



2026:CGHC:3310

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1046 of 2023

Umakant @ Raju Tandiya S/o Lt. Jalsingh Tandiya Aged About 30 Years
R/o Village Manpur, Thana Manpur, Tehsil Manpur, District
Rajnandgaon (Now Mohala Manpur Ambagarh Chowki) Chhattisgarh.

--- Petitioner(s)

versus

1 - Raju Markam S/o Mahar Singh Markam Aged About 23 Years
Village Khursekala, Thana Madanwada, Tehsil Manpur District
Rajnandgaon (Now Mohala Manpur Ambagarh Chowki) (C.G.).

2 - State Of Chhattisgarh Through District Magistrate, District :
Rajnandgaon, Chhattisgarh.

--- Respondent(s)

CRMP No. 1043 of 2023

1 - Prakash Mishra S/o Rajdev Mishra Aged About 33 Years R/o
Village- Manpur, Thana- Manpur, Tehsil - Manpur, District -
Rajnandgaon (Now - Mohala-Manpur-Ambagarh Chowki),
Chhattisgarh.

2 - Om Prakash Chandak S/o Ram Chandra Chandak Aged About 45 Years R/o Village- Manpur, Thana- Manpur, Tehsil - Manpur, District - Rajnandgaon (Now - Mohala-Manpur-Ambagarh Chowki), Chhattisgarh.

3 - Madan Sahu S/o Lt. Bisahu Ramk Sahu Aged About 45 Years R/o Village- Manpur, Thana- Manpur, Tehsil - Manpur, District - Rajnandgaon (Now - Mohala-Manpur-Ambagarh Chowki), Chhattisgarh.

4 - Manish Nirmalkar S/o Lt. Kuwar Singh Nirmalkar Aged About 24 Years R/o Village- Manpur, Thana- Manpur, Tehsil - Manpur, District - Rajnandgaon (Now - Mohala-Manpur-Ambagarh Chowki), Chhattisgarh.

---Petitioner(s)

Versus

1 - Raju Markam S/o Mahar Singh Markam Aged About 23 Years R/o - Village- Khursekala, Thana- Madanwada, Tehsil- Manpur, District - Rajnandgaon (Now - Mohala-Manpur-Ambagarh Chowki), Chhattisgarh.

2 - State Of Chhattisgarh Through- District Magistrate, District : Rajnandgaon, Chhattisgarh.

--- Respondent(s)

CRMP No. 1034 of 2023

Satish Dubey S/o Lt. Jagdish Prasad Dubey Aged About 40 Years R/o Village Manpur, Thana Manpur, Tehsil Manpur, District Rajnandgaon (Now Mohala-Manpur-Ambagarh Chowki) (C.G.).

---Petitioner(s)

Versus

1 - Raju Markam S/o Mahar Singh Markam Aged About 23 Years
Village Khursekala, Thana Madanwada, Tehsil Manpur District
Rajganjgaon (Now Mohala Manpur Ambagarh Chowki) (C.G.).

2 - State Of Chhattisgarh Through District Magistrate District
Rajnandgaon (C.G.).

--- Respondent(s)

For Petitioner(s)	: Mr. Akhand Pratap, Advocate.
For Respondent No.1 in CRMP No.1046/2023 and CRMP No.1034/2023	: Mr. Syed Afaq Hussain Rizvi holding the brief of Mr. Lavkush Kumar Sahu, Advocate.
For Respondent No.2/State	: Ms. Vaishali Mahilang, Gy G.A.

Hon'ble Shri Ramesh Sinha, Chief Justice

Judgment on Board

20.01.2026

1. Heard Mr. Akhant Pratap, learned counsel for the petitioners. Also heard Mr. Syed Afaq Hussain Rizvi holding the brief of Mr. Lavkush Kumar Sahu, learned counsel appearing for respondent No.1 in CRMP No.1046/2023 & CRMP No.1034/2023 and Ms. Vaishali Mahilang, learned Deputy Government Advocate, appearing for respondent No.2/State.
2. The petitioners have filed the present petitions seeking following relief(s):-

“ 3.1 Call for the record of proceedings of the special case no 11/2017 between parties (Raju Markam V/s Prakash Mishra and others) pending before learned special Judge (Atrocity), Rajnandgaon.

3.2 Quash and set aside entire proceeding of special case No.11/2017 between parties (Raju Markam v/s Prakash Mishra and others) pending before learned special judge (Atrocity) Rajnandgaon, District – Rajnandgaon (C.G.); and

3.3 Grant such other relief that this Hon’ble Court deems just and proper in the facts and circumstances of the case.”

3. Brief facts necessary for disposal of the case are that on 12.03.2016, one Vivek Singh, a member of the Bhoomkal organization, allegedly posted a derogatory and defamatory message concerning Goddess Durga on Facebook, which hurt the religious sentiments of the Hindu community. In response thereto, the present petitioners, along with other villagers, lodged a complaint at Police Station Manpur, on the basis of which FIR No. 19/2016 was registered under Section 295A IPC and Section 66A of the Information Technology Act against Vivek Singh. After investigation, a charge-sheet was filed, however, by judgment dated 11.10.2019, Vivek Singh was acquitted.
4. Subsequently, members of the Bhoomkal organization and office bearers of the Adivasi Samaj lodged a counter-complaint alleging

that on the same date, i.e., 12.03.2016, Satish Dubey and others had raised objectionable slogans hurting their religious sentiments, pursuant to which FIR No. 26/2016 was registered under Sections 295A, 153A and 298 IPC. In the said case, during trial, the complainant and prosecution witnesses did not support the prosecution case, were declared hostile, and did not name the present petitioners. Consequently, Satish Dubey was acquitted by judgment dated 15.10.2019.

5. Thereafter, alleging inaction by the police and claiming that the petitioners had assembled an unlawful gathering and raised caste- and religion-based derogatory slogans, the private respondent filed a complaint case dated 09.09.2016 before the Special Judge (SC/ST Atrocities), Rajnandgaon, invoking offences under Sections 143, 147, 153A, 195A, 295A, 298 and 294 IPC and Section 3(1)(r) of the SC/ST (Prevention of Atrocities) Act, 1989. Despite earlier acquittals arising out of the same incident and absence of incriminating material against the petitioners, the learned Special Judge, by order dated 20.02.2023, framed charges against them under Sections 153A and 295A IPC and Section 3(1)(r) of the SC/ST Act, which has led to the filing of the present petitions.
6. Learned counsel for the petitioners submits that the impugned criminal proceedings arising out of the same incident are nothing but a gross abuse of the process of law and deserve to be

quashed in exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure. The respondent/complainant has deliberately concealed material facts, including the registration of FIR No. 26/2016, the full-fledged police investigation, filing of charge-sheet, and the subsequent acquittal of co-accused Satish Dubey in Criminal Case No. 600/2016 vide judgment dated 15.10.2019, which has attained finality. Initiation of a fresh private complaint on identical facts is barred under Section 300 Cr.P.C. and violates the settled principle against double jeopardy. He further submits that the impugned complaint was filed without first resorting to the mandatory procedure prescribed under Sections 154(1) and 154(3) Cr.P.C., and without invoking the lawful remedy of further investigation under Section 173(8) Cr.P.C., thereby amounting to forum shopping. The learned Special Judge erred in taking cognizance without calling for or considering the police report and without recording any judicial satisfaction as mandated under Section 204 Cr.P.C. He also submits that the allegations, even if taken at face value, do not disclose the essential ingredients of offences under Sections 153A and 295A IPC, particularly in absence of prior sanction as required under Section 196 Cr.P.C., rendering the entire proceedings legally untenable. Likewise, no prima facie case under the provisions of the SC/ST (Prevention of Atrocities) Act, 1989 is made out, as the basic statutory ingredients are conspicuously absent, and the evidence on record merely

suggests presence in a crowd without any specific overt act attributed to the petitioners.

7. Learned counsel for the petitioner further contended that all prosecution witnesses have categorically failed to attribute any derogatory or intentional act to the petitioners, and have admitted that they merely signed documents at the instance of community elders, thereby demolishing the prosecution case at the threshold. The complaint is manifestly motivated, vindictive, and instituted with an ulterior motive of wreaking vengeance due to prior litigation, squarely attracting the principles laid down in ***State of Haryana v. Bhajan Lal***. Learned counsel for the petitioner further relied upon the law laid down by the Hon'ble Supreme Court in ***B. Venkateswaran, Lallan Kumar Singh, Pepsi Foods Ltd.***, and other binding precedents, continuation of the impugned proceedings would result in serious miscarriage of justice. Hence, all consequential proceedings, including the order taking cognizance and framing of charges, deserve to be quashed in the interest of justice. Furthermore, the petitioner namely Umakant Tandiya himself belongs to the Schedules Caste and the respondent belongs to the Schedules Tribe, so the charges framed by the Special Judge against petitioner- Umakant Tandiya under the SC/ST Atrocity Act is not penalable against the petitioner.
8. On the other hand, learned counsel for respondent No.2/State

submits that the present petition under Section 482 Cr.P.C. seeks quashment of proceedings of Special Case No. 11/2017 pending before the Special Judge (SC/ST Atrocities), Rajnandgaon, wherein charges under Sections 153-A and 295-A IPC and Section 3(1)(r) of the SC/ST (Prevention of Atrocities) Act, 1989 have been framed against the petitioners. The prosecution case arises out of allegations that the petitioners, along with others, raised caste-based and religiously offensive slogans on 12.03.2016. Upon consideration of the complaint and materials on record, the learned Special Judge found *prima facie* sufficient grounds to frame charges against the petitioners. She further submits that it is a settled position of law that at the stage of framing of charge, the Court is only required to see whether a *prima facie* case or strong suspicion exists against the accused and is not required to evaluate defence material. The Hon'ble Supreme Court in several judgments, including ***State of Orissa v. Debendra Nath Padhi, Amit Kapoor v. Ramesh Chander, and Akbar Hussain v. State of J&K***, has consistently held that the High Court should exercise restraint while invoking jurisdiction under Section 482 Cr.P.C. and should not interfere with a well-reasoned order of framing of charge unless there is a patent illegality or abuse of process. She also submits that in the present case, the learned trial Court has granted due opportunity of hearing to the petitioner and, after examining the record and materials submitted by the prosecution, has passed a reasoned

and lawful order. There is no infirmity, illegality, or perversity in the impugned order, nor is this a fit case for exercising inherent powers under Section 482 Cr.P.C., especially when an alternative statutory remedy is available. Hence, the petition being devoid of merit deserves to be dismissed.

9. Learned counsel for respondent No. 1 has adopted the submissions made by the learned State counsel.
10. I have heard learned counsel for the parties and perused the documents appended with the petitions.
11. The Supreme Court in the matter of **State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335** laid down the principles of law relating to the exercise of extraordinary power under Article 226 of the Constitution of India to quash the first information report and it has been held that such power can be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. In paragraph 102 of the report, their Lordships laid down the broad principles where such power under Article 226 of the Constitution/Section 482 of the CrPC should be exercised, which are as under: -

“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 give 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

12. The Supreme Court in the matter of *Manoj Kumar Sharma and others v. State of Chhattisgarh and others*, (2016) 9 SCC 1

held as under:-

“35. While discussing the scope and ambit of Section 482 of the Code, a similar view has been taken by a Division Bench of this Court in *Rajiv Thapar and others vs. Madan Kal Kapoor* (2013) 3 SCC 330 wherein it was held as under:-

“29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It

should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the

assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5 If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused.”

13. From perusal of the records and after hearing learned counsel for the parties, it is evident that the entire dispute arises out of a

single incident dated 12.03.2016, which has already been subjected to police investigation and adjudication by competent criminal courts, resulting in acquittal of the accused persons. It is not in dispute that pursuant to the Facebook post allegedly made by Vivek Singh, a complaint was lodged by the present petitioners and others, including Satish Dubey, on the basis of which FIR No.19/2016 was registered under Section 295-A IPC and Section 66-A of the Information Technology Act. After full-fledged trial, Vivek Singh was acquitted vide judgment dated 11.10.2019. It is further undisputed that on the same date and in respect of the same incident, a counter FIR bearing No.26/2016 was registered under Sections 295-A, 153-A and 298 IPC, wherein Satish Dubey was arrayed as an accused. In the said case, the complainant and prosecution witnesses did not support the prosecution story, were declared hostile, and ultimately Satish Dubey was acquitted by judgment dated 15.10.2019, which has attained finality.

14. A material fact which has been deliberately suppressed by the private respondent is that in Criminal Case No.26/2016, the present petitioners Umakant and Prakash Mishra were examined as prosecution witnesses and were never accused. Despite the police having investigated the matter and the criminal court having rendered a judgment of acquittal, the present private complaint has been filed seeking to initiate another prosecution on identical facts.

15. This Court finds that initiation of the present complaint proceedings, after completion of investigation and adjudication of the earlier cases arising out of the same incident, amounts to reopening a settled issue and is clearly barred in law. Such successive prosecution on the same cause of action is hit by the principles underlying Section 300 Cr.P.C. and the constitutional protection against double jeopardy. The manner in which the complaint has been instituted without disclosure of earlier FIRs, charge-sheets, trials and acquittals clearly establishes that the proceedings are maliciously instituted with an ulterior motive, thereby attracting the principles laid down by the Supreme Court in ***Bhajan Lal (supra)***.

16. Another important aspect of the matter is that petitioner Umakant himself belongs to the Scheduled Tribe community. The complaint does not disclose how the offence under Section 3(1)(r) of the SC/ST (Prevention of Atrocities) Act, 1989 could be attracted against a member of the same protected community. The essential ingredients of intentional insult or humiliation on the basis of caste, attributable specifically to the petitioners, are conspicuously absent. The allegations in the complaint are vague and omnibus and merely allege presence of the petitioners in a gathering without attributing any specific overt act or intentional conduct to them. Mere presence in a crowd, in absence of specific allegations, does not constitute an offence either under the IPC or under the SC/ST (Prevention of Atrocities) Act.

17. This Court further finds that cognizance of offences under Sections 153-A and 295-A IPC has been taken without obtaining the mandatory prior sanction as required under Section 196 Cr.P.C. Absence of such sanction goes to the root of the jurisdiction of the Court and renders the entire proceedings legally unsustainable. The learned Special Judge has also failed to consider that the complainant did not avail the statutory remedies under Sections 154(1) and 154(3) Cr.P.C. nor sought further investigation under Section 173(8) Cr.P.C., and directly instituted the complaint, which amounts to forum shopping and abuse of the criminal process.
18. Applying the principles laid down by the Supreme Court in ***Manoj Kumar Sharma (supra)***, this Court is satisfied that the material placed on record by the petitioners, including copies of judgments of acquittal, is of sterling and unimpeachable quality and completely demolishes the foundation of the impugned prosecution and continuation of the criminal proceedings in Special Case No.11/2017 would result in unnecessary harassment of the petitioners and would amount to abuse of the process of law, rather than serving the ends of justice. Consequently, this Court is of the considered opinion that the present case warrants exercise of inherent powers under Section 482 Cr.P.C. to prevent abuse of process and to secure the ends of justice.

19. For the foregoing reasons, the criminal proceedings pending before the Court of learned Special Judge (Atrocity), Rajnandgaon, District- Rajnandgaon (C.G.) arising out of Special Case No. 11/2017 for offence under Sections 153A, 295A of the IPC and Section (3)(1) R of SC/ST (Prevent of Atrocities) Act against the petitioners is hereby quashed.
20. Accordingly, the petitions under Section 482 CrPC are **allowed** to the extent indicated hereinabove.

Sd/-

(Ramesh Sinha)
Chief Justice

Akhil