



CGHC010292382026

2026:CGHC:33357-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2017 of 2026

Anamika Upadhyay D/o Shri Devendra Upadhyay Aged About 20 Years
R/o Housing Board Colony, Jawahar Nagar, L I G School Ward No.1 Bhilai
Supela Tahsil- Supela, District- Durg (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through- Superintendent Of Police District- Durg
(C.G.)

2 - Station House Officer Police Station Bhilai Nagar District Durg (C.G.)

3 - Investigation Officer (Dy S.P. Ajak) Officer Of Dy. S.P. Ajak District -
Durg (C.G.)

4 - Jay Alias Dhananjay Sahu S/o Shri Jagdish Ram Sahu Aged About 36
Years R/o Plot No 22, Civil Duruji Street Near Green Vatika Restaurant
Vivekanand Nagar Kohka Supela, District - Durg (C.G.)

... **Respondent(s)**

For Petitioner(s) : Mr. Anand Mohan Tiwari, Advocate

For Respondent(s) : Mr. S.S. Baghel, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

03.08.2026

1. Heard Mr. Anand Mohan Tiwari, learned counsel for the petitioner. Also heard Mr. S.S. Baghel, learned Government Advocate for respondents/ State.

2. The petitioner has filed this petition with following prayer:

“a) Call for the records of FIR No. 189/2026 dated 19.04.2026 registered at Police Station Bhilai Nagar, District Durg, Charge Sheet (Final Report No. 172/2026), and all proceedings in Special Criminal Case No. 09/2026 (State Vs. Anamika Upadhyay) pending before the Court of Ld. Special Judge, SC/ST (Atrocities) Act, Durg Chhattisgarh;

b) Quash the FIR No. 189/2026, Charge Sheet (Final Report No. 172/2026), the order dated 02.07.2026 taking cognizance, and the order of framing of charge dated 03.07.2026 passed by the Ld. Special Judge, SC/ST (Atrocities) Act, Durg, in Special Criminal Case No. 09/2026 (State Vs. Anamika Upadhyay), whereby charges have been framed against the Petitioner under Sections 296, 299, 352, 353(1)(c), 196(1)(b), 197(1)(a) BNS and Sections 3(1)(r) and 3(1)(v) of the SC/ST Act;

c) Any other order(s) or direction(s) as this Hon'ble Court may deem fit in the interest of justice.”

3. Prosecution story in brief is that on 19.04.2026, a written complaint was lodged by Dhananjay Sahu alias Jai Sahu, a social activist, alleging that the accused, Kumari Anamika Upadhyay, through her Instagram account under the username “anamika-upadhyay”, had posted objectionable and derogatory remarks against Dr. B.R.

Ambedkar on social media. Acting upon the complaint, Crime No. 189/2026 was registered at Police Station Bhilai Nagar initially for offences punishable under Sections 299, 296, 352 and 353(3) of the Bharatiya Nyaya Sanhita, 2023. During the course of investigation, the statements of the complainant and other witnesses were recorded, on the basis of which it was alleged that the accused had made caste-based remarks against Dr. B.R. Ambedkar, resulting in the addition of offences under Sections 3(1) and 3(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The accused was apprehended on 19.04.2026 and the mobile phone allegedly used for uploading the impugned social media post was seized. She was thereafter arrested and remanded to judicial custody. The seized mobile phone was forwarded to the Cyber Forensic Laboratory for examination. Upon completion of the investigation, the investigating agency found sufficient material against the accused and prepared Charge-sheet No. 172/2026. During scrutiny of the charge-sheet, it was further opined that the alleged social media post had the potential to promote enmity and social disharmony on the basis of caste and religion, whereupon Sections 196(1)(b) and 197(1)(a) of the BNS, 2023, were also added before the final charge-sheet was presented before the competent Court.

4. Learned counsel for the petitioner submits that the impugned order dated 02.07.2026 taking cognizance in Special Criminal Case No. 09/2026 is wholly mechanical, cryptic and unsustainable in law, having been passed without any application of judicial mind. It is

contended that although the charge-sheet specifically invokes Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act along with various provisions of the Bharatiya Nyaya Sanhita, the learned Special Court has merely recorded that cognizance is taken under the “SC/ST Act” without specifying the exact statutory provisions under which the petitioner is required to face trial. Such a vague and non-speaking order deprives the petitioner of her valuable right to know the precise accusations against her and demonstrates complete non-application of mind by the Court while exercising jurisdiction under Section 210 of the BNSS. It is further submitted that the prosecution has deliberately isolated certain expressions allegedly used by the petitioner while completely suppressing the context in which the statements were made. Even assuming, without admitting, that the petitioner uttered the alleged words, the same were made in response to a provocative question and were directed towards the conduct of the questioner rather than as an intentional insult directed against any member of the Scheduled Castes or Scheduled Tribes. The complainant admittedly belongs to the Other Backward Class (OBC) and not to the Scheduled Castes or Scheduled Tribes, and neither the transcript nor any independent material contains the caste-specific expressions alleged by the prosecution. The only witness attributing such words to the petitioner is an office-bearer of the same organisation as the complainant, thereby rendering the allegation inherently interested and unreliable. It is, therefore, submitted that the essential ingredients of the offences under the

SC/ST Act are conspicuously absent and no prima facie case is made out.

5. Learned counsel further submits that the remaining offences under the Bharatiya Nyaya Sanhita are equally unsustainable in law. The alleged remarks do not satisfy the legal ingredients of obscenity under Section 296 of the Bharatiya Nyaya Sanhita, as they are neither lascivious nor capable of arousing prurient interest or depraving public morality. Likewise, no offence under Section 299 is made out since there is neither any deliberate nor malicious intention to outrage religious feelings, the alleged remarks having been made during the course of an exchange and not directed personally against Dr. B.R. Ambedkar or any identifiable class of persons. The offences under Sections 352, 353, 196 and 197 of the Bharatiya Nyaya Sanhita have also been mechanically added on the very same allegations without any independent factual foundation. It is further contended that the entire prosecution is founded upon inadmissible and unreliable electronic evidence, as the original electronic devices were never seized, the pen drive containing the alleged video was admittedly prepared by the complainant himself, and the certificate under Section 63(4) of the Bharatiya Sakshya Adhiniyam was issued by the complainant rather than by an independent or competent authority. The prosecution case is further rendered doubtful by a serious break in the chain of custody, inasmuch as the seizure memo records a 16 GB pen drive whereas the Cyber Forensic Laboratory received a 128 GB device, and despite the charge-sheet itself admitting that the forensic

examination report was still awaited, the investigation was concluded and cognizance sought. The investigation is further vitiated by several material discrepancies, including contradictory dates in witness statements, statements recorded prior to issuance of notice, preparation of the arrest checklist after the arrest, and an incorrect address mentioned in the arrest memo. These are not mere procedural irregularities but substantial defects striking at the root of the prosecution case. It is, therefore, submitted that even if the allegations contained in the charge-sheet are accepted in their entirety, no offence under the Bharatiya Nyaya Sanhita or the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is made out against the petitioner and continuation of the criminal proceedings would amount to a gross abuse of the process of law, warranting interference by this Court.

6. Per contra, learned State counsel opposes the petition and supports the impugned order of cognizance as well as the criminal proceedings. It is submitted that the investigation has been conducted in accordance with law and, upon collection of sufficient material, the investigating agency has rightly filed the charge-sheet against the petitioner for the offences alleged. It is contended that the material collected during investigation, including the complaint, statements of witnesses, seizure of the mobile phone allegedly used for uploading the objectionable social media content, electronic evidence, and other documentary material, prima facie discloses the commission of cognizable offences. It is further submitted that at the stage of taking cognizance or considering a petition for quashing,

the Court is only required to ascertain whether a prima facie case exists and is not expected to undertake a meticulous appreciation of the evidence or adjudicate upon its evidentiary value. According to the State, the questions raised by the petitioner regarding the admissibility of electronic evidence, the alleged discrepancies in the investigation, the authenticity of the transcript, the chain of custody, the forensic examination, and the credibility of witnesses involve disputed questions of fact, which can only be examined during the course of trial after the parties are afforded an opportunity to adduce evidence.

7. Learned State counsel further submits that the allegations contained in the complaint and the statements recorded during investigation disclose that the petitioner had uploaded objectionable remarks on a public social media platform, which had the potential to promote hatred, disturb public tranquillity, and insult the sentiments of a particular community. It is argued that the ingredients of the offences alleged are prima facie satisfied and the learned Special Court has rightly taken cognizance on the basis of the material placed before it. Any omission or deficiency in the wording of the cognizance order does not, by itself, invalidate the proceedings when the order has been passed upon consideration of the police report and accompanying documents. It is, therefore, submitted that the petitioner seeks a premature evaluation of the prosecution evidence, which is impermissible in proceedings for quashing. The petition, being devoid of merit, deserves to be dismissed.
8. We have heard learned counsel for the parties and perused the

documents appended with petition.

9. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C. (now 528 of the B.N.S.S.).
10. The Hon'ble Supreme Court in the matters of ***Rupan Deol Bajaj v. K.P.S. Gill*** reported in ***(1995) SCC (Cri) 1059***, ***Rajesh Bajaj v. State of NCT of Delhi*** reported in ***(1999) 3 SCC 259*** and ***Medchl Chemicals & Pharma (P) Ltd. v. Biological E Ltd. & Ors*** reported in ***2000 SCC (Cri) 615***, the Supreme Court clearly held that if a prima facie case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there is no controversy about the legal proposition that in case a prima facie case is made

out, the FIR or the proceedings in consequence thereof cannot be quashed.

11. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 SCC OnLine SC 315***, the Hon'ble Supreme Court has authoritatively settled the scope of the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023). The Apex Court has held that the power to quash criminal proceedings is required to be exercised sparingly, with circumspection and only in the rarest of rare cases. It has been categorically observed that while considering a prayer for quashing an FIR or criminal proceedings, the High Court cannot embark upon an enquiry into the reliability, genuineness or otherwise of the allegations contained in the FIR, nor can it appreciate the evidence or conduct a mini trial. The Court is only required to examine whether the allegations, if taken at their face value, disclose the commission of a cognizable offence. The Supreme Court further emphasized that criminal proceedings ought not to be scuttled at the threshold, that investigation into cognizable offences should ordinarily be permitted to proceed unhindered, and that the extraordinary jurisdiction under Section 482 Cr.P.C. must be exercised with great caution and self-restraint, save in exceptional cases where non-interference would result in manifest miscarriage of justice.
12. Very recently, in ***Pradeep Kumar Kesharwani v. State of Uttar***

Pradesh & Another (Criminal Appeal No. 3831 of 2025, decided on 02.09.2025), the Hon'ble Supreme Court reiterated the aforesaid principles and further held that while exercising jurisdiction under Section 482 Cr.P.C. (now Section 528 of the BNSS), the High Court cannot adjudicate disputed questions of fact or evaluate the evidentiary worth of the material collected during investigation. Unless all these parameters are cumulatively satisfied, the High Court ought not to interfere in exercise of its inherent jurisdiction, leaving the parties to establish their respective cases before the trial Court in accordance with law.

13. Tested on the touchstone of the aforesaid principles, this Court finds that the allegations contained in the complaint, the statements of the witnesses recorded during investigation and the material collected by the investigating agency, if taken at their face value, prima facie disclose the commission of cognizable offences for which the charge-sheet has been filed. At this stage, this Court is not expected to examine the correctness or otherwise of the allegations or to record a finding as to whether the prosecution will ultimately succeed in proving the charges. The contentions advanced on behalf of the petitioner that the alleged remarks have been taken out of context, that there was no intention to insult any member of the Scheduled Castes or Scheduled Tribes, that the complainant does not belong to the Scheduled Castes or Scheduled Tribes, that the transcript does not contain the alleged caste-specific expressions, that the electronic evidence is inadmissible, that there are discrepancies in the seizure of the pen drive, that the chain of

custody has been broken, and that there are procedural irregularities in the investigation, all involve disputed questions of fact requiring appreciation of oral as well as documentary evidence. Such issues can neither be conclusively adjudicated nor examined in detail while exercising jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

14. Equally, the challenge to the order dated 02.07.2026 taking cognizance on the ground that the learned Special Court has not specifically mentioned the precise provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act does not persuade this Court to exercise its inherent jurisdiction. The cognizance order has been passed on the basis of the police report submitted under Section 193 of the Bharatiya Nagarik Suraksha Sanhita along with the charge-sheet and the material collected during investigation, wherein the offences alleged against the petitioner have been specifically mentioned. Merely because the cognizance order does not reproduce the exact statutory provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act would not, by itself, render the order illegal or vitiate the entire proceedings, particularly when no prejudice has been demonstrated to have been caused to the petitioner. Whether the ingredients of the offences alleged are ultimately established is a matter to be determined by the learned trial Court on the basis of evidence adduced during trial.
15. In view of the aforesaid discussion, this Court is of the considered

opinion that the present case does not fall within any of the exceptional categories warranting exercise of inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The allegations made in the charge-sheet cannot, at this stage, be said to be so absurd, inherently improbable or legally untenable as to justify quashing of the criminal proceedings.

16. Accordingly, this petition being devoid of merit is liable to be and is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Manpreet