh, 1966 SCC OnLine SC 51 : AIR 1967 SC 63] a question arose whether a female child of seven-and-a-half months could be said to be possessed of "modesty" which could be outraged. In answering the above question Mudholkar, J., who along with Bachawat, J. spoke for the majority, held that when any act done to or in the presence of a woman is clearly suggestive of sex according to the common notions of mankind that must fall within the mischief of Section 354IPC. Needless to say, the "common notions of mankind" referred to by the learned Judge have to be gauged by contemporary societal standards. The other learned Judge (Bachawat, J.) observed that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From the above dictionary meaning of "modesty" and the interpretation given to that word by this Court in Major Singh case [State of Punjab v. Major Singh, 1966 SCC OnLine SC 51 : AIR 1967 SC 63] it appears to us that the ultimate test for ascertaining whether modesty has been outraged, is the action of the offender such as could be perceived as one which is capable of shocking the sense of decency of a woman."
(emphasis supplied)
30. The term "filthy language", when examined in isolation, and without any contextual framework or accompanying words, indicating an intent to insult the complainant's modesty, does not fall within the purview of Section 509IPC. Had there been references to specific words used, contextual details, or any gestures—whether preceding, succeeding, or accompanying these words—that could demonstrate a criminal intent to insult the modesty, and it might have assisted the prosecution in establishing the case against the appellants."

40. Hence, in **Madhushree Datta** *supra*, the Hon'ble Supreme Court reaffirmed that the core of an offence under Section 509 of 'the I.P.C.,' lies in the culpable intention to insult a woman's modesty, modesty being an inherent

attribute of her sex, as elucidated in **Ramkripal v. State of Madhya Pradesh**[17], and that the decisive test, reiterated from Major Singh and Rupan Deol Bajaj, is whether the alleged act is capable of "shocking the sense of decency of a woman." The Court further clarified that the mere use of "filthy language," when viewed in isolation and bereft of contextual cues demonstrating a deliberate intent to affront modesty, falls short of the statutory threshold; absent specific words, gestures, or circumstances manifesting such criminal intent, Section 509 of 'the I.P.C.,' cannot be invoked.

41. The High Court of Kerala in **Anas Mohammed M. v. State of Kerala**[18], at paragraph Nos.8 & 9 it is held as under:

> *"8. Coming to Section 509 I.P.C, the term 'modesty' envisaged thereunder, is an attribute associated with female human beings as a class and that, it is a virtue which attaches to a female owing to her sex. It is well settled that the ultimate test for ascertaining whether modesty has been outraged is, if the action of the offender as such could be perceived as one which is capable of shocking the sense of decency of a woman. Thus, the pertinent aspect to be looked into is whether there is sufficient material to show that the accused was having the intention and knowledge to insult the modesty of the de facto complainant. It is also necessary to ascertain whether the act of the accused was intended to shock the sense of decency of the de facto complainant as a woman.*
> *9. Going by the nature of the allegations levelled by the de facto complainant against the petitioner, it is not possible to say that the words allegedly spoken by the petitioner to the de facto complainant were intended to shock the sense of decency of the de facto complainant as a woman. Nor could it be said that the alleged act of the petitioner was having a sexual colour. At the most, it could be said that the petitioner had used filthy language upon the de facto complainant, enraged by the act of the de facto complainant who came for the driving test without trimming her nails. But the law is trite that the mere use of filthy language without any contextual framework or accompanying words indicating an intent to insult the modesty of the*

[17] (2007) 11 SCC 265
[18] 2025 SCC OnLine Ker 5782

> *victim, would not constitute the offence under Section 509 I.P.C. It has been held by the Hon'ble Supreme Court in Madhushree Datta v. State of Karnataka, [(2025) 3 SCC 612] as follows:*
> *"28. The term "filthy language," when examined in isolation, and without any contextual framework or accompanying words, indicating an intent to insult the complainant's modesty, does not fall within the purview of S. 509 of the IPC. Had there been references to specific words used, contextual details, or any gestures - whether preceding, succeeding, or accompanying these words - that could demonstrate a criminal intent to insult the modesty, and it might have assisted the prosecution in establishing the case against the appellants.""*

42. Ergo, in **Anas Mohammed M.** *supra*, the High Court of Kerala reiterated that "modesty" under Section 509 of 'the I.P.C.,' is an inherent attribute of womanhood, and the decisive test for its violation is whether the act complained of is capable of shocking the sense of decency of a woman; consequently, the Court held that mere use of filthy or intemperate language, absent contextual circumstances or accompanying gestures demonstrating a culpable intention to insult feminine modesty, does not satisfy the statutory threshold. Observing that the allegations revealed neither sexual colour nor any intent to outrage modesty, and relying on the Supreme Court's dictum in **Madhushree Datta** *supra* that isolated "filthy language" devoid of contextual indicators does not attract Section 509 of 'the I.P.C.,' the Court concluded that the offence was not made out.

43. The Hon'ble Apex Court in **Binay Kumar Singh v. State of Bihar**[19], at paragraph Nos.22 & 23 held as under:

> *"22. We must bear in mind that an alibi is not an exception (special or general) envisaged in the Penal Code, 1860 or any other law. It is only a rule of evidence recognised in Section 11 of the Evidence Act that*

[19] (1997) 1 SCC 283

> *facts which are inconsistent with the fact in issue are relevant. Illustration (a) given under the provision is worth reproducing in this context:*
> *"The question is whether A committed a crime at Calcutta on a certain date; the fact that on that date, A was at Lahore is relevant."*
> *23. The Latin word alibi means "elsewhere" and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of occurrence that it is extremely improbable that he would have participated in the crime. It is a basic law that in a criminal case, in which the accused is alleged to have inflicted physical injury to another person, the burden is on the prosecution to prove that the accused was present at the scene and has participated in the crime. The burden would not be lessened by the mere fact that the accused has adopted the defence of alibi. The plea of the accused in such cases need be considered only when the burden has been discharged by the prosecution satisfactorily. But once the prosecution succeeds in discharging the burden it is incumbent on the accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. When the presence of the accused at the scene of occurrence has been established satisfactorily by the prosecution through reliable evidence, normally the court would be slow to believe any counter-evidence to the effect that he was elsewhere when the occurrence happened. But if the evidence adduced by the accused is of such a quality and of such a standard that the court may entertain some reasonable doubt regarding his presence at the scene when the occurrence took place, the accused would, no doubt, be entitled to the benefit of that reasonable doubt. For that purpose, it would be a sound proposition to be laid down that, in such circumstances, the burden on the accused is rather heavy. It follows, therefore, that strict proof is required for establishing the plea of alibi. This Court has observed so on earlier occasions (vide Dudh Nath Pandey v. State of U.P. (1981) 2 SCC 166, State of Maharashtra v. Narsingrao Gangaram Pimple (1984) 1 SCC 446."*

44. Thus, the Hon'ble Apex Court in **Binay Kumar Singh** *supra*, while adverting to the jurisprudential contours of the plea of alibi, categorically enunciated that such a defence is not an exception envisaged under 'the I.P.C.,' but merely a rule of evidence embodied in Section 11 of the Indian Evidence Act, 1872, wherein facts inconsistent with the fact in issue acquire relevancy. The Court elucidated that the Latin expression *alibi,* meaning "elsewhere", is invoked when an accused asserts that his spatial remoteness

from the *locus criminis* renders his participation in the alleged offence highly improbable. It was emphatically held that the cardinal burden rests upon the prosecution to establish, beyond reasonable doubt, the presence and participation of the accused at the scene of occurrence, and such burden is not diluted merely because the accused has resorted to the plea of *alibi*. Only upon the successful discharge of this prosecutorial burden does the obligation devolve upon the accused to prove the plea of *alibi* with strict and absolute certainty, thereby excluding the possibility of his presence at the crime scene. The Court cautioned that once the prosecution adduces cogent and reliable evidence affirming the accused's presence, judicial reluctance would ordinarily prevail against accepting countervailing evidence of *alibi*, unless such evidence is of unimpeachable quality sufficient to generate reasonable doubt. In this context, the Hon'ble Apex Court reiterated its earlier pronouncements in **Dudh Nath Pandey v. State of U.P** [20] and **State of Maharashtra v. Narsingrao Gangaram Pimple**[21], underscoring that the plea of *alibi* demands strict proof and imposes a heavy evidentiary burden upon the accused.

45. The Hon'ble Apex Court in **Dudh Nath Pandey** *supra* at paragraph No.19 held as under:

> *"19. The plea of alibi postulates the physical impossibility of the presence of the accused at the scene of offence by reason of his presence at another place. The plea can therefore succeed only if it is shown that the accused was so far away at the relevant time that he could not be present at the place where the crime was committed."*

[20] (1981) 2 SCC 166
[21] (1984) 1 SCC 446

46. Thus, the Hon'ble Supreme Court in **Dudh Nath Pandey** *supra*, succinctly held that the plea of *alibi* rests on demonstrating the physical impossibility of the accused being at the crime scene due to his proven presence elsewhere. The Court emphasized that alibi is not a mere assertion but a rigorous evidentiary burden, requiring the accused to establish through clear and reliable evidence that, at the relevant time, he was at such a distant location that his presence at the *situs criminis* was wholly impossible.

47. The Hon'ble Apex Court in **Kamal Prasad v. State of Chhattisgarh**[22], at paragraph No.24, 24.1 to 24.5 held as under:

> *"24. The principles regarding the plea of alibi, as can be appreciated from the various decisions*
> *24.1. It is not part of the General Exceptions under IPC and is instead a rule of evidence under Section 11 of the Evidence Act, 1872.*
> *24.2. This plea being taken does not lessen the burden of the prosecution to prove that the accused was present at the scene of the crime and had participated therein.*
> *24.3. Such plea is only to be considered subsequent to the prosecution having discharged, satisfactorily, its burden.*
> *24.4. The burden to establish the plea is on the person taking such a plea. The same must be achieved by leading cogent and satisfactory evidence.*
> *24.5. It is required to be proved with certainty so as to completely exclude the possibility of the presence of the accused at the spot of the crime. In other words, a standard of "strict scrutiny" is required when such a plea is taken."*

48. In summation, the Hon'ble Supreme Court in **Kamal Prasad** *supra*, reaffirmed the settled principles governing the plea of alibi, clarifying that it is not a general exception under 'the I.P.C.,' but a rule of evidence traceable to Section 11 of the Evidence Act. The Court emphasized that raising such a

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[22] (2023) 10 SCC 172

plea does not dilute the prosecution's primary burden to prove, beyond reasonable doubt, the presence and participation of the accused at the crime scene. Only after this burden is discharged does the plea of alibi fall for consideration. The responsibility to substantiate the plea rests entirely on the accused, who must produce cogent and trustworthy evidence. Crucially, the plea must be proved with absolute certainty so as to completely exclude the possibility of the accused's presence at the *locus criminis*, thereby subjecting the defence to strict scrutiny.

ANALYSIS:

49. Upon meticulous perusal of the record and thoughtful consideration of the rival contentions, it is found that the allegations in the FIR and charge sheet, even if accepted at their face value, palpably failed to disclose the foundational ingredients requisite for invocation of Sections 3(1)(r) and 3(1)(s) of 'the SCs/STs (POA) Act'. These provisions, *stricto sensu*, mandate an intentional insult or intimidation with the specific *mens rea* to humiliate a member of a Scheduled Caste or Scheduled Tribe in any place within public view, a *sine qua non* emphatically delineated by the Hon'ble Supreme Court in **Hitesh Verma** *supra*. The complaint herein was conspicuously bereft of any averment anent public presence or independent witnesses, rendering the alleged caste-based slurs a purely private altercation, indistinguishable from

quotidian acrimony, and thus wholly extraneous to the statutory ambit designed to safeguard vulnerable communities from public indignities.

50. On a conspectus of the factual matrix and rival submissions, the merits of the case reveal that the prosecution's edifice rests upon omnibus allegations of caste-based abuse and monetary transactions, which, even if taken at their highest, fail to disclose the indispensable statutory ingredients of the offences under Sections 3(1)(r), 3(1)(s), and 3(2)(va) of 'the SCs/STs (POA) Act.' The substratum of the complaint is bereft of particulars as to occurrence "within public view," lacks independent corroboration, and is quintessentially civil in nature, thereby attracting the ratio in **Hitesh Verma** *supra*, **B. Venkateswaran** *supra*, and **Pramod Suryabhan Pawar** *supra*. The perfunctory investigation, suppression of exculpatory material, and the petitioner's plea of alibi further render the prosecution inherently improbable. In such circumstances, continuation of proceedings would amount to a manifest abuse of process, a colourable exercise of criminal law, and a miscarriage of justice.

51. Elucidating the statutory matrix, Section 3(1)(r) penalizes a non-SC/ST person who "intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view." The expression "public view," as crystallised in **Swaran Singh** *supra*, transcends mere public places to encompass private spaces visible to the

public, such as a lawn observable from a thoroughfare or an indoor setting where non-relative members of the public are present. Conversely, purely private exchanges, insulated from public gaze, such as those confined to a residence without external visibility or third-party overhearing, stand exscinded from its purview. The prosecution's narrative, predicated solely on the complainant's soliloquy echoed verbatim by interested witnesses (LWs 2 to 5), evinced no such public element, attracting the ratio in **Pramod Suryabhan Pawar** *supra*, wherein private WhatsApp communications were held *non est* for want of public view.

52. A further infirmity vitiating the prosecution substratum was the patently civil complexion of the core dispute, revolving around alleged monetary borrowings and execution of a promissory note, unfortified by any recovered documentary corroboration. The endeavour to transmogrify such quintessentially civil obligations into criminal atrocities under ‘the SCs/STs (POA) Act’ bespoke a colourable exercise of process, impermissible under the law's salutary object to ameliorate socio-economic disabilities qua caste, not to arm-twist private pecuniary claims. The Hon'ble Apex Court in **Hitesh Verma** *supra* expressly negatived analogous land-title assertions as non-cognizable under ‘the SCs/STs (POA) Act’, underscoring that every citizen's recourse to legal remedies per se cannot be stigmatized as caste-driven humiliation absent a demonstrable nexus.

53. Section 3(1)(s) of ‘the SCs/STs (POA) Act’, invoking criminality for abuse by caste name in public view, demands analogous rigour; mere invocation of caste epithets in filial or secluded contretemps, devoid of public dissemination, dissipates into ether, as held in **U. Sadasivaiah** *supra*. Therein, caste-based invective within a police station, witnessed solely by the complainant and the Station House Officer, was deemed beyond statutory pale for lack of public view. Identically, the instant complaint's silence on bystanders or audible reach to the public orbit precluded applicability, fortifying the imperative to quash under the High Court's inherent powers to forestall manifest injustice.

54. Equally fatal was the prosecution's inability to *prima facie* substantiate the Petitioner's complicity, given his avowed alibi of employment in Melbourne, Australia, at the material time, a plea untraversed by the investigating agency through elementary verification like call detail records, tower dumps, or electronic footprints. This perfunctory probe, tantamount to mechanical regurgitation of the FIR in the charge sheet, offended the **Arnab Manoranjan Goswami** *supra* mandate, compelling Courts at the threshold to dissect whether allegations, unvarnished, disclose cognizable offence ingredients, lest continuance precipitates irreparable prejudice and unwarranted curtailment of liberty.

55. Before adverting to the factual canvas, it is necessary to restate the legal contour of the plea of *alibi*. The doctrine does not constitute a general exception under 'the I.P.C.,' it is a rule of evidence engrafted in Section 11 of the Indian Evidence Act. The prosecution's foundational burden to prove, beyond reasonable doubt, the presence and participation of the accused at the *locus criminis* remains undiluted, the accused's burden to establish *alibi* arises only subsequent to such prosecutorial discharge and must meet a standard of strict scrutiny, excluding, with reasonable certainty, the possibility of his presence at the scene.

56. Tested on that anvil, the present record reveals that the Petitioner has consistently asserted that, at the material time, he was stationed in Melbourne, Australia, yet the investigating agency made no endeavour to verify readily-available exculpatory material, such as immigration/travel entries, employment records, call detail/location data, or digital-trail metadata, thereby leaving the *alibi* plea wholly untraversed. This investigative indifference, coupled with the absence of the core statutory ingredients under 'the SCs/STs (POA) Act' and the mechanical reproduction of the FIR in the charge-sheet, bespeaks non-application of mind. While this Court refrains from conclusively adjudicating the *alibi* at the Section 482 of 'the Cr.P.C.,'/Section 528 of 'the BNSS' threshold, the investigation's failure to even probe the Petitioner's asserted spatial dissociation significantly

attenuates the prosecution's *prima facie* case and reinforces the conclusion that continuation of proceedings would amount to an abuse of process.

57. Section 528 of 'the BNSS' (*pari materia* Section 482 of 'the Cr.P.C.,') vests the High Court with plenary inherent jurisdiction to interdict abuse of process, secure ends of justice, and prevent vexatious litigation, as paradigmatically catalogued in **Bhajan Lal** *supra*. Category (i) thereof, where allegations *ex-facie* constitute no offence, and Category (ii) reasonable mensuram non probabilism, stood irresistibly attracted, rendering proceedings an engine of harassment rather than vindication, warranting expeditious quashment to obviate miscarriage.

58. The charge under Section 79 of 'the BNS'/Section 509 of 'the I.P.C.,' similarly crumbled, exegeting deliberate intent to insult a woman's modesty through words, gestures, or privacy intrusion, assayed objectively by whether a reasonable woman would perceive the act as decency-shocking. Judicial exegesis in **Ramkripal** *supra* posits modesty as an innate sex-linked attribute, with culpability hinging on accused's intent/knowledge, not victim's subjective reaction, per State of **Punjab v. Major Singh**[23]. Absent sexual innuendo or modesty-outraging context in the alleged slurs, reducible to filthy repartee over dues, the provision remained inapplicable, distinguished from Section 354 of 'the I.P.C.,' physical force paradigm.

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[23] 1966 Supp SCR 286

59. Precedents like **B. Venkateswaran** *supra* decisively quashed proceedings under Sections 3(2)(v)/(va) 'the SCs/STs (POA) Act' for absent *prima facie* ingredients, castigating High Court refusal as untenable. Analogously, **P. Ramesh Babu** *supra* and **G.P. Hemakoti Reddy** *supra* annulled omnibus accusations in private telephonic or domestic exchanges, emphasizing strict construction of penal statutes and proscription of camouflage for ulterior vendetta.

60. The victim-centric paradigm under 'the SCs/STs (POA) Act', while paramount, yields at quashment stage to threshold scrutiny, disputed facts like alibi devolve to trial, but inherent power intervenes against foundational infirmities, per **Pardeep Kumar** *supra*, quashing FIRs/charge-sheets where public view and intent lapsed, cascading to derivative 'the I.P.C.,' charges.

61. Upon a meticulous appraisal of the record, this Court is constrained to hold that the allegations, even if taken at their face value, are omnibus, bereft of particulars, and conspicuously silent on the indispensable statutory ingredient of occurrence "within public view," which is the *sine qua non* for invocation of Sections 3(1)(r) and 3(1)(s) of 'the SCs/STs (POA) Act'. The complainant has not demonstrated the presence of any independent witnesses or public visibility, and the statements of supporting witnesses are but verbatim reiterations of the complainant's version, lacking substantive corroboration. Furthermore, the Petitioner has placed on record that he was

employed in Melbourne, Australia at the relevant time, a plea of alibi which, though ordinarily a matter for trial, in the present factual matrix renders the prosecution case inherently improbable. In light of the authoritative pronouncements in **Hitesh Verma** *supra*, **B. Venkateswaran** *supra*, and Swaran Singh v. State, it is manifest that private monetary disputes camouflaged as caste-based offences, absent the foundational ingredients of intentional humiliation in public view, amount to a colourable exercise of criminal law and constitute an abuse of process. Continuation of proceedings in such circumstances would occasion grave prejudice and miscarriage of justice, warranting interdiction in exercise of inherent jurisdiction under Section 482 of 'the Cr.P.C.,'/Section 528 of 'the BNSS'.

CONCLUSION:

62. In the result, the Criminal Petition is allowed. Accordingly, the proceedings in S.C.No.165 of 2025 on the file of the learned IV Additional District Sessions Judge-cum-Speedy Trials Court for SC/ST Cases, Guntur, against the petitioner/Accused No.1, are hereby quashed.

DR. Y. LAKSHMANA RAO, J

Date: 13.03.2026
B/o
VTS