

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT JABALPUR
(SINGLE BENCH : HON'BLE SHRI JUSTICE J.P.GUPTA)**

M. Cri. C. No. 11817/2017

Sushant Purohit

Vs.

State of Madhya Pradesh and another

Shri A. M. Trivedi, learned Senior Advocate with Shri Ashish Kumar Tiwari, Advocate for the petitioners.

Shri Shashank Upadhyay, learned Govt. Advocate for respondent no.1 / State.

Sushri Kiran Mehta, Advocate for respondent no. 2 / complainant.

Whether approved for reporting : **(Yes)**.

ORDER

(Delivered on 4th day of April, 2019)

This petition under section 482 of the Cr.P.C. has been filed by the petitioner for quashment of criminal proceedings arising out of Crime No.20/16 registered at Police Station AJK, Narsinghpur, for the offences under Sections 323, 355, 294, 190, 506 of the IPC and Section 3 (1) (r), 3 (1) (s) and 3 (2) (v-a) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. Facts, in brief, giving rise to this petition are that a complaint was made by respondent no. 2 / complainant against the petitioner alleging that on 5.4.2016 she was harvesting the crops of wheat in the farm of the petitioner. As there was some delay in finishing of the work in time so the petitioner abused her and came forward to beat her with shoe and threatened that she would not get any remuneration in lieu of cutting of crops of wheat and he would kill her and would burn her

house. The petitioner is a man of criminal background and he does not want to pay her wages. The In-charge of Police Station AJK, Narsinghpur made enquiry and submitted report to the Sub Divisional Officer (Police), Narsinghpur, District Narsinghpur, mentioning that the complaint is false. Thereafter, on the directions of this court issued in W.P. No.9414/16 vide order dated 2.6.2016 in the light of the Apex court's judgment of **Lalita Kumari vs. State of U.P. reported in 2014 (2) SCC-1**, to consider the grievance of the petitioner, a fresh complaint was filed by respondent no. 2 / complainant before the Superintendent of Police, Narsinghpur, District Narsinghpur who directed the S.D.O. (P) Narsinghpur to act in accordance with law and thereafter, a report as Crime No.20/16 at Police Station AJK, Narsinghpur was registered under the aforesaid sections. Charge sheet has been filed for commission of the aforesaid offences by the petitioner.

3. The aforesaid proceeding has been challenged on the ground that earlier in the preliminary enquiry made by In-charge of Police Station AJK, Narsinghpur dated 12.6.2016 has established that the complaint is false as other witnesses who were admittedly present on the spot at the time of incident have disclosed that no such incident had taken place. When the petitioner shown his wrath about not cutting of crops of wheat in time, respondent no. 2 rushed towards him with sickle to assault him then the witnesses rescued the petitioner and the petitioner had no knowledge of the fact that respondent no. 2 /

complainant was belonging to scheduled caste community as he knows her Muslim because of her marriage and having three grown up children with Muslim. Hence, there is no iota of material to constitute an offence of atrocity on the ground of caste and thereafter, on account of the directions of this court without application of mind and without necessary inquiry, FIR has been registered and merely on the basis of statement of the complainant, charge sheet has been filed. There is no medical evidence or statement of any other independent witnesses to prove the prosecution story. The facts and circumstances show that respondent no. 2 is keenly interested to mire the petitioner just to grind her own axe with oblique motive through criminal proceeding. Further contention is that certificate of caste of the complainant is invalid as after marriage with a person of Muslim religion she cannot claim to be a member of scheduled caste community as she was belonging earlier. Hence, the caste certificate is invalid and it is also contended that there is no caste certificate or other evidence that the petitioner does not belong to SC/ST community; therefore, he cannot be prosecuted with regard to commission of the offence under the SC/ST community. If the prosecution of the petitioner is continued it would amount to miscarriage of justice and misuse of process of the court as well. Hence, the proceedings be quashed.

4. Learned counsel for the petitioner has also placed reliance on a judgment of the Apex court in the case of **Goreige Pentaiah vs. State of**

Andhra Pradesh and others (2008) 12 SCC 531. The relevant paragraphs

6, 12 to 24 and 26 of which are as under :-

6. In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant abused them with the name of their caste. According to the basic ingredients of [Section 3\(1\)\(x\)](#) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he (respondent No. 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.

12. This court in a number of cases has laid down the scope and ambit of courts' powers under [section 482](#) Cr.P.C. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under [section 482](#) Cr.P.C. can be exercised:

- (i) to give effect to an order under [the Code](#);
- (ii) to prevent abuse of the process of court, and
- (iii) to otherwise secure the ends of justice.

Inherent powers under [section 482](#) Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to in-

justice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute.

13. Reference to the following cases would reveal that the courts have consistently taken the view that they must use this extraordinary power to prevent injustice and secure the ends of justice. The English courts have also used inherent power to achieve the same objective. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. In *Connelly v. DPP* [1964] AC 1254, Lord Devlin stated that where particular criminal proceedings constitute an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in *DPP v. Humphrys* [1977] AC 1 stressed the importance of the inherent power when he observed that it is only if the prosecution amounts to an abuse of the process of the court and is oppressive and vexatious that the judge has the power to intervene. He further mentioned that the court's power to prevent such abuse is of great constitutional importance and should be jealously preserved.

14. [In R.P. Kapur v. State of Punjab](#) AIR 1960 SC 866, this court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings:

(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings;

(ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

15. The powers possessed by the High Court under [section 482](#) of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be

careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should normally refrain from giving a prima facie decision in a case where all the facts are incomplete and hazy; more so, when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of such magnitude that they cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage.

16. This court in [State of Karnataka v. L. Muniswamy & Others](#) (1977) 2 SCC 699 observed that the wholesome power under [section 482](#) Cr.P.C. entitles the High Court to quash a proceeding when it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The High Courts have been invested with inherent powers, both in civil and criminal matters, to achieve a salutary public purpose. A court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. The court observed in this case that ends of justice are higher than the ends of mere law though justice must be administered according to laws made by the legislature. This case has been followed in a large number of subsequent cases of this court and other courts.

17. [In Chandrapal Singh & Others v. Maharaj Singh & Another](#) (1982) 1 SCC 466, in a landlord and tenant matter where criminal proceedings had been initiated, this Court observed in para 1 at page 467 as under:-

“1. A frustrated landlord after having met his Waterloo in the hierarchy of civil courts, has further enmeshed the tenant in a frivolous criminal prosecution which prima facie appears to be an abuse of the process of law. The facts when stated are so

telling that the further discussion may appear to be superfluous."

The court noticed that the tendency of perjury is very much on the increase. Unless the courts come down heavily upon such persons, the whole judicial process would come to ridicule. The court also observed that chagrined and frustrated litigants should not be permitted to give vent to their frustration by cheaply invoking jurisdiction of the criminal court.

18. This court in [Madhavrao Jiwajirao Scindia & Others v. Sambhajirao Chandrojirao Angre & Others](#) (1988) 1 SCC 692 observed in para 7 as under:

"7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

19. [In State of Haryana & Others v. Bhajan Lal & Others](#) 1992 Supp. (1) SCC 335, this court in the backdrop of interpretation of various relevant provisions of the [Cr.P.C.](#) under Chapter XIV and of the principles of law enunciated by this court in a series of decisions relating to the exercise of the extraordinary power under [Article 226](#) of the Constitution of India or the inherent powers under [section 482](#) Cr.P.C. gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the

court or otherwise to secure the ends of justice. Thus, this court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised:

"(1) Where the allegations made in the first information report or the complaint, even if they are 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously

instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

20. This court in [Janata Dal v. H. S. Chowdhary & Others](#) (1992) 4 SCC 305 observed thus:

"132. The criminal courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. The powers possessed by the High Court under [section 482](#) of the Code are very wide and the very plentitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles."

21. [In G. Sagar Suri & Another v. State of UP & Others](#) (2000) 2 SCC 636, this court observed that it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process particularly when matters are essentially of civil nature.

22. This court in [Roy V.D. v. State of Kerala](#) (2000) 8 SCC 590 observed thus:-

"18.... It is well settled that the power under [section 482](#) Cr.P.C has to be exercised by the High Court, inter alia, to prevent abuse of the process of any court or otherwise to secure the ends of justice. Where criminal proceedings are initiated based on illicit material collected on search and arrest which are per se illegal and vitiate not only a conviction and sentence based on such material but also the trial itself, the proceedings cannot be allowed to go on as it cannot but amount to abuse of the process of the court; in such a case not quashing the proceedings would perpetuate abuse of the process of the court resulting in great hardship and injustice to

the accused. In our opinion, exercise of power under [section 482](#) CrPC to quash proceedings in a case like the one on hand, would indeed secure the ends of justice."

23. This court in [Zandu Pharmaceutical Works Ltd. & Others v. Mohd. Sharaful Haque & Another](#) (2005) 1 SCC 122 observed thus:-

"8.It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

24. [In Indian Oil Corporation v. NEPC India Ltd. & Others](#) (2006) 6 SCC 736, this court again cautioned about a growing tendency in business circles to convert purely civil disputes into criminal cases. The court noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The court further observed that :-

"13... Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged." and

26. A three judge Bench of this court in [Inder Mohan Goswami & Another v. State of Uttaranchal & Others](#) AIR 2008 SC 251 has examined scope and ambit of [section 482](#) of the Criminal Procedure Code. The court in the said case observed

that inherent powers under [section 482](#) should be exercised for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be fully justified in preventing injustice by invoking inherent powers of the court.”

5. Learned Government Advocate as well as learned counsel appearing on behalf of the complainant / respondent no. 2 have opposed the aforesaid contentions advanced by learned counsel for the petitioner and submitted that there is a prima facie material to prosecute the petitioner. At this stage appreciation of evidence is not required. Hence, the petition be dismissed.

6. Having considered the contentions of learned counsel for the parties and on perusal of the record and the case diary, it is found that in this case the prosecution has filed caste certificate of respondent no. 2 / complainant issued by S.D.O. (Revenue), Tahsil-Narsinghpur, District Narsinghpur. According to the caste certificate dated 5.9.2016, respondent no.2 is a member of scheduled tribe community. Whether respondent no. 2 is entitled to get certificate or not or after marriage with the person of Muslim religion, she would be deemed to be a member of scheduled tribe community or not; cannot be decided here. With regard to validity of the caste certificate, a State Level Screening Committee constituted for the specific purpose is only having jurisdiction to decide the matter. Hence, the dispute cannot be a ground for quashment of the proceeding. However, in this case the prosecution has not produced any evidential material with the charge

sheet showing the fact that the petitioner is not belonging to SC/ST community which is also an essential ingredient to prosecute a person for the commission of offence punishable under the SC / ST (Prevention of Atrocities) Act. In the lake of such evidence, the petitioner cannot be prosecuted for the commission of any offence under the SC/ST (Prevention of Atrocities) Act. With regard to remaining offence, prosecution case is mainly based on the solitary statement of the complainant / respondent no. 2. So far as other witnesses are concerned, they are her close relatives who have stated that after the incident, complainant Kimmalbai @ Mumtaj Bee disclosed the fact of incident to them. This fact has not been mentioned in the written complaint or in the FIR or in her statement, therefore, the statement of other witnesses cannot be red under Section 157 of the Evidence Act and they are hearsay evidence. On perusal of the case diary it is also found that the witnesses present on spot at the time of incident with respondent no.2 / complainant, are Saurabh, Vandana Kashap, Chandrakiran Bai, Maya Bai and Suman Bai and they have stated that the petitioner had not abused respondent no. 2 or threatened at the time of incident. Eventually, respondent no. 2 / complainant herself made efforts to assault the petitioner with sickle and also used filthy language and they interfered in the matter and saved each other and this dispute was taken place on account of not finishing the work of cutting of the crops of wheat in time and at the time of incident,

respondent no. 2 / complainant was known as Mumtaj Bee, later on, it came into his notice that she belongs to Gond caste. Earlier preliminary enquiry made by In-charge of Police Station AJK, Narsinghpur, dated 12.6.2016, also fortifies the contentions of the petitioner, in which, it is stated that the allegations of respondent no. 2 are false and dispute took place on account of delay in cutting of the crops of wheat and thereafter, arrears of wages and the petitioner was not aware of her caste as she was known as Mumtaj Bee.

7. The aforesaid circumstances and the material *prima-facie* establishes that the allegations are baseless and without any foundation. On the face of it, it looks that the allegations made by respondent no. 2 are false and frivolous and concocted with an oblique motive to settle her score with regard to recovery of wages through criminal proceeding.

8. It is correct that at this stage no appreciation of evidence is permissible but looking to all facts and circumstances of the case and material available on record it is the duty of the court at every level to take cognizance in the matter whether there are *prima facie* sufficient and reliable material and *prima facie* legal evidence is available or not because the facts disclosed by the complainant constituting an offence under the SC/ST (Prevention of Atrocities) Act are not sufficient when the other important aspect; material and statements of the witnesses are totally against the version of the complainant. In the circumstances,

merely on the statement of the complainant ignoring other cogent and legal evidence disproving the version of the complainant cannot be base of the prosecution of the petitioner. Here in the present case, the circumstances indicate that as there was a dispute with regard to the delay in cutting of the crops of wheat and the payment of wages have not been made, therefore, the complainant intended to recover her wages. Hence, she has made false and vexatious allegations as established by other material available on record.

9. In view of the aforesaid discussion, this court is of the considered view that the proceedings against the petitioner on the complaint filed by respondent no 2 / complainant deserves to be set –aside. Hence, this court in exercise of inherent powers under section 482 of Cr.P.C. with a view to prevent abuse of the process of the court and ensure justice in the case, this petition is allowed and the proceedings against the petitioner Sushant Purohit arising out the crime no. 20/16 registered at Police Station AJK, Narsinghpur are hereby quashed.

A copy of this order be sent to the concerned court below for information and necessary compliance.

CC as per rules.

(J.P.GUPTA)
JUDGE

JP/-

1	Case Number	M.Cr.C. No.11817/2017
2	Parties Name	Sushant Purohit vs. State of M.P. & Anr.
3	Date of Judgment	4/4/2019
4	Bench Constituted of	Hon. Shri Justice J.P. Gupta
5	Judgment delivered by	Hon. Shri Justice J.P. Gupta
6	Whether approved for reporting	YES
7	Name of the counsel for the parties	Shri A.M. Trivedi, learned Senior Advocate with Shri Ashish Kumar Tiwari, Advocate for the petitioner. Shri Shashank Upadhyay, learned Govt. Advocate for respondent No.1 / State. Sushri Kiran Mehta, Advocate for respondent no. 2 / complainant.
8	Law Laid down & Significant paragraph number no. 8	It is the duty of the court at every level to take cognizance in the matter whether there are prima facie sufficient and reliable material and prima facie legal evidence is available or not because the facts disclosed by the complainant constituting an offence under the SC/ST (Prevention of Atrocities) Act are not sufficient when the other important aspect, material and statements of the witnesses are totally against the version of the complainant. Merely on the statement of the complainant ignoring other cogent and legal evidence disproving the version of the complainant cannot be a base of the prosecution of the petitioner.

(J.P.Gupta)
Judge

JP/--