KABC010310302024

IN THE COURT OF LXXXI ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-82)

:PRESENT:
Sri. Santhosh Gajanan Bhat, B.A.L., LL.B.,
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to former and elected MPs/MLAs in the State of Karnataka)

Dated this the 21st day of May, 2026

Spl.CC No.2252/2024

COMPLAINANT : State by Vyalikaval P.S.
Investigated by
Special Investigation Team, CID,
Bengaluru.

(By Sri.Pradeep C.S., Learned Special Public Prosecutor)

V/s

ACCUSED : Sri. Munirathna
@ Munirathnam Naidu
S/o Late Subramanya Naidu,
Aged about 61 years,
MLA, Rajarajeshwarinagara
Vidhanasabha Constituency,
R/at. No.147, 11th 'A' Cross,
Vyalikaval, Bengaluru – 560 003.

(Sri.Ashok Harnahalli, learned Senior Counsel appearing for Sri P.Chandrashekar, Advocate for accused)

ORDER

The accused Mr.Munirathna has filed the application under Sec.227 of Cr.P.C., r/w Sec.250 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking for his discharge in the above case, wherein he is charge-sheeted for committing the offences punishable under Sec.3(1)(r), 3(1)(s) of the Schedule Caste Schedule Tribe (Prevention of Atrocities) Act, 1989 ('SC and ST (POA) Act' for short) and Sec.153A(1)(a)(b), 504 and 506 of IPC.

2. The seisen of the application in the above case is that the accused Munirathna is the elected representative from Rajarajeshwarinagar Constituency and the complainant CW1 Velunaykar was close aid of accused Munirathna. It is stated in the charge sheet that CW4 Cheluvaraju was a contractor towards solid waste disposal in Ward No.42 of Lakshmidevi Nagara which comes within the limits of Rajarajeshwari Nagar constituency. It is narrated in the charge sheet that

the accused Munirathna was demanding bribe towards awarding contract work for solid waste management from the contractors and he used to pester the contractors to pay the bribe every month. However, said fact came to the knowledge of CW1 Velunaykar who off late had started to maintain distance from accused Munirathna Naidu immediately after the general elections to Legislative Assembly in the year 2023. Since CW1 Velu Naykar had prevailed upon CW4 Cheluvaraju not to pay the bribe amount, the accused Munirathna was infuriated and started to abuse CW1 Velu Naykar whenever it was possible for him and further he used to humiliate CW4 Cheluvaraju by stating that he should not join his hands with Velunaykar and also he used to pester him to pay the bribe amount. It is further narrated that since CW4 Cheluvaraju had not paid the bribe amount, the accused Munirathna had called upon a meeting of all the Contractors within his jurisdiction i.e., CW30 – T.Chandrashekar Reddy, CW31 Sri Vasavi

H.B., CW32 Sri Naresh, CW33 Sri Maruthi, CW34 Sri Satish, CW35 Sri Mayanna Gowda and in furtherance of the same on 18.5.2024 a meeting was convened at the residence of accused Munirathna through the Asst. Executive Engineer, CW15 Sri Vara Narayana K. As such they had assembled to meet Sri Munirathna in his official residence situated within the Limits of Vayalikaval Police Station, Bengaluru on the aforesaid date and at that time CW4 Cheluvaraju was accompanied by CW7 Sri Ramachandra.C., CW10 Arunkumar and they had met accused at 9.45 a.m. The accused is said to have called CW4 Muniraju to his chamber and started to abuse him in filthy language. Further, he had taken the name of Velunaykar by stating that he belonged to Scheduled Caste and in particularly he had abused him stating that 'ಹೊಲೆಯ ನನ್ನ ಮಗನೆ' (kannada vernacular language) and also he had abused female folk of the family members of Velunaykar and said abuses were hurled by accused Munirathna in a loud voice which was

overheard by CW7 Ramachandra and CW10 Arunkumar who were also present at that point of time. Further, he had tried to incite the ill-will between vokkaliga community and schedule caste by speaking ill about the schedule caste. The aforesaid verbal abuses were all recorded by CW4 Cheluvaraju through his Apple iPhone which was later on sent for FSL laboratory for scientific examination, wherein the voice of accused Munirathna was confirmed. Based on the materials collected the aforesaid charge sheet has been filed.

3. On the basis of filing of the charge-sheet by the Investigating Officer, this Court had carefully considered the contentions urged in the final report and also perused the materials which have been annexed along with the charge-sheet. On perusal of the documents, necessary materials were found by this Court to take cognizance for the offences mentioned above. Accordingly, cognizance for the offences were

taken and summons came to be issued against the accused Munirathna @ Munirathna Naidu. In pursuance of the same, the accused had appeared before this Court and of late he has filed a detailed application under Sec.227 of Cr.P.C. r/w Sec.25 of BNSS 2023. In the application it has been submitted that the allegations in the complaint and the charge-sheet is not established since the complainant who has never abused nor humiliated by using the name of his caste or the alleged utterance had taken place in a public place or in a public view. It has also been submitted that an innocent person has been falsely implicated in the above case and on perusal of the transcription provided by CW4 Cheluvaraju, would clearly establish that accused has neither abused nor addressed or named the complainant nor any such utterance taken place in the public view. The accused has also submitted that in order to attract the provisions of Sec.3(1)(r), 3(1)(s) of Schedule Caste and Schedule Tribe (POA) Act, the same would indicate of

hurling intentional abuse or intimidation to humiliate a member of SC or ST in any public place or any place which is within public view. By pointing out the same, the accused has submitted that the alleged incident had taken place in his house and that too in the presence of CW4 Cheluvaraju who had recorded the entire utterance and later on it was handed-over to the complainant Velu Naykar. By pointing out the same, it has been argued that whether rigor of the provision could be attracted. That apart, it has been submitted that in order to invoke the provisions of Sec.153(a), necessary sanction from the Central Government or the State Government or of the District Magistrate is required. Since the prosecution has not taken any prior permission, the proceedings to prosecute the accused under Sec.153A(1)(a)(b) of IPC is not sustainable. It has also been submitted that no allegations attracting the provisions of Sec.506 of IPC is forthcoming in the entire charge-sheet and hence the Final Report being final is also devoid of merits.

Lastly, it is submitted in the application that a false case has been foisted against him due to the political vendetta as he is a Member of Legislative Assembly for more than 10 years and since his opponents are trying to snub him by implicating him in one or the other cases and as such he has contended that the entire charge-sheet itself is devoid of merits. Further it has been submitted that as there is a bar to take cognizance against him under Sec.196 of Cr.P.C., and he proceedings are not maintainable. Accordingly, accused has requested this Court to discharge him for the aforesaid offences.

4. On request, the learned SPP has put in his appearance and has filed a detailed statement of objections wherein the contentions urged by the accused are all denied. The learned SPP has also contended that the incident had taken place in the residence which was earmarked as office by the accused at Vyalikaval. It is also submitted that the

office consisted of two meeting halls, anti chambers and another place where meeting could be held for more than 100 persons. That apart it is submitted that on the fateful day the accused had called the meeting of CW.30 to CW.35, who were contractors and after that he had also called CW.4 Cheluvaraju and there he had abused the complainant in filthy language by taking the name of the caste. It is further submitted that the said abuses hurled were over heard by the other contractors i.e., CW.30 to 35, who were outside the office. It is also submitted that CW.4 Cheluvaraju had recorded the incident in his Apple Smart Watch which had taken place on 18.05.2024 and the voice sample had tallied at the time of forensic analysis. By pointing out to the same, the learned SPP has contended that the ingredients alleged against the accused were all proved and there are sufficient materials to frame charge against the accused person. Accordingly, he has sought for dismissal of the instant application.

5. The defacto complainant has filed a seperate statement of objections when opportunity was granted as contemplated under Sec.15 of the Act. In his statement of objections he has once again reiterated the allegations leveled against the accused herein. Further it is submitted that the Court at the time of considering the discharge application is expected to look into the materials cursorily and to conclude whether there is prima-facie case or not. It is also submitted that the alleged abuses hurled by the accused against CW.1 was recorded by CW.4 and the final report was filed by the Investigating Agency. It is also submitted that there cannot be any dispute that CW.1 was the Member of the Scheduled Caste who was abused and humiliated by accused in the presence of CW.4 who did not belonged to the same caste. Further it is submitted that CW.4 being a member of particular caste which was known to the accused had promoted hatred between two group of people which would be an offence under Sec.153A of IPC. It is also submitted

that the accused cannot take-up the defence of the provision under Sec.196 of Cr.P.C., since the case has proceeded to the stage of framing of charges which was way ahead from the stage of taking cognizance. It is also submitted that the presence of CW.4 on the fateful day was established by the statements of CW.13, 14, 15, 31 to 35. It is also submitted that the charge-sheet which is placed before the Court would clearly indicate the necessary ingredients which is required to frame necessary charges. Accordingly, the defacto complainant has requested the Court to dismiss the instant application.

6. Heard and perused the materials on record.

7. The points that arise for my consideration are as follows:-

(1) Whether the accused Mr. Munirathna has made out grounds for allowing the application filed under Sec.227 of Cr.P.C., enabling him to be discharged?

(2) What order?

8. My answer to the above points is as follows:

Point No.1: In the affirmative;

Point No.2: As per final order

for the following:

REASONS

9. **Point No.1:**- Before adumbrating to the factual aspects of the case, the brief allegations which has been leveled in the charge sheet are that the accused Munirathna is elected member of Legislative Assembly from Rajarajeshwari Nagar Constituency wherein he had won the elections in the year 2023 and also it is noticed from records that CW1 Velunaykar was Ex-Corporator and CW4 Cheluvaraju was contractor who was entrusted with work of solid waste management in Ward No.42 Lakshmidevi Nagar, which comes within the jurisdiction of accused Munirathna. It is also noticed from the records that the accused Munirathna belonged to Naidu community which is not termed as scheduled caste or schedule tribe. The charge sheet material indicate that CW1 Velunaykar S/o Murugesh belonged to 'Adi Dravida' community as

per the caste certificate issued by the Tahasildar, Bengaluru North Taluk and also the materials indicates that he was member of BBMP during the period 11.09.2015 to 10.09.2020 wherein Gazette Notification indicates that he was elected from Ward No.42 of Lakshmidevi Nagara which is reserved for the candidate from schedule caste. The document which is also furnished by the I.O. in the charge sheet clearly indicates that the accused Munirathnam Naidu does not belong to Scheduled Caste.

10. Now the court is required to consider whether there are materials to frame necessary charges with respect to the allegations which are leveled against the accused for the offences punishable under Sec.3(1)(r), 3(1)(s) of the Schedule Caste Schedule Tribe (Prevention of Atrocities) Act, 1989. For the sake of benefit the provision under Sec.3(1)(r) and Sec.3(1)(s) of the Act is extracted which reads as under:

> ***"Sec.3(1)(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;***
>
> ***Sec.3(1)(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view"***

11. As per the provisions when a person intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or Scheduled Tribe in any place within public view and also abuses any member of Scheduled Caste or a Scheduled Tribe by caste name in any place within public view, the said rigors would be attracted. Admittedly in the instant case, the accused Munirathna clearly new about the caste to which CW1 Velu Naykar belonged and it is noticed from the records and as per the complaint averments it indicates that initially the accused Munirathna and

CW1 Velu Naykar were in good terms with each other and subsequently certain differences crept between them. It is further noticed from the records and the materials collected by the I.O. that on 18.05.2024 the accused Munirathna had convened a meeting of all contractors who were entrusted with solid waste management in his constituency. The statement CW15 Sri Vara Narayana who was the Assistant Executive Engineer and the person who had convened the meeting on the fateful day has stated in his statement recorded under Sec.161 of Cr.P.C., that he came to know about 9 Contractors attending the meeting subsequently. In other words, it is crystal clear that he does not have a personal information with respect to the presence of complainant in the meeting. Further, the statement recorded under Sec.161 of Cr.P.C. and also under Sec.164 of Cr.P.C., pertaining to CW10 Arun Kumar, CW7 Ramachandra.C indicates that the accused Munirathna had asked CW4 Cheluvaraju to come to his chamber. It is noticed from the records

that as per the statement rendered by CW10 Arun Kumar, he was a journalist and the defacto complainant Mr.Cheluvaraju had requested him to help him since accused Munirathna was pestering him to pay the bribe amount. The witness in his statement recorded under Sec.161 of Cr.P.C has narrated in detail that CW4 Cheluvaraju had revealed the entire incident and later on they had discussed about the said aspects with CW1 Velunaykar and thereafter, on the fateful day on 18.05.2024 when the incident had taken place wherein the accused Munirathna had called him inside his chambers in his home office and had hurled castiest abuses at CW1 Velunaykar. It is relevant to note at this juncture, that CW1 Velunaykar was not present in front of the accused Munirathna, however, it is contended that they were hurled by him within the view of the public i.e., in home office of Munirathna. The main aspect which is also been considered by the court is whether the home office of accused Munirathna can be construed as public office

and in this regard, I have placed reliance upon the judgment of the Hon'ble Apex Court reported in (2020)10 SCC 710 (Hitesh Verma V State of Uttarkhand) wherein it is held as:

> ***14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract***

from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below:"Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view."] . The Court held as under : (SCC pp. 443-44, para 28)

"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be

an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

(emphasis in original)

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh v. State, (2008) 8 SCC

> ***435 : (2008) 3 SCC (Cri) 527] , it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/ or charge-sheet.***

12. The aforesaid judgment clearly indicates that the office which is having ingress and egress of general public can be construed as public place. As per the provisions of Sec.3 (1)(r) and 3(1)(s) of the Act, the incident is required to be taken place within public view.

13. At this juncture, it would be appropriate to rely upon the recent judgment of the Hon'ble Apex Court wherein the definition of public place has been succinctly discussed. In the judgment rendered by the Hon'ble Apex Court reported in **2026 SCC OnLine SC 834 (Gunjan alias Girija Kumari and others Vs. State [NCT of Delhi] and another),** wherein it is held as follows;

> ***5.5 In Swaran Singh v. State through Standing Counsel7, the place where the informant was insulted by the appellant by***

calling him 'chamar' was one where he had been standing near the car which was parked at the gate of the premises of his employer. This Court held that such place was "a place within public view". The argument that the alleged act was not committed in a public place and hence did not come within the purview of the offence under the SC/ST Act was negatived by explaining a fine distinction between the expression 'in any place within public view' as used in the provision and the expression 'public place'.

5.5.1 It was stated that the expression 'a place within public view' could not be confused with the expression 'public place'. It was highlighted that a place can be a private place yet can be within public view,

"....It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of

the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view....”

(Para 28)

5.6 Swaran Singh (supra) came to be relied on by this Court in Hitesh Verma v. State of Uttarakhand[8] in respect of the concept of ‘place within public view’ as an ingredient of the offence. The very observations in Swaran Singh (supra) were reiterated in paragraph 14 in Hitesh Verma (supra) when the Court noticed the allegations in the FIR about abusing the informant. It was stated in the FIR that the incident of abuse happened within the four walls of the building of the informant, and it was not the case of the informant that any member of the public was present at the time of the incident in the house. The Court, therefore, ruled that the basic requirement that the abusive words were uttered in ‘a place within public view’ was not made out. It was further noticed that witnesses whose names were appended to the chargesheet were not the persons present within the four walls of the building.

5.7 In a more recent decision in Karuppudayar v. State

represented by the Deputy Superintendent of Police, Lalgudi Trichy9, this Court considered its own decisions in Swaran Singh (supra) as well as Hitesh Verma (supra), and elucidated an ironed-out proposition of law as under,

"It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view."

(Para 11)

5.7.1 The Court observed that even by taking the allegations in the FIR at their face value, what was alleged was that when the complainant was in the office, the accused came there, made inquiries from the complainant and upon not being satisfied, started abusing the complainant in the name of his caste and insulted him. Thereafter, three colleagues of the complainant came later to pacify the accused and took him away. The Court thus noticed that the incident had taken place within the four

corners of the chambers of the complainant, which was not "a place within public view".

5.8 A decision of the Karnataka High Court in Sri Rithesh Pais v. State of Karnataka, by Puttur Town P.S.10 may also be noticed to be relevant, in which the offence was held to be not made out as the chargesheet material showed that the hurling of the abuses had happened in the basement and within the walls of the basement, holding that the basement of the building was not "a place within public view".

5.9 A conclusive statement of law that emanates from the ratio of the decisions of this Court discussed above is that in order to make out the offence under Section 3(1)(r) and/or Section 3(1)(s) of the SC/ST Act, the occurrence of the incident and the act and conduct of hurling of caste-based abuses must take place at "a place within public view". It must be a place within the public gaze. Even happens to be a private place, then in such eventuality a public-eye must have an access to be able to notice what happens there or what is taking place that will only make the "place within public view".

14. The aforesaid judgment is required to be applied to the case on hand. The Hon'ble Apex Court has discussed about the ratio laid down in the case of Swarna Singh and others Vs. State, through Standing Counsel and another reported in **(2008)8 SCC 435** wherein the public place was defined as the place within public view. Further it is held by the Hon'ble Apex Court that the expression 'a place within public view' could not be confused with the expression 'public place'. In other words, the Hon'ble Apex Court by relying upon the judgment rendered by it in **Hitesh Verma Vs. State of Uttarkhand** and also by comparing the judgments rendered by it in Karuppudayar Vs. State, represented by the Deputy Superintendent of Police, Lalgudi Trichi and others held that the place which is termed as public view should be open where the members of the public can witness or hear the utterances made by the accused to the victim. In other words, the main aspect which is required to be considered is the words should be utterred in a place

which can be seen/viewed or heard by the general public.

15. Once again the statement of the main witnesses who were present on the fateful day is required to be considered. CW.10 Arun Kumar is the witness who deposes about the aforesaid aspect. However, he states that when CW.4 Cheluvaraju had entered the room, he had heard the abuses hurled at him. Likewise, CW.11 Ramachandra has also deposed in a similar manner. When the aforesaid aspect is juxtaposed with the statement of CW.10 Arun Kumar recorded under Sec.164 of Cr.P.C., it does indicate that in the statement under oath he had resailed from his earlier stand and has stated that after Cheluvaraju had returned back from the room of accused Munirathna, they had enquired with him that to whom such abuses were being hurled by accused person. The aforesaid aspect itself create a shadow of doubt on the nature of evidence which is placed in the final

report. The categorical admission of the parties would lead to a situation that the abuses being hurled were not directly being heard by him. Under the circumstances and also as per the ratio laid down by the Hon'ble Apex Court in the aforesaid recent case mentioned above supra at Gunjan alias Girija Kumari and others Vs. State [NCT of Delhi] and another), the Hon'ble Apex Court has held that a place in order to be considered as a public place is requires to be a place within the public gaze. Further it has been held that even with respect to a private place the public eye must have access to be able to notice what happens there or what is taking place. In the instant case, though the statement recorded under Sec.161 of Cr.P.C., pertaining to CW.10 Arun Kumar indicates that he had heard the abuses being hurled by the accused, the statement recorded under Sec.164(4) of Cr.P.C., is contrary to the same. Further when the statement of CW.7 Ramachandra is appreciated, it is submitted that prior to visiting the home of accused

Munirathna, CW.1 Velu Naykar, CW.10 Arun Kumar had discussed about the illegal demands being made by accused Munirathna. In his statement, Ramachandra has narrated that he had given a smart watch tied to the hands of CW.4 Cheluvaraju and he had got the conversation recorded. Further in his statement recorded in his Apple watch which he had got transferred to the mobile phone of Cheluvaraju and also to a Pen drive. In fact, the contentions urged by the prosecution by looking into the statement of CW.4 Cheluvaraju when compared with CW.7 Ramachandra creates a shadow of doubt about the person who had got the conversation recorded on the fateful day. Though the aforesaid aspect may be contended as a matter which requires to be considered during the course of trial, the main aspect which remains is that the alleged conversation had taken place inside the four walls of the home office where none of the public persons were present apart from CW.4 Cheluvaraju. In order to better appreciate the same, I have also

considered the statement of CW.30 Chandrashekar Reddy, who is also a Contractor and had attended the meeting on 18.05.2024 in the home of accused Munirathna. If for a moment the said statement is considered, no where he has stated about accused harassing or abusing the complainant herein. Likewise, the statement of another Contractor i.e., CW.31 Vasu, CW.32 Naresh also indicates that no abuses were being hurled by the accused person. If for a moment, the entire statement is juxtaposed and compared with the ratio laid down by the Hon'ble Apex Court in the judgment mentioned above, the aspect which is required to be considered is whether the alleged place where conversation had taken place can be termed as 'public office'. Though the statement of CW.10, CW.4 Cheluvaraju and CW.7 Ramachandra states that such abuses were being hurled, the statement of all other independent contractors does not indicate of any conversation of having taken place. The Court is not considering the veracity of the

statement of the witnesses since it can only be considered during the course of full fledged trial. The Court is considering only the aspect whether any voices were heard which were allegedly utterred by accused in his chamber. Unless such was within the view of the public gaze, the same cannot be considered as a public place.

16. The other interesting factor in the above case is that the aforesaid allegations had never taken place in the presence of the complainant but it was allegedly uttered by the accused in the absence of the defacto complainant/Velu Naykar. As noticed from the records, the alleged incident had taken place on 18.05.2024 and whereas the complaint lodged by CW.1 Velu Naykar indicates of being registered on 13.09.2024 which is almost a period after about 4 months from the date of incident. The main aspect which is required to be considered is whether such allegation of being hurled with castiest remark can be

considered as the rigors which would attract Sec.3(1)(r) and Sec.3(1)(s) of the Act. In this regard, it would be appropriate to rely upon the judgment of the Hon'ble High Court of Karnataka reported in **2023 SCC OnLine Kar 230 (V.Jagadish Bathija Vs. State of Karnataka)**, wherein it has been held as follows;

> **12. Immediately thereafter, the crime comes to be registered on 29th March, 2023 alleging the afore-quoted offences. The narration in the complaint is quite strange. The narration is that, on 26th March, 2023, the petitioners come to their house, in which the complainant was a tenant and hurl abuses inside the house. The complaint then becomes a crime in Crime No. 70 of 2023. If this is the allegation in the complaint, permitting any further investigation into the complaint, would, on the face of it, become an abuse of the process of law as it forms a classic case where the provisions of Atrocities Act are misused by a disgruntled tenant who do not want to pay rent after taking the premises on rent and sought to scuttle the decree by not adhering to it. The delivery warrant being issued against the complainant, leads the complainant to register the crime as a counter-blast, wreck vengeance for what she has suffered as an order at**

the hands of the concerned Court. Hurling of abuses as obtained under Section 3(1)(r) and (s) of the Atrocities Act is required to be noticed. Section 3(l)(r) of the Atrocities Act directs that the abuses should be hurled in the public place; Section 3(l)(s) directs that the abuses should be hurled in the place of public view. Therefore, the abuses should be either in the public place or in the place of public view. The narration in the complaint itself is that the abuses were hurled inside the house. The presence of the complainant inside the house, at that time, is conspicuously absent in the complaint. Therefore, the very complaint itself is so frivolous that no further proceedings should be permitted to be continued. Even otherwise, the Apex Court in the case of ***Hitesh Verma*** v. ***State of Uttarakhand***, (2020) 10 SCC 710, at paragraphs 18 to 20, has held as follows:

"***11. It may be stated that the charge-sheetfiled is for an offence under Section 3(l)(x) of the Act. The said section stands substituted by Act 1 of 2016 w.e.f. 26.1.2016. The substituted corresponding provision is Section 3(1)(r) which reads as under:***

"***3.(l)(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;"***

12. The basic ingredients of the offence under Section 3(l)(r) of the Act can be classified as "(1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (2) in any place within public view".

13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the

jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.

14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as Swaran Singh ***v.*** State [Swaran Singh ***v.*** State, ***(2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression "publicplace" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members ofthe public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (sic) [Ed. : This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below:"Also, even if the***

remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view."]. The Court held as under : (SCC pp. 443- 44, para 28)

"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place A place can be a private place but yet

within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

(emphasis in original)

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in anyplace within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh ***v.*** State, ***(2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527], it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.***

16. There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. This Court in a judgment reported as Subhash Kashinath

Mahajan ***v.*** State of Maharashtra [Subhash Kashinath Mahajan ***v.*** State of Maharashtra, ***(2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as*** Union of India ***v.*** State of Maharashtra [Union of India ***v.*** State of Maharashtra, ***(2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under:*** (Union of India case [Union of India ***v.*** State of Maharashtra, ***(2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686], SCC p. 797, para 52)***

52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the

courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482Cr. P.C."

20. Later, while examining the constitutionality of the provisions of the amending Act (Central Act 27 of 2018), this Court in a judgment reported as Prathvi Raj Chauhan ***v.*** Union of India [Prathvi Raj Chauhan ***v.*** Union of India, ***(2020) 4 SCC 727 : (2020) 2 SCC (Cri) 657] held that proceedings can be quashed under Section 482 of the Code. It was held as under : (SCC p. 751, para 12)***

"12. The Court can, in exceptional cases, exercise power under Section 482Cr. P.C. for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised."

21. In Gorige Pentaiah [Gorige Pentaiah ***v.*** State of A.P., ***(2008) 12***

SCC 531 : (2009) 1 SCC (Cri) 446], one of the arguments raised was nondisclosure of the caste of the accused but the facts were almost similar as there was civil dispute between parties pending and the allegation was that the accused has called abuses in the name of the caste of the victim. The High Court herein has misread the judgment of this Court in Ashabai Machindra Adhagale [Ashabai Machindra Adhagale ***v.*** State of Maharashtra, ***(2009) 3 SCC 789 : (2009) 2 SCC (Cri) 20] as it was not a case about the caste of the victim but the fact that the accused was belonging to upper caste was not mentioned in the FIR. The High Court of Bombay had quashed the proceedings for the reason that the caste of the accused was not mentioned in the FIR, therefore, the offence under Section 3(1)(xi) of the Act is not made out. In an appeal against the decision of the Bombay High Court, this Court held that this will be the matter of investigation as to whether the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. Therefore, the High Court erred in law to dismiss the quashing petition relying upon later larger Bench judgment.***

22. The appellant had sought quashing of the charge-sheet on the ground that the allegation does not make out an offence under the Act

against the appellant merely because Respondent 2 was a Scheduled Caste since the property dispute was not on account of the fact that Respondent 2 was a Scheduled Caste. The property disputes between a vulnerable section of the society and a person of upper caste will not disclose any offence under the Act unless, the allegations are on account of the victim being a Scheduled Caste. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar any person to protect his rights by way of a procedure established by law."

(Emphasis supplied)

17. In the aforesaid judgment the Hon'ble Apex Court has discussed about the public place or public view. Further by comparing with the facts urged in that case, it was held that the rigors of the Act would not be attracted since the presence of complainant inside the house at the time of hurling abuses itself was conspicuously absent in the complaint. The facts of the above case are also quite similar to the aforesaid aspects wherein it is alleged that as on the date of

alleged incident on 18.05.2024, the complainant was not at all present nor his presence is indicated. That apart, the complainant came to know about the aforesaid abuses being hurled at him only on 13.09.2024 when it was conveyed to him by CW.4 Cheluvaraju. In other words, the complainant himself is not a person in whose presence the abuses were being hurled. Though it is submitted by the learned SPP that the forensic lab has confirmed the voice of the accused Munirathna which is subsequently placed in the charge-sheet, the main aspect that whether the alleged abuses were hurled in a public place is the factum which is required to be established by the prosecution. Even otherwise, the records indicates that the allegations of abuses were not hurled in the presence of the complainant. Hence, the FSL Report cannot be the sole basis for the prosecution to seek for framing of charges, unless it is pointed out the manner in which the rigors of the act would be attracted.

18. I have also bestowed my anxious reading to the judgment relied upon by the learned counsel for defacto complainant which is reported in **(2022)12 SCC 657 (Ghulam Hassan Beigh Vs. Mohammed Maqbool Magrey and others)**, wherein the Hon'ble Apex Court has held that at the time of framing the charge, the limitations which is imposed upon the trial court. For instance, the Hon'ble Apex Court by relying upon its another judgment has laid down as follows;

> ***27. 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 be 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 173CrPC, 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. [See : Bhawna Bai v. Ghanshyam [Bhawna Bai v. Ghanshyam, (2020) 2 SCC 217 : (2020) 1 SCC (Cri) 581]].

28. In Amit Kapoor v. Ramesh Chander [Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986] , this Court observed in para 30 that the Legislature in its wisdom has used the expression "there is ground for presuming that the accused has committed an offence". There is an inbuilt element of presumption. It referred to its judgment rendered in State of Maharashtra v. Som Nath Thapa [State of Maharashtra v. Som Nath Thapa, (1996) 4 SCC 659 : 1996 SCC (Cri) 820] , and to the meaning of the word "presume", placing reliance upon Black's Law Dictionary, where it was defined to

mean : (Amit Kapoor case [Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986] , SCC p. 485, para 30)

"30. ... 'to believe or accept upon probable evidence'; 'to take as true until evidence to the contrary is forthcoming'. In other words, the truth of the matter has to come out when the prosecution evidence is led, the witnesses are cross-examined by the defence, the incriminating material and evidence is put to the accused in terms of Section 313 of the Code and then the accused is provided an opportunity to lead defence, if any. It is only upon completion of such steps that the trial concludes with the Court forming its final opinion and delivering its judgment."

(emphasis supplied)

19. There cannot be any qualms with respect to the ratio laid down. At the same time, the Hon'ble Apex Court has specifically held that the material which is required to be evaluated by the Court must be the one which is produced and relied upon by the prosecution. Further it is held that all that it is required at the stage is that the evidence collected by

the prosecution is sufficient to presume that the accused has committed an offence and even a strong suspicion would be suffice. If the aforesaid aspect is considered with the case on hand and appreciated in leitmotif, it would indicate that on 18.05.2024, certain meeting was conveyed by accused Munirathna with respect to Contractors in his home to discuss about his constituency. It cannot be disputed that the meeting was attended by the Contractors. However, with respect to attending the meeting by CW.7 Ramachandra or CW.10 Arun Kumar is not exactly forthcoming in the statement of other witnesses. That apart, the allegation of hurling abuses in the chambers of accused Munirathna and that too in the absence of the complainant CW.1 Velu Naykar taking upon the caste of the complainant itself does not inspires confidence. Even otherwise, the absence of the complainant in the house of Munirathna on the fateful day and he learning about the incident after many days and to be precise after about 2 to 3 months,

would certainly create a doubt with respect to attracting the rigors of the provisions of SC/ST (PoA) 1989. In this regard, the Court has relied upon the judgment of the Hon'ble Apex Court to ascertain whether any alleged insults being hurled in the absence of the victim would attract the rigors of the special enactment. The judgment of the Hon'ble Apex Court reported in ***(2011)11 SCC 259 (Asmathunnisa v. State of A.P.,)*** wherein it has been held as follows;

> ***8. In this connection, the learned counsel for the appellant has placed reliance on a judgment of the Kerala High Court in E. Krishnan Nayanar v. Dr. M.A. Kuttappan [1997 Cri LJ 2036 (Ker)]. The relevant paragraphs of this judgment are Cri LJ paras 12, 13 and 18. The said paragraphs read as under: (Cri LJ pp. 2039-40)***
>
> ***"12. A reading of Section 3(1) shows that two kinds of insults against the member of a Scheduled Castes or Scheduled Tribes are made punishable — one as defined under clause (ii) and the other as defined under clause (x) of the said section. A***

combined reading of the two clauses shows that under clause (ii) insult can be caused to a member of the Scheduled Castes or Scheduled Tribes by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood, and to cause such insult, the dumping of excreta, etc. need not necessarily be done in the presence of the person insulted and whereas under clause (x) insult can be caused to the person insulted only if he is present in view of the expression 'in any place within public view'. The words 'within public view', in my opinion, are referable only to the person insulted and not to the person who insulted him as the said expression is conspicuously absent in clause (ii) of Section 3(1) of Act 3 of 1989. By avoiding to use the expression 'within public view' in clause (ii), the legislature, I feel, has created two different kinds of offences, an insult caused to a member of the Scheduled Castes or Scheduled Tribes, even in his absence, by dumping excreta, etc. in his premises or neighbourhood and an insult by words caused to a member of the Scheduled Castes or Scheduled Tribes 'within public view' which means at the time of the alleged insult the person insulted must be

present as the expression 'within public view' indicates or otherwise the legislature would have avoided the use of the said expression which it avoided in clause (ii) or would have used the expression 'in any public place'.

13. Insult contemplated under clause (ii) is different from the insult contemplated under clause (x) as in the former a member of the Scheduled Castes or Scheduled Tribes gets insulted by the physical act and whereas in the latter he gets insulted in public view by the words uttered by the wrongdoer for which he must be present at the place.

***

18. As stated by me earlier the words used in clause (x) are not 'in public place', but 'within public view' which means the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted. In my view, the entire allegations contained in the complaint even if taken to be true do not make out any offence against the petitioner."

9. The aforesaid paragraphs clearly mean that the words used are "in any place but within

> ***public view", which means that the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present.***
>
> ***10. The learned counsel for the appellant also submitted that in any event, the words were not attributed to the appellant. She merely accompanied her husband to that place even according to the allegation in the complaint and she did not utter the offending words. According to the appellant, in the facts and circumstances of this case, Section 3(1)(x) of the 1989 Act is not attracted.***

20. The aforesaid authority is aptly applicable to the case on hand. Even in the judgment rendered by the Hon'ble Apex Court, it is clearly held that the insult which is hurled against the victim must be made in a public place and further in the other judgment rendered by the Hon'ble Apex Court, it has been held that the public place must be a place which is within the gaze of the general public and such abuses which are hurled at the victim must be heard or understood

by the general public. Hence, in public view can be summarized as the one wherein the public must view the person being insulted for which he must be present and no offence on the allegations under the said section gets attracted if the person is not present. At the cost of reptition, it is crystal clear that even in the case on hand, no offence would be attracted under the rigors of SC/ST (PoA) Act, 1989, since the victim/ CW.1 Velu Naykar was not present when the alleged abuses were being hurled.

21. I have also bestowed my anxious reading to other limb of arguments which is canvassed in the above case. The accused is said to have committed the offence punishable under Sec.506 and 504 of IPC. As noticed from records, the offence of criminal intimidation is defined under Sec.503 of IPC which requires that the prosecution to prove that whoever threatens another with injury to his person, reputation or property and when such threat is with the intent to

cause alarm to the person commits criminal intimidation. The main aspect which is required to be appreciated is "intend to cause alarm". In the present case, when the entire materials in the final report is considered, it does not indicate any element of alarm to the complainant and even otherwise the complainant himself learnt about the alleged abuses hurled at him on 13.09.2024 i.e., after lapse of about 4 months from the alleged date of incident. As such, the ingredients of Sec.504 and 506 are not made out by the prosecution.

22. With respect to the allegations of committing an offence under Sec.153A of IPC, wherein the prosecution is required to prove that the act of the accused person would lead to enmity between different groups on grounds of religion, race etc.,. The materials which are placed in the charge-sheet does not indicate of attracting the rigors of the aforesaid provisions. In order to consider the appropriate legal position and

scope of the court to consider the material at the stage of considering application under Section 227 of Cr. P.C it is worth to rely upon the latest judgment of the Hon'ble Apex court reported in the case of **2024 SCC Online SC 1709 (Ram Prakash Chadha V State of U.P)** wherein it is held as:

> ***14. In the decision in BK Sharma v. State of UP4, the High Court of judicature at Allahabad held that the standard of test and judgment which is finally applied before recording a finding of conviction against an accused is not to be applied at the stage of framing the charge. It is just a very strong suspicion, based on the material on record, and would be sufficient to frame a charge.***
>
> ***15. We are in agreement with the said view taken by the High Court. At the same time, we would add that the strong suspicion in order to be sufficient to frame a charge should be based on the material brought on record by the prosecution and should not be based on supposition, suspicions and conjectures. In other words, in order to be a basis to frame charge the strong suspicion should be the one emerging from the materials on record brought by the prosecution.***

16. In the decision in Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia5, this Court held that the word 'ground' in Section 227, Cr. P.C., did not mean a ground for conviction, but a ground for putting the accused on trial.

17. In P. Vijayan v. State of Kerala6, after extracting Section 227, Cr.P.C., this Court in paragraph No. 10 and 11 held thus:—

"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."

18. In paragraph 13 in P. Vijayan's case (supra), this Court took note of the principles enunciated earlier by this Court in Union of India v. Prafulla Kumar Samal which reads thus: —

"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."

19. 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 227, Cr. P.C., and entering into the scope of power

under Section 232, Cr. P.C., 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[8]. Taking note of the language of Section 227, Cr. P.C., is in negative terminology and that the language in Section 232, Cr. P.C., 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 227, Cr. P.C., 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 232, Cr. P.C., 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 232, Cr. P.C., available only after taking the

evidence for the prosecution and examining the accused.

20. Even after referring to the aforesaid decisions, we think it absolutely appropriate to refer to a decision of the Madhya Pradesh High Court in Kaushalya Devi v. State of MP9. It was held in the said case that if there is no legal evidence, then framing of charge would be groundless and compelling the accused to face the trial is contrary to the procedure offending Article 21 of the Constitution of India. While agreeing with the view, we make it clear that the expression 'legal evidence' has to be construed only as evidence disclosing prima facie case, 'the record of the case and the documents submitted therewith'.

21. The stage of Section 227 Cr. P.C., is equally crucial and determinative to both the prosecution and the accused, we will dilate the issue further. In this context, certain other aspects also require consideration. It cannot be said that Section 227 Cr.P.C., is couched in negative terminology without a purpose. Charge sheet is a misnomer for the final report filed under Section 173 (2) Cr.P.C., which is not a negative report and one that carries an accusation against the accused concerned of having committed the offence (s) mentioned therein.

22. In cases, where it appears that the said offence(s) is one triable exclusively by the Court of Session, the Magistrate shall

have to commit the case to the Court of Session concerned following the prescribed procedures under Cr.P.C. In such cases, though it carries an accusation as aforementioned still legislature thought it appropriate to provide an inviolable right as a precious safeguard for the accused, a pre-battle protection under Section 227 Cr. P.C. Though, this provision is couched in negative it obligated the court concerned to unfailingly consider the record of the case and document submitted therewith and also to hear the submissions of the accused and the prosecution in that behalf to arrive at a conclusion as to whether or not sufficient ground for proceeding against the accused is available thereunder. Certainly, if the answer of such consideration is in the negative, the court is bound to discharge the accused and to record reasons therefor. The corollary is that the question of framing the charge would arise only in a case where the court upon such exercise satisfies itself about the prima facie case revealing from "the record of the case and the documents submitted therewith" against the accused concerned. In short, it can be said in that view of the matter that the intention embedded is to ensure that an accused will be made to stand the ordeal of trial only if 'the record of the case and the documents submitted therewith' discloses ground for proceeding against

him. When that be so, in a case where an application is filed for discharge under Section 227 Cr.P.C., it is an irrecusable duty and obligation of the Court to apply its mind and answer to it regarding the existence of or otherwise, of ground for proceeding against the accused, by confining such consideration based only on the record of the case and the documents submitted therewith and after hearing the submissions of the accused and the prosecution in that behalf. To wit, such conclusion on existence or otherwise of ground to proceed against the accused concerned should not be and could not be based on mere suppositions or suspicions or conjectures, especially not founded upon material available before the Court. We are not oblivious of the fact that normally, the Court is to record his reasons only for discharging an accused at the stage of Section 227 Cr.P.C. However, when an application for discharge is filed under Section 227 Cr.P.C., the Court concerned is bound to disclose the reason(s), though, not in detail, for finding sufficient ground for rejecting the application or in other words, for finding prima facie case, as it will enable the superior Court to examine the challenge against the order of rejection.

23. The ratio laid down in the aforesaid judgment aptly applies to the case on hand. In fact the

materials which are produced in the charge-sheet doesn't indicate of materials to frame charges. Further it was held that if two views are possible, one leading to suspicion and not to grave suspicion, then the trial court will be justified in discharging the accused person. By looking into the efforts and aspects, it is crystal clear that no illegality was committed by the concerned Police Inspector at the relevant point of time.

SUMMATION

24. As noticed from the final report, the alleged incident had taken place on 18.05.2024 in the residence of accused Munirathna where he had conveyed a meeting of the Contractors pertaining to his constituency. It is contended that at that point of time he had summoned CW.4 Cheluvaraju to his office room in his house and had hurled abuses touching upon the caste of CW.1 Velu Naykar which was recorded in the Apple watch and on 13.09.2024 the

aforesaid aspect was brought to the notice of the complainant Velu Naykar and accordingly he had lodged the complaint. In order to attract the rigors of Sec.3(1)(r) and Sec.3(1)(s) of SC/ST (PoA) 1989, it is required that the abuses are required to be hurled with an intention to humiliate a member belonging to scheduled caste or scheduled tribe and such abuses are required to be hurled in a public place within public view. However, in the instant case, the prosecution has failed to indicate the materials to frame charges wherein the allegations were hurled in the public place and the alleged abuses hurled would attract the rigors of the provisions even in the absence of the complainant and even if it is revealed after a long period of time. Ergo, I answered point No.1 in the **affirmative**.

25. **Point No.2**: In view of my answer to point No.1, I proceed to pass the following:

ORDER

The application filed by the accused Mr. Munirathna under Sec.227 of the Code of Criminal Procedure, 1973 is hereby allowed by holding that the materials produced in the final report are not sufficient to frame charges against him and accordingly he is discharged for committing the offences punishable under Sec.3(1)(r), 3(1)(s), 3(1)(u), 3(2)(Va) SC/ST (PoA) Act 1989 and Sec.153A (1)(a)(b), 504 and 506 of IPC.

*(Order dictated to the Stenographer Grade-I, typed by her directly on Computer, revised and corrected by me and then pronounced in open court on this the **21st day of May, 2026**)*

(Santhosh Gajanan Bhat)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases related to former and elected MPs/MLAs in the State of Karnataka)