

(2026) 03 BOM CK 0378
In the Bombay High Court
Case No : Writ Petition No. 2789 Of 2010

Virendranath B. Tiwari

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 16-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 226
Code of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 323, 324, 354
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(x), 3(1)(xi)

Citation : (2026) 03 BOM CK 0378

Hon'ble Judges : Ashwin D. Bhobe, J

Bench : Single Bench

Advocate : Virendranath B. Tiwari, Rizwan Merchant, Uma Nemlekar, Saurabh Godbole, Sahil Mahajan, Sukanta Karmakar

Final Decision : Allowed

Judgement

Ashwin D. Bhobe, J

1. This proceeding is recorded in accordance with the decision of this Court in Hema Suresh Ahuja & Ors v. State of Maharashtra & Anr¹ as the subject matter pertains to an offence under the SC/ST Act.

2. Heard Mr. Virendranath Tiwari, Petitioner in person, Mr. Sukanta Karmakar, learned APP for the Respondent – State, and Mr. Rizwan Merchant, learned Advocate for Respondent No. 2.

3. This Petition under Article 226 of the Constitution of India, together with Section 482 of the Code of Criminal Procedure, 1973, is filed by the Petitioner to quash the FIR bearing No. 121 of 2010 registered at Azad Maidan Police Station, Mumbai (hereafter "impugned FIR") for offences punishable under Section 324 of the Indian Penal Code, 1860, read with Section 3(1)(x) and (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter

"Atrocities Act, 1989"), along with the Chargesheet bearing No. 237/PW/2014 pending before the Additional Chief Metropolitan Magistrate, 37th Court, at Esplanade, Mumbai (hereafter "Magistrate"), arising from the impugned FIR.

4. The Respondent No. 2 filed a statement dated 02.07.2010 with the Respondent No. 1, alleging that on 27.06.2007, at around 11:30 a.m., in Siddharth Law College, when the Respondent No. 2 was coming down from the lift, the Petitioner hurled abuses at her and claimed that she possessed bogus certificates. The Respondent No. 2 further alleged that a conversation with the Petitioner led to an altercation during which the Petitioner assaulted her with an umbrella, causing injuries to Respondent No. 2. The impugned FIR was registered based on the said statement.

5. The investigation was completed, and the Chargesheet bearing No. 237/PW/2014 was filed before the Magistrate under under Section 324 of the Indian Penal Code, 1860, read with Section 3(1)(x) and (xi) of the Atrocities Act, 1989.

6. On 29.09.2010, this Court directed that no precipitous steps be taken against the Petitioner. On 11.02.2011, Rule was issued in the matter, and the earlier interim order was extended until the disposal of this Petition.

7. The Petitioner, party in person, states that he raised an issue regarding Respondent No. 2's claim to a reserved seat, which Respondent No. 2 was not entitled to, leading Respondent No. 2 to file false and malicious complaints against him. He refers to the memo of the Petition and states that Respondent No. 2 filed successive criminal complaints under the Atrocities Act, 1989, against him. These complaints were registered as SC/ST Special Case No. 2 of 2003 and SC/ST Special Case No. 09 of 2007 before the Special Judge, Mumbai. He submits that by order dated 16.09.2005, the Special Judge, Mumbai, acquitted him of the offences punishable under Section 3(1)(x) of the Atrocities Act, 1989, in SC/ST Special Case No. 2 of 2003, and by order dated 25.03.2010, he was discharged in SC/ST Special Case No. 09 of 2007 of the offences punishable under Section 3 (1) (ix). He further states that the present petition concerns the third complaint filed by Respondent No. 2 on similar grounds, misusing the provisions of the Atrocities Act, 1989. He argues that the statement filed by Respondent No. 2, besides being false, is motivated by ulterior motives and revenge, as the Petitioner questioned the qualification and certificate (B.A. Degree) of the Respondent No. 2. He asserts that no offence, let alone one under Section 3(1) (x) and (xi) of the Atrocities Act, 1989, has been established.

8. Mr. Sukanta Karmakar, learned APP, submits that the Respondent No. 1, upon receipt of the statement from Respondent No. 2, registered the impugned FIR, conducted the investigation, and filed the chargesheet.

9. Mr. Rizwan Merchant, learned Advocate for Respondent No. 2, has, in addition to his oral arguments, submitted bullet points/submissions on record. He fairly states that the contents of the impugned FIR do not reveal any caste-based humiliation or insults denigrating the caste, and therefore, the provisions of

Section 3(1)(s) of the Atrocities Act, 1989, do not apply to the case at hand. He submits that the statements of Respondent No. 2 reveal the Petitioner using abusive language while addressing Respondent No. 2, which would invoke the provisions of Section 3(1)(r) of the Atrocities Act, 1989, as it constitutes an insult to Respondent No. 2 by the Petitioner publicly with the intent to humiliate. He further submits that the statement mentions threats and intimidation directed at Respondent No. 2 with the aim of humiliating her. He submits that although the impugned FIR does not record the commission of offences punishable under Section 3(2)(va) of the Atrocities Act, 1989, the contents of the statement dated 02.07.2010 of Respondent No. 2 record an overt act committed by the Petitioner in assaulting Respondent No. 2 with an umbrella, causing her injury. Therefore, in his submission, an offence as referred to in the schedule to Section 3(2)(va) of the Atrocities Act, 1989, is established. He submits that, although the injury is a simple hurt, the core of the offence lies in the offences referred to in the schedule to Section 3(2)(va) of the Atrocities Act, 1989, especially Section 319 read with Section 323 of the Indian Penal Code, 1860. He argues that the impugned FIR shows that the Petitioner's intention was to outrage the modesty of Respondent No. 2, which is punishable under Section 354 of the Indian Penal Code, 1860. He submits that intention is a state of mind that must be proved from the reading of the evidence, and its existence or non-existence must be recorded during the trial as the evidence is examined. He references the statements of witnesses on pages 695, 696, and 697 of the Petition paper book. He states that Respondent No. 2 has a valid Caste Certificate. For all these reasons, he requests dismissal of this petition.

10. Heard arguments. Examined the records.

11. From the differing arguments of the parties, the key question is whether the allegations in the impugned FIR and the material collected after its registration indicate the commission of a cognizable offence and whether the allegations meet the ingredients of Section 3(1)(x) and (xi) of the Atrocities Act, 1989 {now Section 3(1)(r) and 3(1)(s) of the Atrocities Act, 1989 (as amended)}.

12. Section 3(1)(x) and 3(1)(xi) of the Atrocities Act 1989, as originally enacted, read as follows:

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

(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;

(xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;

13. Section 3(1) (r) and 3(1) (s) of the Atrocities Act 1989 (as amended) read as follows:-

3. Punishments for offences atrocities.—3 [(1) Whoever, not being a member of a

Scheduled Caste or a Scheduled Tribe—

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

14. The impugned FIR and the material collected on record do not reveal the ingredients for an offence under Section 3(1)(s) of the Atrocities Act, 1989. Mr. Rizwan Merchant has fairly and rightly stated that the contents of the impugned FIR do not demonstrate any caste-based humiliation or insult denigrating towards caste.

15. To attract Section 3(1)(r) of the Atrocities Act, 1989, the impugned FIR or material on record needed to show that the Petitioner intentionally insulted or intimidated Respondent No. 2 (a member of a Scheduled Caste), and that he did so with the intent to humiliate Respondent No. 2 at a place within public view.

16. The allegations in the impugned FIR, the statement dated 02.07.2010 of Respondent No. 2, and the material on record relate to the Petitioner allegedly abusing and threatening Respondent No. 2. The allegations are that the Petitioner hurt Respondent No. 2 with an umbrella, causing simple injury. However, the allegations do not indicate that the abuses included using a caste name or that a caste name was hurled as an insult or to humiliate Respondent No. 2 by caste. Mr. Rizwan Merchant, learned Advocate for Respondent No. 2, was unable to identify such material in the record.

17. The Hon'ble Supreme Court in the case of Keshaw Mahto @ Keshaw Kumar Mahto v. State of Bihar & Anr., while examining the provisions of Section 3(1)(r) of the Atrocities Act, 1989, has made observations in paragraphs 10, 11, 12, 13, and 14 as follows:

10. We shall first proceed to examine whether the necessary ingredients to constitute the offence under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act respectively are disclosed on a plain reading of the FIR and the chargesheet. The sections read as under:- "3. Punishments for offences atrocities.

— [(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe
— 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;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;"

11. This Court in Shajan Skaria v. The State of Kerala & Anr., 2024 SCC OnLine SC 2249, laid down the ingredients to constitute an offence under Section 3(1)(r) of the SC/ST Act. It reads thus:- "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.”

(Emphasis supplied)

12. Section 3(1)(r) is attracted where the reason for the intentional insult or intimidation by the accused is that the person who is subjected to is a member of a Scheduled Caste or a Scheduled Tribe. In other words, the offence under Section 3(1)(r) cannot stand merely on the fact that the informant/complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless the insult or intimidation is with the intention to humiliate such a member of the community.

13. To put it briefly - first, the fact that the complainant belonged to a Scheduled Caste or a Scheduled Tribe would not be enough. Secondly, any insult or intimidation towards the complainant must be on the account of such person being a member of a Scheduled Caste or a Scheduled Tribe.

14. With a view to dispel any doubt and lend clarity, we deem it appropriate to mention that even mere knowledge of the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe is not sufficient to attract Section 3(1)(r).

18. As held by the Hon'ble Supreme Court in the case of Keshaw Kumar Mahto (supra), mere knowledge of the Petitioner that Respondent No. 2 is a member of the Scheduled Caste or the Scheduled Tribe is not enough to invoke Section 3(1)(r) of the Atrocities Act, 1989.

19. Section 324 of the Indian Penal Code, 1860 reads as under:-

324. Voluntarily causing hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

20. The allegations in the impugned FIR, taken at face value, do not meet the ingredients of Section 324 of the Indian Penal Code, 1860. Respondent No. 2 has also stated that the injury caused is simple in nature.

21. Mr. Rizwan Merchant's attempt to justify the case by arguing that the offence under Section 3(2)(va) of the Atrocities Act, 1989, as referred to in the schedule mentioned in that section, would apply, is not acceptable for multiple reasons. First, the contents of the statement dated 02.07.2010 by Respondent No. 2, the impugned FIR, or the material collected do not establish such a case. Second,

Respondent No. 1 has not charged an offence under Section 3(2)(va) of the Atrocities Act, 1989. Third, and most importantly, the offence in this case is alleged to have been committed on 27.06.2007. Section 3(2) (va) of the Atrocities Act, 1989, was inserted by Act 1 of 2016, Section 4 (w.e.f. 26.01.2016, vide S.O. 152(E), dated 18th January, 2016.)

22. Mr. Virendranath Tiwari strongly argued that the statement filed by Respondent No. 2, which led to the registration of the impugned FIR, was made with ulterior motives and as an act of revenge driven by a personal grudge. To support this claim, he pointed to two earlier instances where Respondent No. 2 implicated the Petitioner in criminal cases with similar, if not identical, allegations under the Atrocities Act, 1989, which the Court dismissed. Additionally, by referring to the allegations in the memo of petition and the record placed before this Court, he contended that the revenge was linked to the Petitioner raising an issue regarding Respondent No. 2's appointment to a post, even though she was not eligible for it.

23. Be that as it may, regardless of the reasons Respondent No. 2 filed the complaints against the Petitioner, the fact remains that on two previous occasions (SC/ST Special Case No. 2 of 2003 and SC/ST Special Case No. 09 of 2007), Respondent No. 2 made allegations against the Petitioner invoking provisions of the Atrocities Act, 1989, similar to those in the impugned FIR. The Petitioner was acquitted in SC/ST Special Case No. 2 of 2003 and discharged in SC/ST Special Case No. 09 of 2007, which is not disputed.

24. The Hon'ble Supreme Court in the Case of Mahmood Ali & Ors. v. State of Uttar Pradesh & Ors.³ in paragraph Nos. 11, 12 and 13 has observed as under:

11. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.

12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

13. In frivolous or vexatious proceedings, the Court owes a duty to look into

many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

25. Based on the order dated 16.09.2005 passed by the Court in SC/ST Special Case No. 2 of 2003 and order dated 25.03.2010 passed by the Court in SC/ST Special Case No. 09 of 2007, which exonerate the Petitioner in those criminal proceedings, and considering the nature of the allegations made in the impugned FIR, Mr. Virendranath Tiwari, a senior citizen aged 74, is justified in arguing that the proceedings initiated by Respondent No. 2 for the third time are an act of vengeance aimed at causing harassment and humiliation to him.

26. At face value, the allegations in the impugned FIR/ Chargesheet do not disclose any of the ingredients of Section 324 of the Indian Penal Code, 1860, read with Section 3(1)(x) and (xi) of the Atrocities Act, 1989 {now Section 3(1)(r) and 3(1)(s) of the Atrocities Act, 1989.

27. The Hon'ble Supreme Court, in the case of State of Haryana v. Bhajan Lal⁴ in paragraph 102, observed as follows:-

102. In the backdrop of the interpretation of the various relevant provisions of the Code 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 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though 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 of 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.

28. The present case clearly falls within the principles established in Bhajan Lal (supra) for exercising powers under Section 482 of the Cr. PC to quash the impugned FIR and the chargesheet arising from it, to prevent abuse of the process of law.

29. Accordingly, this petition is allowed. Rule in this Petition is made absolute in terms of prayer clause (i) and (ib). Consequently, the impugned FIR bearing No. 121 of 2010 and the chargesheet bearing No. 237/PW/2014 pending on the file of the Additional Chief Metropolitan Magistrate, 37th Court, at Esplanade, Mumbai, are quashed.

30. There shall be no orders as to cost.