



2025:DHC:7178



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

*Reserved on: 23<sup>rd</sup> May, 2025*

*Pronounced on: 22<sup>nd</sup> August, 2025*

+ CRL.A. 1145/2024&CRL.M.A. 36798/2024

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.....Appellant

Through: Mr. Sanjeev Kumar, Ms. Saivi Kumari,  
Mr. Sachin Kumar & Mr. Shishant,  
Adv.

versus

STATE OF NCT OF DELHI & ORS. ....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the  
State.

Mr. Kumar Vaibhav, Mr. Mohd.  
Ashaab, Mr. Dakshya Upadhyay, Adv.  
for Respondent Nos. 2 and 3.

**CORAM:  
HON'BLE MR. JUSTICE AMIT SHARMA**

**JUDGMENT**

**AMIT SHARMA, J.**

1. The present appeal under Section 14A (1) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, "SC/ST Act") has been filed by the victim/complainant (hereinafter referred to as "appellant") seeking the following prayers: -



“In view of the circumstances mentioned hereinabove it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- i) Allow the appeal and set aside order dated 07.09.2024 passed by the learned Additional Sessions Judge-02, South District, Saket Courts, New Delhi which is the Special Court, SC/ST Act to the extent of discharging the respondent nos. 2 and 3 herein, and direct the learned Special Court (SC/ST Act) to frame charge against the respondent no. 2 for the offences under sections 3(1)(r), 3(1)(q), 3(1)(s), 3(1)(w), 3(1)(za)(E), 3(2)(v), 3(2)(va), 3(2)(vi) and 3(2)(vii) of the SC/ST Act and under sections 354A and 506 of the IPC and against the respondent no. 3 for the offences punishable under sections 3(1)(r), 3(1)(za)(E), 3(2)(vi) and 3(2)(vii) of the SC/ST Act and section 506 of the IPC and against the respondent no. 4 for the offences punishable under sections 354(A) and 341 of the IPC and sections 3(2)(va) and 3(2)(vii) of the SC/ST Act.
- ii) Pass such other or further relief(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. *Vide* the impugned order dated 07.09.2024, the learned Additional Sessions Judge, at the time of consideration on point of charge had discharged the respondent Nos. 2 and 3 for the offences punishable under Sections 3(1)(q)/(r)/(s)/(w) of the SC/ST Act & Sections 354A/504 of the IPC, and Sections 3(1)(r) and Section 3(2)(vi) of the SC/ST Act respectively, in case FIR No. 194/2020, under Sections 3(1)(q)/3(1)(r) of the SC/ST Act and Section 504 of the IPC, registered at Police Station, Hauz Khas. However, it was held that respondent No.4 was to face trial for the offences punishable



under Sections 341/354A of the Indian Penal Code, 1860, (for short, 'IPC') and charges were directed to be framed against him accordingly.

3. Briefly stating the case of the prosecution is that, *vide* DD No. 5A dated 18.04.2020, an information was received by way of an MLC from AIIMS hospital wherein it was stated that a patient, the present appellant/complainant, was found in her room in unconscious state. On reaching hospital, it was found that the said patient was admitted and under treatment at AIIMS for alleged history of poisoning on 17.04.2020. The appellant was not declared fit for making statement till 20.04.2020. On 21.04.2020, the appellant was declared fit for making statement and based on said statement, the present FIR was registered. Then, the investigation of the case was entrusted to Assistant Commissioner of Police, who recorded the statement of the appellant under Section 161 of the CrPC and Medical Superintendent, AIIMS, was directed to provide all the documents/information and CCTV footage with respect to the complaint of the appellant and investigation in the present case was conducted.

4. The appellant in her statement recorded on 21.04.2020 has stated that she has been practicing medicine as Senior Resident in AIIMS for last 2 years and one month. She stated that for the last two years, respondent no.2 was discriminating against her on the basis of caste and gender, regarding which she had informed respondent no.3, her superior Chief and Professor, from



time to time and the latter had stopped her from giving a written complaint. It was alleged that on 16.03.2020, respondent no.2 stood close to the seat of the appellant and used unparliamentary language to threaten her in an indecent manner by using dirty cast related words and misused his position of being her teacher in her OPD and violently removed her from chair when she was examining a patient assigned by respondent no.3, her superior Chief and Professor. It was further alleged that respondent no.2 shouted at the appellant saying that she belongs to SC category so she should stay at her level and shut her mouth and do not cross his path like a black cat (*Kaali Billi*) again and again and upon such utterances, the appellant felt uncomfortable and she desisted respondent no.2 from using such kind of language and said that, her one year is left. Thereafter, she shifted to second chair and started seeing the said patient and completed patient's examination. The appellant then felt Migraine pain in her head and went to canteen downstairs to get biscuit for taking medicine for the same. When the appellant was in canteen, Savita, sister, called her and told that, the appellant was called by respondent no.3 in room No. 415. The appellant went to the said room, where respondent no.3 started shouting at her by using filthy language, and by saying that the appellant would not be able to do anything about respondent no.2, Dr. Vilash Samrit, as the appellant is a senior resident and respondent no.2 is a faculty member. It was also alleged that respondent no.2 had filed a false complaint against the appellant with respondent no.3, Dr. Duggal, prior in time and because of the same, the latter did not listen to the appellant. The appellant tried to pacify the situation and narrate her version of the incident to respondent no.3; however, she did not listen to her at all and kept shouting at



her for 15 minutes. Respondent no.3 told the appellant that she had broken the hierarchy. The appellant had stated that while all this was happening Dr. Kartik was there and guard had closed the door and respondent no.3 and the appellant were there in the room and then, respondent no.3 left the room and the appellant started crying and called her family to inform them regarding the aforesaid incident. She gave written complaint to respondent no.3, RDA, Director Dr. Randeep Guleria, SC/ST Cell AIIMS, Women Grievance Cell, AIIMS and National SC/ST Commission, New Delhi, about the mental, oral, direct and indirect harassment meted out to her on the basis of caste and gender by respondent no.2. It was stated that again on 17.03.2020 and 23.03.2020, she was openly humiliated in CDER and was pressurized to withdraw her complaint and tear it. It was further stated that on 09.04.2020, the appellant appeared before the committee, and the committee member also insisted and persuaded her to take back the complaint and spoke in a very insulting and biased manner for withdrawing it. The appellant felt very upset with these things and due to the same, she took medicine for her migraine from EHS OPD of AIIMS. The second committee was convened on 17.04.2020, where the appellant appealed to reserve and approve the CCTV footage and requested to take comprehensive action against the respondents. However, the committees scolded her and sent her away. Thereafter, she cried in front of everyone in CDER, before Chief's Office on the first floor and also in department and went crying to her hostel and on 17.04.2020 itself, she narrated the entire incident to her spouse, and on the said day, she took the prescribed medicines at night however, her headache severed and she took two more tablets. She further stated that she does not recollect what happened



thereafter and she came to know that she has been admitted in AIIMS. Based on this statement, FIR was registered under Sections 3(1)(q)/3(1)(r) of the SC/ST Act and Section 504 of the IPC and investigation was undertaken.

5. During the course of investigation, another statement of the appellant/complainant was recorded on 09.05.2020, under Section 161 of the CrPC wherein, she had stated that on 16.03.2020 at around 11:00 AM, respondent no.2 stood very close to her seat as well as her person in a manner in which his pelvis area (below the belt) was touching her shoulder and he then, used filthy language and made casteist remarks against the appellant and also, threatened her by violently and insultingly removed her from her chair while she was attending the patient sent by respondent no.3. It was further stated that respondent no.2 had also made the remarks and utterances which have already been noted in the statement recorded on 21.04.2020. Thereafter, statement of the appellant was recorded under Section 164 of the CrPC by learned Duty Magistrate on 04.06.2020 and Sections 354A/341 of the IPC and Sections 3(1)(s)/(w)/3(2)(vi) of the SC/ST Act were added against the respondent Nos. 2 to 4.

6. On completion of investigation, chargesheet was filed before the Court of competent jurisdiction arraying the respondent Nos. 2 to 4 as accused in the present FIR. Learned ASJ *vide* the impugned order dated 07.09.2024 had discharged the respondent Nos. 2 and 3 for the offences alleged against them,



however, respondent No. 4 was directed to be tried for the offence punishable under Sections 354A/341 of the IPC. Hence, the present appeal has been filed by the appellant/complainant assailing the said order on charge/discharge passed by the learned ASJ.

7. Learned counsel for the appellant has submitted that the learned Trial Court at the stage of framing of charge has to see only a *prima facie* case against the accused persons and is not required to appreciate the evidence at this stage. It is submitted that the failure on the part of appellant to narrate few facts in her initial complaint made to Director, AIIMS cannot be read against her. The appellant has narrated the entire incident in her statement recorded under Section 164 of the CrPC by elaborating all the facts. Reliance has been placed on paragraph 15 of the judgment of Hon'ble Supreme Court in **Juman & Anr. v. State of Bihar**<sup>1</sup>, to contend that the deposition of a witness by merely elaborating facts recorded before the police, with minor contradictions is not contradiction and oral evidence of a witness could be looked with suspicion only if it contradicts the previous statement.

8. Learned counsel for the appellant has further submitted that incident in the present case had taken place in OPD, AIIMS and the same satisfies the requirement of 'public view' in the present case and there are no material contradictions in the statements of the appellant recorded before the police

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<sup>1</sup> (2017) 11 SCC 85; (2017) 1 SCR 779



during the course of investigation. Reliance has also been placed on **Hazrat Deen v. State of Uttar Pradesh & Anr.**<sup>2</sup>, to contend that discrepancies in the FIR and any subsequent statement recorded under Section 164 of the CrPC may be a defense, however, the said discrepancies cannot be a ground for discharge without initiation of trial. Reliance has also been placed on **Sandeep Sunil Kumar Loharia v. Sumeet Ganpatrao Bachewar & Anr.**<sup>3</sup>, to contend that at the stage of framing of charge only the statements recorded in the course of investigation are to be weighed, analyzed and appreciated and in case where the said evidence is yet to be tested by cross-examination and the veracity of either of the two versions is yet to be established, it cannot be said that two views are possible of the matter. It is further submitted that the appreciation of evidence cannot be undertaken at the state of consideration of the application for discharge and the learned Trial Court has wrongly embarked on to make an enquiry regarding the allegations made by the witnesses and the appellant in their statements recorded during the course of investigation at the stage of framing of charge.

9. Learned counsel for the appellant has drawn attention of this Court towards the observation made by the redressal Committee wherein it has been concluded by the said Committee that respondent no.2 had made inappropriate remarks against the appellant which were demeaning, humiliating and derogatory in nature and he had addressed her as “*billi*” to

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<sup>2</sup> 2022 SCC OnLine SC 1781: 2022 Live Law (SC) 134

<sup>3</sup> Criminal Appeal Nos. 1051, 1052, 1053 of 2018 decided *vide* order dated 23.08.2018 by Hon'ble Supreme Court



humiliate her. It is further submitted that the learned Trial Court has erred in not taking into consideration the allegations made against the respondent nos. 2 and 3 in respect of casteist remarks made by them against the appellant. Further, the learned Trial Court has appreciated the statement of the witnesses recorded during the investigation at the stage of consideration of application for discharge and thus, the said order is to be set aside.

**10.** *Per contra*, learned counsel for the respondent Nos.2 and 3 has submitted that FIR in the present case has been registered after a delay of more than one month from the alleged dated of incident and in the first complaint filed by the appellant with the department on 16.03.2020, there was no mention of any casteist remarks or comments being made by respondent no.2 to the appellant. It is submitted that there are various discrepancies and contradictions in the version of the incident narrated by the appellant and the allegation of making casteist remarks is an afterthought so as to falsely implicate respondent no.2. It is further submitted that the appellant had referred a complaint to Director, AIIMS, as a counterblast, when respondent no.2 had apprised respondent no.3 regarding the happening of the aforesaid incident and the latter had called the appellant for explanation of her conduct. It is further pointed out that the appellant was found unconscious on 17.04.2020 and when she was interrogated regarding the same, she had made allegations against respondent no.2 for making casteist remarks against her on 16.03.2020, which has led to the registration of present FIR. It is further



submitted that in fact, the appellant had abused respondent no.2 and had also intimidated him.

**11.** Learned counsel for respondent Nos. 2 and 3 has further submitted that the learned Trial Court has passed the impugned order of discharge independent of the findings arrived at the by the Committee for Redressal of grievances of SC/ST/OBC employees at AIIMS and has properly examined all the material facts revealed during investigation. Learned counsel has drawn attention of this Court towards the observations made by the Investigating Officer in the chargesheet which read thus: -

“During the further course of investigation the place of incident was visited and doctors, nursing staff, attendants, guard & patients, those were present on the day of incident at Clinic, 4<sup>th</sup> floor, CDER, AIIMS Hospital have been examined. All these witnesses has stated that on 19.03.20, Dr xxxx Verma was attending her patient at Chair – A. In the meantime accused Dr Vilas Samrit asked her to vacat Chair – A as his patient was also waiting for treatment. Accused Dr Vilas Samrit was repeatedly asking her to vacate Chair – A thus a hot argument ensued between them. However, none of the witnesses supported the version of complainant regarding passing of casteism remarks.”

In view of above, it submitted that, even if, the allegations made in the FIR as well as the chargesheet are taken at their face value, the same does not make out a case against respondent nos.2 and 3 and the learned Trial Court has rightly discharged them of the allegations made against them. Also, that the requirement of “public view” has not been fulfilled in the present case and



at best, the case of the appellant against the respondent no.2 is of using the remarks ‘SC’, ‘mind your level’ and ‘*kaali billi*’ to address her. It is further submitted that the statements of the eye-witnesses of the incident recorded by the Investigating Officer supports the case of respondent no.2 to the extent that it was appellant who had abused him.

12. Learned counsel for respondent no.4 has submitted that the learned Trial Court has after *prima facie* valuation of the material placed on record has found that there is no material for framing charges under SC/ST Act against respondent no.4 and the said reasoning is supported by the statements of the witnesses recorded during the course of investigation and thus, the present appeal insofar as it seeks framing of additional charges under SC/ST Act against respondent no.4 is to be dismissed.

13. Heard learned counsels for the parties and perused the record.

14. For the sake of completeness, the relevant paragraphs analyzing the material on record *qua* the respondents for which they were chargesheeted in the impugned order are being reproduced hereinbelow: -

**“Analysis of the role of accused Dr. Vilas Samrit:**

19. The present charge sheet contains multiple statements of the complainant made at the different stages of the investigation and, thus,



meticulous analysis of each of the statement qua the role of the each of the accused is warranted.

20. In the statement of the complainant recorded by SI Jagdish Singh, PS Hauz Khas on 21.04.2020, qua the role of the accused Dr. Vilas Samrit, she alleged that she had been working at AIIMS Hospital for 2 years and one month as senior resident and had been subjected to discrimination on the basis of the caste and gender by Dr. Vilas Samrit, Associate Professor, which information she had time to time given to the Professor and Chief Dr. Ritu Duggal (co-accused herein) and every time she had precluded her from tendering the written complaint. She further alleged that on 16.03.2020, Dr. Vilas Samrit as usual stood very close to her seat and used unparliamentary language and casteist words and threatened her and violently removed her from her seat while she was tending to a patient which was sent by Dr. Ritu Duggal. It is further alleged that Dr. Vilas Samrit uttered 'tu SC ki hai apne level me rah apna muh bandh kar aur kali billi ki tarah mera rasta baar baar mat kaata kar' and upon such utterances, complainant felt uncomfortable and desisted him from using such language and then went onto attend that patient on the other chair.

21. Another statement of the complainant was recorded on 09.05.2020 under section 161 Cr.P.C wherein she alleged that on 16.03.2020 at around 11am, accused Dr. Vilas Samrit stood very close to her seat as well as herself in a manner in which his pelvis area (below belt area) was touching her shoulder who then used bad language and casteist words and threatened her and violently and insultingly removed her from her chair, while she was attending the patient sent by Dr. Ritu Duggal. She further alleged that Dr. Vilas Samrit then uttered some remarks which have already been noted in the statement dated 21.04.2020.

22. Complainant was also produced before Ld. Duty Magistrate, Saket Courts on 04.06.2020 where her statement under section 164 Cr.P.C was recorded wherein she mainly reiterated the allegations made in her previous statement.



23. Predicated on the afore-noted allegations, accused Dr. Vilas Samrit has been charge sheeted for the offence under section 3(1)(q)(r)(s)(w) SC/ST Act and 354A/504 IPC.

**24. In order to attract section 3(1)(r)(s) of SC/ST Act, the Supreme Court in Ramesh Chandra Vaishya Vs. State of Uttar Pradesh and Another, date of decision 09.05.2023 held that it is desirable that the caste related utterances are out lined either in the FIR or in the charge sheet for the case to be made out for an offence under SC/ST Act. In this case, the allegation qua the passing of casteist remarks against accused Dr. Vilas Samrit is that he stated to the complainant that she belongs to 'SC'.**

25. At this juncture, one of the contentions on behalf of the accused is to be taken note of here, which is that in the complaint dated 16.03.2020 made by the complainant to the Director, AIIMS Hospital with copy to the other authorities, she never postulated that Dr. Vilas Samrit called her 'SC' and that it is in her later complaints that she incorporated such an allegation. The said complaint forming part of the charge sheet certainly does not reveal any such casteist remarks being made by Dr. Vilas Samrit to the complainant. It is unlikely that on the day when the complainant was allegedly wronged by Dr. Vilas Samrit in such a manner, she would forget to make a mention of it in her complaint. Thus, such allegation cannot be ruled out being an afterthought and a make believe statement on the part of the complainant.

26. Even if it is assumed that such remark was made by Dr. Vilas Samrit to the complainant, it is lucid that there is no allegation of any specific caste related remark made to the complainant. Merely uttering that she belongs to 'SC' would not be sufficient to bring the case within the mischief of section 3(1) (r) & (s) of SC/ST Act. The words used in section 3(1)(r) are 'intentional insult or intimidate with intent to humiliate' and in section 3(1)(s) 'abuses .... by caste name' are to be construed in the manner that the offender would make specific caste related utterances to the victim belonging to the scheduled caste / scheduled tribe and it



should take place within 'public view' so as to degrade the victim owing to her belonging to scheduled caste / scheduled tribe. In the absence of any specific utterances related to the caste of the complainant, it is difficult to bracket the case within the province of section 3(1)(r)(s) SC/ST Act.

**27. In so far as section 3(1)(q) SC/ST Act is concerned, the same is reproduced here for ready reference.**

**"(q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe"**

**28. To this effect, complainant alleged that Dr. Vilas Samrit had given false information about her to Dr. Ritu Duggal but there is no material on record to suggest on these lines which could warrant the framing of charge against the accused Dr. Vilas Samrit under this provision. As is a matter of record that on 16.03.2020, in the OPD room, on the issue of dental chair, some verbal row took place between the complainant and the accused Dr. Vilas Samrit but there is nothing on record as to what false or frivolous information was given by him to any public servant and caused him/her to use lawful power to the injury or annoyance of the complainant.**

29. In so far as section 354A IPC is concerned, it is noted that initially the allegation in the complaint dated 21.04.2020 is that on 16.03.2020, Dr. Vilas Samrit stood in contact with the seat of the complainant whereas in her statement under section 161 Cr.P.C and 164 Cr.P.C, the complainant alleged that Dr. Vilas Samrit stood in contact with her and his below belt pelvis area was touching the shoulder of the complainant. In my opinion, for this to happen, complainant ought to be almost half of the height of the accused Dr. Vilas Samrit or at that time she may be in a sitting position but there is no material to indicate any such circumstance.



30. In addition to above, it is manifest that there is a marked improvement made by the complainant in her subsequent statements under section 161 Cr.P.C and 164 Cr.P.C as in her initial statement dated 21.04.2020, she had simply alleged that Dr. Vilas Samrit was standing in contact with her seat and there was no such allegation that he stood in contact with her. Otherwise also, the mandate of section 354A IPC is that the act of physical contact should involve unwelcome and explicit sexual overtures, which in this case cannot be inferred just because the pelvis area of Dr. Vilas Samrit touches the shoulder of the complainant. It is not to be lost sight of that the alleged incident took place in a OPD room where the patients were being examined with other doctors and staff in attendance and the possibility of any involuntary physical contact between the persons cannot be ruled out. It is not the case of the complainant that she objected to the alleged physical contact of Dr. Vilas Samrit at that time by warning him to steer away while speaking to her in regard to his requirement of dental chair. Thus, in the light of these circumstances, I do not find any material to charge Dr. Vilas Samrit for offence under section 354A IPC.

31. As regards the offence under section 504 IPC, it is to be seen if the essential ingredients of the said provision are fulfilled herein. In order to attract the said provision, the following things must be established: (a) that the accused insulted some person (b) that he did so intentionally (c) that he thereby gave provocation to some person (d) that he then intended or knew it to be likely that the provocation given will cause him to break public peace or commit any other offence.

32. The offence under the said section does not depend upon the mere sensitive feeling of the offended but upon the intention or knowledge of the offender to provoke the person concerned to commit the break of public peace and such an intention is to be gathered from the circumstances attending insult.



33. **There is an allegation of utterance by Dr. Vilas Samrit to the complainant as 'kali billi ki tarah mera rasta baar baar mat kaata kar', though in the. complaint of the complainant dated 16.03.2020, the word 'billi' was mentioned instead of 'kali billi'. This comment to the complainant is to be tested on the afore-noted parameters. The backdrop in which such comment allegedly came to be passed by accused Dr. Vilas Samrit to the complainant was that Dr. Vilas desired to attend one of his patients on the dental chair which was being used by the complainant who was already attending to one patient. Thus, it has to be comprehended whether such utterance by Dr. Vilas Samrit was made intentionally to provoke the complainant which would have caused her to break public peace or commit any other offence.** In ordinary parlance, the usage of words 'billi ka rasta kaatna' denotes the possibility of befalling of bad omen. In my opinion, the backdrop as noted above does not reflect any such intention on the part of accused Dr. Vilas Samrit as the said utterance was merely the outcome of the skirmish between him and the complainant who was asked to vacate the dental chair. It is also putative that at work places, due to disparateness in opinions, views, outlook, minor tiffs and skirmishes are the order of the day but unless any such incident engenders any legal inquiry to anyone, it ought not be taken to the corridors of the Court. No doubt, accused Dr. Vilas Samrit by such utterance, breached the good manners and resorted to making a remark couched in uncultured language, but mere hurling of such remark without intending or knowing that such an action would provoke the aggrieved person to break public peace or to commit an offence does not fall within the definition of the offence as prescribed under section 504 of IPC. **The said remark would at the worse amounts to vulgarity indicating want of good manners on the part of the accused, but could hardly be characterized as an insult with the consequence as engrafted in section 504 IPC.**

34. In **Abraham Vs. State of Kerala, 1960 CrLJ 910**, it was observed on the scope of section 504 IPC as under:

“7. An Analysis of the accused’s words would show that the first portion of his remark is mere tall talk. Though couched in uncultured language, the remark seems to be nothing more than a pompous boast that no one in this wide world could enter the accused's shop without his permission. The latter



portion of the sentence comparing the attempts made by the complainant to remove the fuse to "foul gas" would at worst amount to vulgarity indicating want of good manners on the part of the accused, but could hardly, be characterised as an insult. Even if the words used by the accused can be considered to be insulting in the sense that they were derogatory to the dignity of the person to whom they were addressed, the circumstances under which they were uttered indicate that the accused's intention was nothing more than to strike a note on which to make a triumphant exit or to have the satisfaction of having had the last word in a conversation that was not going to his liking.

8. The further question is whether the accused intended or knew it to be likely that the provocation given by the insult would cause the complainant to break the public peace or commit some other offence. The complainant no doubt has given evidence that on hearing the accused's words he was provoked to resort to some action which he refrained from doing as he wanted to avoid a breach of the peace. However what is material is not the reaction of the complainant which might vary according to the sensitiveness of the individual insulted but the intention of the offender to provoke or his knowledge that he is likely to provoke the person insulted to commit an offence. In this case it cannot be held that the accused had the necessary intention. Neither can he be fixed with the knowledge that the insult was likely to provoke the complainant to commit an offence, because the circumstances under which the alleged insulting language was used and the nature of the remark were such that the reaction reasonably to be expected from any ordinary man and more so from a man of culture and learning like the complainant, can be nothing stronger than a retort "Talk decently or clear out of my room".

9. In any view it cannot be held that all the (ingredients necessary to constitute an offence under Sections 504 have been made out: The conviction therefore cannot be sustained."



### **Analysis of the role of accused Dr. Ritu Duggal:**

35. Qua her, complainant alleged in her statement dated 21.04.2020 that while she was in the canteen after the alleged incident with Dr. Vilas Samrit, she received a call from sister Savita that madam Dr. Ritu Duggal had called her in room no. 415 and upon reaching there, the said doctor started badly shouting on her and told that she cannot do anything against Dr. Vilas Samrit as she was senior resident and Dr. Vilas Samrit was a faculty. She further alleged that Dr. Ritu Duggal did not listen to her and rather furiously kept on saying that he was a faculty and that complainant cannot say anything to him and that she has breached the hierarchy and in this manner, Dr. Ritu Duggal kept shouting on her for 15 minutes but she did not listen to the complainant for even a second. She further alleged that at that time, one Dr. Kartik was also present there and guard had closed the door while she and Dr. Ritu Duggal were in the room after which madam Dr. Ritu Duggal had left while the complainant kept weeping. Complainant further alleged that she had also given a written complaint to Dr. Ritu Duggal.

36. In her statement under section 161 Cr.P.C, complainant alleged against Dr. Ritu Duggal more or less on similar lines except that she mentioned that Dr. Kartik had left the room two to three minutes later.

37. Further, in her statement under section 164 Cr.P.C qua the role of Dr. Ritu Duggal, complainant made some allegations over and above her previous complaint as noted above. She alleged that Dr. Ritu Duggal kept shouting on her for 15-20 minutes, that she was weeping despite Dr. Ritu Duggal knowing as to what had been happening with her for the last two years but still she did not listen to her. She further alleged that when she gave an application to Dr. Ritu Duggal, thereafter after 08pm for two and half hours she in the presence of Dr. Vilas Samrit in room number 401 threatened the complainant that she should tear the application, withdraw it, her career would be spoiled. She further alleged that on 17.03.2020 from 09am to 10:30am approximately, Dr. Ritu Duggal publicly humiliated her, threatened her and said that she was wrong and also mentioned about issuing of memo to the complainant. Complainant further alleged that after a week on 23.03.2020 at 03pm, Dr. Ritu Duggal again called her at room no.401 and pressurized her for 30-35 minutes,



insulted her and asked her to withdraw her application, thereafter, in the corridor, publicly she pressurized her to withdraw the complaint else she would have to bear the consequences. Complainant further alleged that she was called three times between 03pm to 05pm for the same purpose.

**38. On the fulcrum of the afore-noted allegations, accused Dr. Ritu Duggal has been charge sheeted for offence under section 3(1)(r) and 3(2)(vi) of SC/ST Act. In the initial complaint of the complainant dated 21.04.2020, there are multiple fragments of her statement alleging against the accused Dr. Ritu Duggal. The first such fragment is on the date of the alleged incident i.e. 16.03.2020, when the complainant was in the canteen, she received the call from sister Savita that Dr. Ritu Duggal had called her in room number 415 where she shouted at the complainant badly and used foul language. However, in the said complaint, complainant has failed to specify the words used by the accused Dr. Ritu Duggal which could tantamount to using foul language in a bad manner.**

**39. Complainant further alleged that accused Dr. Ritu Duggal kept shouting on her for 15 minutes but again complainant did not specify as to what were the words uttered by Dr. Ritu Duggal in those 15 minutes which could show intentional insult or intimidation with intent to humiliate the complainant.**

**40. The next fragment of the allegation in the initial complaint dated 21.04.2020 against the accused Dr. Ritu Duggal is that on 17.03.2020 and 23.03.2020 again she openly humiliated the complainant, asked her to withdraw her complaint or to tear it. Again, it is not clearly specified as to where this alleged incident of humiliation occurred, by using the words 'khule aam' what did the complainant mean, whether other public persons were present, there is no specific allegation as to how the complainant was humiliated.**

**41. Moving now onto the contents of the statement of the complainant under section 161 Cr.P.C dated 19.05.2020 wherein also complainant has not specified as to in what bad manner Dr. Ritu Duggal shouted on her, what was the insulting language and**



intimidating words used by her to the complainant, what were the threatening words used in those 15 minutes when Dr. Ritu Duggal was allegedly shouting on the complainant. Then, in regard to 17.03.2020, complainant has alleged that she was openly humiliated in CDER but again no specifics are mentioned as to the manner how the complainant was humiliated. In regard to 23.03.2020, complainant alleged that Dr. Ritu Duggal threatened her in her room and again openly humiliated her and asked her to take back the complaint or to tear, complainant failed to disclose the words which were used while threatening and humiliating her.

42. In the statement under section 164 Cr.P.C, there is a further allegation against Dr. Ritu Duggal that on 16.03.2020 after complaint was received by her, she called the complainant at 05 pm, made her stay back two and half hours and in the presence of Dr. Vilas Samrit threatened her in room no.401 to tear the application, withdraw it else her career will be spoiled. This fragment of the allegation is a clear improvement from her initial complaint to the police dated 21.04.2020 and her statement under section 161 Cr.P.C dated 19.05.2020 as no such allegation of the complainant being called at 05pm on the same date and having been made to wait for two and half hours and of being threatened in the presence of Dr. Vilas Samrit is found.

43. As regards the allegation of 17.03.2020, again the statement of the complainant does not mention as to how she was publicly humiliated and threatened from 09am to 10:30am. The time period of one and half hours is long enough for someone to specify the exact nature of the public humiliation meted out to her.

44. Further, in regard to the incident of 23.03.2020, it is alleged by the complainant that Dr. Ritu Duggal called her in room no.401, pressured her for 30-45 minutes and insulted her, but again the manner in which she has been pressured and insulted has not been disclosed. She further alleged that thereafter in the corridor, Dr. Ritu Duggal publicly pressured her to take back the complaint, but there is no material to substantiate



this allegation in the form of testimony of an independent witness who may be present in the corridor.

45. Furthermore, the pre requisite for the offence under section 506 IPC is not fulfilled as mere uttering of the threatening words is not enough for making out the offence as the threat should be serious, impending and real. In the case of **Manik Taneja and Another Vs. State of Karnataka and Another, dated 20.01.2015, 2015 AIR SCW 948**, the Supreme Court had observed in paragraph 15 as under:

"In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty ....."

46. Further, before coming to grips with charge under section 3(2)(vi) of SC/ST Act, it is imperative to reproduce the said section for reference as under:

**"vi. Knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence;"**



47. The aforesaid provision indicts a person who with the knowledge or having reason to believe that an offence has been committed under this chapter and engenders any evidence to disappear with the intention of screening the offender or with that intention gives any information knowing or believing the same to be false. The gravamen of the complainant qua this charge is that accused Dr. Ritu Duggal pressured her to withdraw the complaint or tear it in order to screen the offender Dr. Vilas Samrit. However, it is significant to note herein that the allegation of the complainant being pressured to withdraw or tear the complaint pertains to the dates of 16.03.2020, 17.03.2020 and 23.03.2020. On 16.03.2020, written complaint was stated to have been made by the complainant to the Director, AIIMS with copy to the Chief, CDER, AIIMS, New Delhi who was accused Dr. Ritu Duggal and other associations as mentioned in the complaint dated 16.03.2020. It is pertinent to note that in the said complaint, the complainant did not allege the use of any caste related remarks made by Dr. Vilas Samrit. It is only in her later complaints/statements that the complainant alleged that accused Dr. Vilas Samrit had uttered the words 'Tu SC hai'. Thus, when the complaint dated 16.03.2020 was \_ delivered to Dr. Ritu Duggal, there was no occasion for knowing her or having reason to believe that an offence has been committed under SC/ST Act and thus, her allegation against her of pressurizing the complainant to withdraw or tear the complaint is not made out. Rather, on the part of accused Dr. Ritu Duggal, the bottom of the complaint dated 16.03.2020 reveals that the same was marked to senior admin for immediate action on 17.03.2020.

48. Moreover, having analyzed the role of Dr. Vilas Samrit in the light of the allegations made against him by the complainant, it has already been held above that no triable offence is made out against accused Dr. Vilas Samrit, thus, no occasion arises. for indicting Dr. Ritu Duggal for offence under section 3(2)(vi) of SC/ST Act.

#### **Analysis of role of accused Manish Kumar:**

49. It is noted from the record that role of this accused has been narrated in the statement of the complainant under section 161 Cr.P.C which



reveals that complainant though had not named this accused anywhere but she stated that one guard near the parking had groped her. In her statement under section 164 Cr.P.C, complainant named that guard as accused Manish who near two wheeler parking groped her and restrained her from leaving the building after she left CDER to go to her hostel. It is prima facie shown by the said statement that accused Manish Kumar had wrongfully restrained the complainant from leaving the building and had also established physical contact with her causing her sexual harassment. The stand of the accused that he was merely stopping the complainant from leaving the building is the matter to be seen at the time of trial and otherwise also for restricting the complainant from leaving the building, accused Manish Kumar could have adopted some legitimate means without resorting to groping the complainant and, therefore,. Accused Manish Kumar is to be charged for the offence under section 341/354A IPC.

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55. Ld. Counsel for complainant also submitted in written submissions that against the accused Dr. Vilas Samrit, offence under section 3(1)(q), 3 (1)(s), 3 (1) (2), 3 (1)(2a)(E), 3 (2) (v), 3(2)(va), 3(2)(vi) and 3(2)(vii) of SC/ST Act and offence under section 354A and 506 IPC are made out. However, in the preceding discussion, I have already discussed in extenso the allegations leveled against Dr. Vilas Samrit and how the offence under section 3(1)(r)(s) and 3(1)(q) of SC/ST Act and 354A IPC are not made out against him.

56. As regards the offence under section 3(1)(w) SC/ST Act which speaks about intentional touching of a woman belonging to scheduled caste or scheduled tribe or using of words, acts, or gestures of sexual nature, it has already been noted above that there is no such material indicating any sexual intention on the part of Dr. Vilas Samrit of touching the complainant or use of any word, acts or gestures of sexual nature against her.

57. Section 3(2)(v) of SC/ST Act is also not applicable as it talks about the commission of offence under IPC for a term of 10 years or more, which is not the case herein.



58. Section 3(2)(vi) of SC/ST Act is also not attracted as the only material available against the accused in this respect is the improved version of the complainant under section 164 Cr.P.C which cannot be given any weightage in the light of omissions in the two previous statements of the complainant.

59. Against accused Dr. Ritu Duggal, the offences as per the complainant which are made out are section 3(1)(r), 3(1) (2a)(E), 3(2)(vi) and (vii) of SC/ST Act and section 506 IPC. In regard to Section 3(1)(r), detailed discussion has already been held in the preceding paragraphs.

60. In so far as section 3(1)(2a)(E) of SC/ST Act is concerned, there is nothing on record to indicate that any kind of obstruction or prevention was caused to the complainant to break her profession or employment. It is not the case of the complainant that due to the conduct of the accused Dr. Ritu Duggal, she was prevented or obstructed in any manner in carrying out her profession or employment. Further, the non applicability of section 3(2)(vi) of SC/ST Act and 506 IPC has also been taken note of in the preceding discussion. Eventually, in the absence of any offence being made out, section 3(2)(vii) of SC/ST Act is also not attracted against the accused Dr. Ritu Duggal.

61. The upshot of the foregoing discussion is that there is not sufficient material on record to frame charges against the accused Dr. Vilas Samrit and Dr. Ritu Duggal under the offences as mentioned in the charge sheet, thus, both of them stand discharged from this case. However, accused Manish Kumar has to face the trial for offence under section 341/354A IPC for which he is directed to be charged under those sections of IPC.”

**(emphasis supplied)**

15. Learned counsel appearing on behalf of the appellant had primarily argued that the impugned order meticulously appreciated the evidence on



record at the stage of charge. It was contended that any inconsistency between the statements made by the appellant cannot be appreciated at this stage. Learned counsel fairly admitted during the course of hearing that the facts recorded in the said order are not incorrect.

16. Learned counsel for the appellant has relied upon following judgments:

(i) Paragraph 15 of the judgment of Hon'ble Supreme Court in **Juman & Anr (*supra*)**, which reads as under: -

“15. Mr. Huzefa Ahmadi, learned senior counsel for appellants contended that both the Courts below have committed an error in convicting the appellants for the offence punishable under Section 302 IPC, along- with other accused. He submitted that there were material improvements made by PW14 in his deposition when compared to the *fardebayan* given to the police on the date of the incident and no specific role has been attributed to the present appellants. But after careful analysis of the *fardebayan* (Ext.7), we have an entirely different opinion. It is true that deposition is somewhere literally larger than the *fardebayan*, however, it is no where contrary to it. It may rightly be said that the deposition of PW14 is merely elaborated form of statement recorded before the police, with minor contradictions. Oral evidence of a witness could be looked with suspicion only if it contradicts the previous statement.”

(ii) **Hazrat Deen (*supra*)**, to argue that FIR cannot be an encyclopedia as it is an initial document and any discrepancy between the FIR and the subsequent statement(s) made by complainant may be a



defence but such discrepancy cannot be a ground to discharge an accused without initiation of trial.

**(iii) Sandeep Sunil Kumar Loharia v. Sumeet Sumeet Ganpatrao Bachewar & Anr. (*supra*)**, to submit that the appreciation of evidence is an exercise which cannot be undertaken at the stage of consideration on point of charge. Attention of this Court was also drawn to report of Committee for Redressal of Grievances of SC/ST/OBC employees on the complaint of the present appellant and particularly, on paragraphs No. 5, 6, 7, which referred to statements made by witnesses during the proceedings conducted by the aforesaid committee. It is pertinent to note that in para 7 of the said report, statement of Dr. Ritu Duggal (Respondent no.3) has also been recorded. The said statements do not contain any incriminating material against the respondent Nos. 2 to 4.

**17.** A perusal of the aforesaid impugned order demonstrates that the learned ASJ has examined the material on its face value and proceeded to determine whether any offence punishable under the relevant Sections of the SC/ST Act and IPC are made out with respect to the respondents herein respectively.

**18.** Learned Trial Court has categorically noted, and which is not disputed, that in a complaint dated 16.03.2020 made with Director, AIIMS Hospital with copy to the other authorities, it was never the allegation of the appellant



that respondent no.2 had called her “SC” and although in a later complaint, she had incorporated such an allegation. True English translated copy of the complaint dated 16.03.2020 made by the appellant to Director, AIIMS, New Delhi, reads thus: -

“Date: 16/03/2020

To,

The Director,  
All India Institute of Medical Science (AIIMS),  
New Delhi-110029

(Through Proper Channel)

Date: 16/03/2020

Subject: Regarding providing of information in connection with use of indecent language (Casteist) and humiliation caused by Dr. Vilas, Associate Professor, Division of Orthodontics, C.D.E.R.

Sir,

It is humbly informed to you that on today i.e. on 16.03.2020 at 10:00-11:00 AM, I have been humiliated by use of defamatory language by Dr. Vilas in OPD. I was subjected to insult. As it is known that I am a female SR and belong to Schedule Caste. I discharge my departmental duties with utmost sincerity under your guidance.

Even this morning, I was performing my departmental duty, then Dr. Vilas insulted me by using undignified words and said “ You keep crossing my way like a Cat”. When I protested against such indecent language, Dr. Vilas again said “Live within your level, one year is left, behave yourself and keep your mouth shut”. Today also, you have been apprised verbally regarding the aforementioned incident and the Chief of CDER has also been apprised.

Sir, Dr. Vikas has used such language and defamatory words against me in the past also. I have verbally apprised my Senior Faculty



Professor time to time pertaining to the same in the past also. But, on every occasion, I was silenced by being asked to let it go or I was reprimanded upon being called in the office. No action was taken ever. Being a woman, who is staying away from the family, I came here to work with dignity. But, it has been 2 years, since I have been suffering this mental harassment. I have been harassed by being subjected to cast discrimination in such manner.

Sir, I am a woman, kindly take appropriate action in this connection so that such condemnable incident may not be emulated further and I may also be intimidated about the same.

Hope for full co-operation,

[REDACTED]  
(In English)

16.03.2020

[REDACTED],  
Senior Resident,

Division of Orthodontics, CDER,  
All India Institute of Medical Science,  
New Delhi – 110029

For information:

1. The Director, AIIMS, New Delhi.
2. The Chief, C.D.E.R. AIIMS, New Delhi
3. Resident Doctor Association, President, RDA Office, New Delhi.
4. Women's Grievance Cell- AIIMS, New Delhi.
5. SC-ST Welfare Cell- AIIMS, New Delhi
6. Nation SC, ST, Ayog, New Delhi- AIIMS, New Delhi."

**19.** Although, in the 'subject' of the aforesaid complaint, the appellant states 'use of indecent language (Casteist)' but in the body of the complaint there is no averment that respondent No.2 humiliated her by using any caste-based remark(s). The Hon'ble Supreme Court in **Shajan Skaria v. State of**



**Kerala and Another**<sup>4</sup>, while examining the necessary ingredients to constitute the offence punishable under Section 3(1)(r) of the SC/ST Act, 1989, has observed and held as under: -

**“iv. Whether the averments in the FIR/complaint in question disclose commission of any offence under Section 3(1)(r) of the Act, 1989?”**

**53.** It is the case of the complainant as well as the State that considering the rash and derogatory statements alleged to have been made by the appellant herein, he could be said to have prima facie committed the offence under Sections 3(1)(r) and 3(1)(u) respectively of the Act, 1989.

**54.** We shall first proceed to examine whether the necessary ingredients to constitute the offence under Section 3(1)(r) of the Act, 1989 are prima facie disclosed on a plain reading of the FIR. Section 3(1)(r) reads thus:

*“Section 3 of the Act, 1989:*

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

*XXX XXX XXX*

*(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;”*

*(Emphasis supplied)*

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<sup>4</sup> 2024 SCC OnLine SC 2249



**55.** The basic ingredients to constitute the offence under Section 3(1)(r) of the Act, 1989 are:

- a. Accused person must not be a member of the Scheduled Caste or Scheduled Tribe;
- b. Accused must intentionally insult or intimidate a member of a Scheduled Caste or Scheduled Tribe;
- c. Accused must do so with the intent to humiliate such a person; and
- d. Accused must do so at any place within public view.

**56.** It is relevant to note that Section 3(1)(r) of the Act, 1989 is similarly worded as the erstwhile Section 3(1)(x) of the Act, 1989 which was in force prior to its substitution with effect from 26.01.2016.

**57.** In the case at hand, the appellant is alleged to have published a video on YouTube, containing a slew of reckless statements in the form of allegations levelled against the complainant. We are not supposed to look into the veracity or the truthfulness of such allegations as contained in the video. We are only trying to understand that even if all the statements alleged to have been made by the appellant are believed to be true whether any offence under Section 3(1)(r) of the Act, 1989 could be said to have been prima facie committed. In our opinion, the answer should be in the negative.

**58.** We say so for the reason that all insults or intimidations to a member of the Scheduled Caste or Scheduled Tribe will not amount to an offence under the Act, 1989 unless such insult or intimidation is on the ground that the victim belongs to Scheduled Caste or Scheduled Tribe. There is nothing in the transcript of the uploaded video to indicate even prime facie that those allegations were made by the appellant only on account of the fact that the complainant belongs to a Scheduled Caste. From the nature of the allegations



made by the appellant, it appears that he is at inimical terms with the complainant. His intention may be to malign or defame him but not on the ground or for the reason that the complainant belongs to a Scheduled Caste.

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**60.** Thus, the dictum as laid aforesaid is that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. We say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status.

**a. Meaning of the expression “intent to humiliate” appearing in Section 3(1)(r) of the Act, 1989**

**61.** The words “with intent to humiliate” as they appear in the text of Section 3(1)(r) of the Act, 1989 are inextricably linked to the caste identity of the person who is subjected to intentional insult or intimidation. Not every intentional insult or intimidation of a member of a SC/ST community will result into a feeling of caste-based humiliation. It is only in those cases where the intentional insult or intimidation takes place either due to the prevailing practice of untouchability or to reinforce the historically entrenched ideas like the superiority of the “upper castes” over the “lower castes/untouchables”, the notions of ‘purity’ and ‘pollution’, etc.



that it could be said to be an insult or intimidation of the type envisaged by the Act, 1989.

**62.** We would like to refer to the observations of this Court in *Ram Krishna Balothia (supra)* to further elaborate upon the idea of “humiliation” as it has been used under the Act, 1989. It was observed in the said case that the offences enumerated under the Act, 1989 belong to a separate category as they arise from the practice of ‘untouchability’ and thus the Parliament was competent to enact special laws treating such offences and offenders as belonging to a separate category. Referring to the Statements of Objects and Purposes of the Act, 1989 it was observed by this Court that the object behind the introduction of the Act, 1989 was to afford statutory protection to the Scheduled Castes and the Scheduled Tribes, who were terrorised and subjected to humiliation and indignations upon assertion of their civil rights and resistance to the practice of untouchability. For this reason, mere fact that the person subjected to insult or intimidation belongs to a Scheduled Caste or Scheduled Tribe would not attract the offence under Section 3(1)(r) unless it was the intention of the accused to subject the concerned person to caste-based humiliation.

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**70.** In our considered view, it is in a similar vein that the term ‘humiliation’ as it appears in Section 3(1)(r) of the Act, 1989 must be construed, that is, in a way that it deprecates the infliction of humiliation against members of the Scheduled Castes and Scheduled Tribes wherein such humiliation is intricately associated with the caste identity of such members.”

**20.** It is further pertinent to note that it has come on record by way of investigation that such allegations made by the complainant were not made within “public view”: It is pertinent to note that chargesheet itself notes in the following manner: -



“During the further course of investigation the place of incident was visited and doctors, nursing staff, attendants, guard & patients those were present on the day of incident at Clinic, 4th floor, CDER, AIIMS Hospital have been examined. All the witnesses has stated that on 19.03.20, Dr xxxx Verma was attending her patient at Chair -A. In the mean time accused Dr Vilas Samrit asked her to vacat Chair-A as his patient was also waiting for treatment. Accused Dr Vilas Samrit was repeatedly asking her to vacate Chair-A thus a hot argument ensued between them. However, none of the witness's supported the version of complainant regarding passing of castism remarks.”

**21.** The jurisdiction of the court at the stage of consideration on charge is limited, however, at the same time, it is equally well settled that it cannot act as a post office for prosecution for the purposes of coming to a *prima facie* view that whether the charge is made out or not. It is duty of the court to examine the material on record. In the present case, the gravamen of the charge is for commission of offences punishable under SC/ST Act, the charges alleged are extremely serious in nature. As per record, respondent no.2 and 3 and as well as the appellant are doctors employed at AIIMS. The appellant herself being a qualified doctor had made an initial complaint dated 16.03.2020 against respondent Nos.2 and 3 and in her subsequent statement, she improved her version of the alleged incident by way of additional allegations which were duly noted by the learned Trial Court after analyzing the material on record. In a case where a complaint is made disclosing certain offences and the complainant in her subsequent statement improves upon the said statement by giving details with respect to some other corroborative material in support of that allegation, it can then be said that the matter would require cross-examination to confront her on such improvements. However, in



a given case, like the present one, where the very first complaint does not satisfy the ingredient of an offence and by way of a subsequent statement, certain allegations are added in order to bring the case of the accused under those Sections then the same can be looked into by the Court at the stage of charge. The fact that the first complaint made by the appellant herein did not disclose any offence punishable under the provisions of SC/ST Act assumes significance. As already pointed out that the appellant is a qualified doctor who had given a detailed complaint to the Director, AIIMS as well as other authorities with regard to the conduct of respondent Nos.2 and 3, however, there was no mention of the allegation *qua* these respondents in reference to offences punishable under SC/ST Act on the date of the alleged incident, *i.e.*, 16.03.2020. Even in the report of the Committee for Redressal of SC/ST/OBC Employees relied upon by the learned counsel for the appellant, there is no statement to testify that on the date of incident, the words alleged to have been used by respondent no.2, as per her subsequent statement, were used. The chargesheet itself says that there was no evidence by way of any witness to say that the allegations contained in the subsequent statement were in “public view”.

**22.** A Coordinate Bench of this Court in **Deep Bajwa v. State & Ors.**<sup>5</sup>, while quashing an FIR registered under SC/ST Act in similar factual circumstances, had observed and held as under: -

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<sup>5</sup> 2004 SCC OnLine Del 961: (2004) 115 DLT 202



**“6. After considering the submissions made by learned counsel for the parties, this Court is of the considered view that a complaint, on the basis of which the complainant seeks registration of an F.I.R., must disclose essential ingredients of the offence and in case a complaint lacks or is wanting in any of the essential ingredients, the lacuna or deficiency cannot be filled up by obtaining additional complaint or supplementary statement and thereafter proceed to register the F.I.R. If such a course is permitted, it would give undue latitude as well as opportunity to unscrupulous complainants to nail others by hook or by crook in spite of the fact that their initial complaint does not make out the offence complained of. Such a course would be utter abuse of the process of law. First version as disclosed in a complaint is always important for adjudicating as to whether an accused has committed or not an offence. In the complaint dated 19th April, 2001, the Complainant himself alleged that the Councillor Chhannu Mal was introducing him to the petitioner. If that was the case, how could he say later that on that day the petitioner knew that he was a Scheduled Caste. This statement, therefore, was a crude falsity introduced at the behest of the police to implicate the petitioner under Section 3 of the Act. This effort on the part of the police to supply the deficiency and cover up a lacuna in the complaint in view of legal opinion was totally unwarranted and an abuse of the process of law.”**

**(emphasis supplied)**

**23.** The order of discharge in the considered opinion of this Court is based on two grounds. Firstly, the absence of essential ingredients of the offences for which the respondents had been charged in the first statement made by the appellant, and secondly, that these allegations of the words used by respondent no.2 “in order to satisfy the ingredients of the offence under Section 3(1)(s) had to be made in “public view”, which is completely missing in the present case.



24. The Hon'ble Supreme Court in **Ramesh Chandra Vaishya v. State of Uttar Pradesh**<sup>6</sup>, has observed and held as under: -

“14. Section 3(1)(x) of the SC/ST Act, prior to its amendment notified vide S.O. 152(E) dated 18-1-2016, 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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(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

15. The first FIR, registered at the instance of the complainant, is silent about the place of occurrence and who, being a member of the public, was present when the appellant is alleged to have hurled caste related abuses at the complainant. However, on a reading of the second FIR registered at the behest of the appellant, it appears that the incident took place at the house of the appellant.

16. The first question that calls for an answer is whether it was at a place within public view that the appellant hurled caste related abuses at the complainant with an intent to insult or intimidate with an intent to humiliate him. From the charge-sheet dated 21-1-2016 filed by the IO, it appears that the prosecution would seek to rely on the evidence of three witnesses to drive home the charge against the appellant of committing offences under Sections 323 and 504IPC and Section 3(1)(x), SC/ST Act. These three witnesses are none other than the complainant, his wife and their son. Neither the first FIR nor the charge-sheet refers to the presence of a fifth individual (a member of the public) at the place of occurrence (apart from the appellant, the complainant, his wife and their son). Since the utterances, if any, made by the appellant were not “*in any place*

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<sup>6</sup> (2023) 17 SCC 615



*within public view*”, the basic ingredient for attracting Section 3(1)(x) of the SC/ST Act was missing/absent. We, therefore, hold that at the relevant point of time of the incident (of hurling of caste related abuse at the complainant by the appellant), no member of the public was present.

17. That apart, assuming *arguendo* that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of Section 3(1)(x) of the SC/ST Act. We have noted from the first FIR as well as the charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (*bewaqoof*) or a fool (*murkh*) or a thief (*chor*) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, *per se*, it may not be sufficient to attract Section 3(1)(x) unless such words are laced with casteist remarks.

18. Since Section 18 of the SC/ST Act bars invocation of the court's jurisdiction under Section 438CrPC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under Section 3(1)(x), the utterances made by him in any place within public view are outlined, if not in the FIR (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge-sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognizance of the offence.



19. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21-1-2016 does not make out any case of an offence having been committed by the appellant under Section 3(1)(x) warranting him to stand a trial.

20. Paras 15 and 16 of the decision in *Hitesh Verma* [*Hitesh Verma v. State of Uttarakhand*, (2020) 10 SCC 710 : (2021) 1 SCC (Cri) 1] cited by Ms Shukla can be pressed in aid to support the view that we have taken above.”

25. So far as the contention of learned counsel for the appellant with regard to parameters applicable at the time of consideration on point of charge is concerned, the learned Trial Court while analyzing the law with regard to same, has observed as under: -

“50. I shall now delve into the arguments advanced on behalf of the prosecution and complainant. In regard to the submission of Ld. Counsel for complainant as to the presumption under section 8 of SC/ST Act, it is noted that clause a and clause b of section 8 of SC/ST act do not have any application in the factual position in this case. In so far as clause c is concerned, the same pertains to the accused having personal knowledge of the victim or his family in which case the court shall presume that accused was aware of the caste or tribal identity of the victim, unless the contrary is proved. This court can infer that since the complainant was working under accused Dr. Vilas Samrit for two years before the incident, accused can be presumed to have the knowledge of the caste of the complainant, but in the detailed foregoing discussion, it has been held that on the allegations of the complainant against Dr. Vilas Samrit, no offence is prima facie made out which could raise strong suspicion against him so as to frame charges.

51. With regard to the contention that at the stage of charge, only prima facie case is to be seen and various case laws relied there upon, there is



no challenge to this principle but the variable of strong suspicion against the accused has to be complied with before the charge is framed against any accused. At this stage, I would like to refer some case laws which present some guiding principles in respect of criteria for framing of charge against the accused.

52. The purpose of framing a charge is to intimate the accused about the clear, unambiguous and precise nature of accusation that the accused is called upon to meet in the course of a trial as observed in **V.C. Shukla Vs. State through CBI, 1980 Supp SCC 92**. The prosecution is required to establish a prima facie before a charge can be framed. The Supreme Court in **Union of India Vs. Prafulla Kumar Samal and Another, (1979) 3 SCC 4** considered scope of inquiry at the stage of framing of charge as per section 227 of the Code in Sessions criminal trial and observed as under: "

“(1) That the Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be, fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post office or a mouthpiece of the prosecution, but has to consider the broad



probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

53. The Supreme Court in **Ghulam Hassan Beigh Vs . Mohammad Maqbool Magrey and Ors, Criminal Appeal No. 001041 of 2022(arising out of SLP (criminal) no 4599 of 2021) decided on 26th July, 2022** observed as under:

"Thus from the aforesaid, it is evident that the trial court is enjoined with the duty to apply its mind at the time of framing of charge and should not act as a mere post office. The endorsement on the charge sheet presented by the police as it is without applying its mind and without recording brief reasons in support of its opinion is not countenanced by law. However, the material which is required to be evaluated by the Court at the time of framing charge should be the material which is produced and relied upon by the prosecution. The sifting of such material is not to so meticulous as would render the exercise a mini trial to find out the guilt or otherwise of the accused. All that is required at this stage is that the Court must be satisfied that the evidence collected by the prosecution is sufficient to presume that the accused has committed an offence. Even a strong suspicion would suffice. Undoubtedly, apart from the material that is placed before the Court by the prosecution in the shape of final report in terms of Section 173 of CrPC, the Court may also rely upon any other evidence or material which is of sterling quality and has direct bearing on the charge laid before it by the prosecution."

54. With regard to the contention that FIR is not an encyclopedia and it is sufficient that the initial complaint contain the broad facts about the occurrence without detailing out the intricate and minute details, again there is no challenge to this principle of law, however, it has to be considered that if substantive improvements are made in a subsequent statement, the same cannot be jettisoned as such the court is not expected to act as mouth piece of the prosecution and has to evaluate the initial complaint and any



subsequent statement made to the police and if significant variations are found, the benefit of the same has to be accorded to the accused. Reliance is placed upon the judgment of High Court of Delhi in **Sashidharan Kollery and Ors Vs. State, (2019) SCC OnLine Del 8969**, relied on behalf of accused Dr. Vilas Samrit, following paragraphs of which are noteworthy:

"25. At the time of framing a charge, it is the duty of the Trial Court to assess the entire material collected by the prosecution during investigation and not to frame charge merely because an allegation is made by the complainant. It is the duty of the Trial Court to assess whether there is material on record to raise grave suspicion of the accused having committed the said offence. The material both against or in favour of the accused has to be assessed by the Trial Court to come to a conclusion as to whether grave suspicion arises or not.

26. The Trial Court in the impugned order has proceeded solely on the basis of the statement recorded under Section 164 Cr.P.C. and completely ignored the contemporaneous e-mails which were available on record. Trial Court completely lost sight of the fact that the statement under Section 164 Cr.P.C. was recorded after one year of the complainant having been removed from office. The contemporaneous material in the form of e-mails written by the complainant from September till February 2013 as also the complaint lodged with the Delhi Commission for Women (DCW) on 13.02.2013 completely contradicted and belied the statement given under Section 164 Cr.P.C. It may be noticed that in the statement under Section 164 Cr.P.C. there are substantive improvements in the version by the prosecutrix and she has even leveled allegations of physical sexual assault by petitioner Nos. 1 and 2, with regard to which she was completely silent in her complaints and grievances raised for over a year."



26. The Hon'ble Supreme Court in **Ram Prakash Chadha v. State of UP**<sup>7</sup>, while reiterating the principles in respect of Section 227 of the CrPC, has observed and held as under: -

“22. In *P. Vijayan v. State of Kerala* [*P. Vijayan v. State of Kerala*, (2010) 2 SCC 398 : (2010) 1 SCC (Cri) 1488] , after extracting Section 227CrPC, this Court in paras 10 and 11 held thus: (SCC pp. 401-402)

“10. ... **If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal.** Further, the words “not sufficient ground for proceeding against the accused” clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts.

11. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.”

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<sup>7</sup> (2024) 10 SCC 651



23. In para 13 in *P. Vijayan case* [*P. Vijayan v. State of Kerala*, (2010) 2 SCC 398 : (2010) 1 SCC (Cri) 1488] , this Court took note of the principles enunciated earlier by this Court in *Union of India v. Prafulla Kumar Samal* [*Union of India v. Prafulla Kumar Samal*, (1979) 3 SCC 4 : 1979 SCC (Cri) 609] which reads thus: (*Prafulla Kumar Samal case* [*Union of India v. Prafulla Kumar Samal*, (1979) 3 SCC 4 : 1979 SCC (Cri) 609] , SCC p. 9, para 10)

“10. ... (1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

**(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.**

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”

**24. In the light of the decisions referred supra, it is thus obvious that it will be within the jurisdiction of the Court concerned to sift and**



**weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused concerned has been made out. We are of the considered view that a caution has to be sounded for the reason that the chances of going beyond the permissible jurisdiction under Section 227CrPC, and entering into the scope of power under Section 232CrPC, cannot be ruled out as such instances are aplenty.** In this context, it is relevant to refer to a decision of this Court in *Om Parkash Sharma v. CBI* [*Om Parkash Sharma v. CBI*, (2000) 5 SCC 679 : 2000 SCC (Cri) 1014] . Taking note of the language of Section 227CrPC, is in negative terminology and that the language in Section 232CrPC, is in the positive terminology and considering this distinction between the two, this Court held that it would not be open to the Court while considering an application under Section 227CrPC, to weigh the pros and cons of the evidence alleged improbability and then proceed to discharge the accused holding that the statements existing in the case therein are unreliable. It is held that doing so would be practically acting under Section 232CrPC, even though the said stage has not reached. In short, though it is permissible to sift and weigh the materials for the limited purpose of finding out whether or not a prima facie case is made out against the accused, on appreciation of the admissibility and the evidentiary value such materials brought on record by the prosecution is impermissible as it would amount to denial of opportunity to the prosecution to prove them appropriately at the appropriate stage besides amounting to exercise of the power coupled with obligation under Section 232CrPC, available only after taking the evidence for the prosecution and examining the accused.”

**(emphasis supplied)**

27. In the considered opinion of this Court, the exercise undertaken by the learned Trial Court is well within the parameters of Court’s power to examine the material on record to determine whether the *prima facie* case against the accused is made out or not.



**28.** So far as the factual matrix is concerned, the learned counsel for the appellant has fairly stated that there is no infirmity in the facts of the present case. Learned counsel for the appellant has submitted that the learned Trial Court ought not to have examined the material in such detail and should have taken a *prima facie* view on the basis of the complaint made by the appellant in the FIR. As already noted hereinbefore, the contradiction that goes to the root of the case with respect to whether the ingredients of offence alleged to have been committed by an accused is made out or not is a relevant factor for consideration at the stage of framing of charge. The very first complaint made by the appellant is bereft of any allegation with respect to commission of offence punishable under SC/ST Act and the same cannot be simply ignored. This conspicuous absence of any allegation with respect to provisions of SC/ST Act or with regard to allegations under Sections 354/504 of the IPC in the first complaint coupled with the fact that even subsequently during the investigation, no independent evidence could be collected to support the allegation made in subsequent complaint, is a relevant factor which creates a doubt with respect to the legitimacy of the allegations made by the appellant.

**29.** This Court has also gone through the material on record and there is no independent evidence to corroborate or support the allegation made by the appellant *qua* the respondent Nos. 2, 3 and 4 with respect to the provisions of SC/ST Act. This assumes significance because, even as per the case of the prosecution, the incident had occurred in OPD and in presence of various other people including staff of the AIIMS. On the contrary, it has come on



record that the staff, who were present at the spot, had not supported the allegations made by the appellant. Similar is the result of investigation in respect of the allegations against respondent No. 2 for the offences punishable under Sections 354A/504 of the IPC. It is only in subsequent complaint, the appellant improved upon her initial complaint and tried to factor in allegations which, again as per the case of the prosecution, has not been corroborated by any witness.

**30.** In view of the aforesaid discussion and in facts and circumstances of the present case, this Court finds no ground to interfere with the impugned order dated 07.09.2024 passed by learned Additional Sessions Judge.

**31.** Accordingly, the appeal is dismissed is and disposed of accordingly.

**32.** Pending applications, if any, also stand disposed of accordingly.

**33.** Judgment be uploaded on the website of this Court *forthwith*.

**AMIT SHARMA, J.**

**AUGUST 22, 2025/nk/bsr/ns**