

Court No.45

Case :- APPLICATION U/S 482 No. - 8635 of 2023

Applicant :- Abhishek Awasthi @ Bholu Awasthi

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Jayant Kumar

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 13427 of 2023

Applicant :- Rajni Mishra @ Rajni Rajhans

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Sudhir Kumar Srivastava

Counsel for Opposite Party :- G.A., Dhirendra Kumar Srivastava

With

Case:- APPLICATION U/S 482 No. - 14452 of 2023

Applicant :- Krishna Kant Mishra And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ajay Pandey

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 13822 of 2023

Applicant :- Prem Singh And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ram Chandra Solanki

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 13858 of 2023

Applicant :- Ajay Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Dur Vijay Singh, Seema Singh Jadaun

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 13880 of 2023

Applicant :- Sushil Kumar Singh And 6 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Sanjay Kumar Yadav

Counsel for Opposite Party :- G.A.

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With

Case :- APPLICATION U/S 482 No. - 14600 of 2023
Applicant :- Harishchandra Yadav And 4 Others
Opposite Party :- State Of U.P. And Another
Counsel for Applicant :- Kunjesh Kumar Dubey
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 14812 of 2023
Applicant :- Nadeem Qureshi
Opposite Party :- State Of U.P. . And Another
Counsel for Applicant :- Javed Habib
Counsel for Opposite Party :- G.A.,Apul Misra

With

Case :- APPLICATION U/S 482 No. - 14826 of 2023
Applicant :- Dushyant @ Deepu Tinkoo And Another
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Ajay Sengar
Counsel for Opposite Party :- G.A.,Akshay Raj Singh

With

Case :- APPLICATION U/S 482 No. - 10738 of 2023
Applicant :- Veer Singh @ Lala And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Dhiraj Kumar Pandey
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 10477 of 2023
Applicant :- Dilip Mishra And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Abhishek Mishra,Dhirendra Babu Mishra
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 14444 of 2023
Applicant :- Shiv Pal Singh And 4 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Shiv Shanker Pandey
Counsel for Opposite Party :- G.A.,Dheeraj Kumar Dwivedi

With

Case :- APPLICATION U/S 482 No. - 11744 of 2023

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Applicant :- Akram And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Vinod Kumar Tripathi
Counsel for Opposite Party :- G.A.,Daya Shanker Pandey

With

Case :- APPLICATION U/S 482 No. - 11375 of 2023
Applicant :- Karu@ Dharmveer And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Prem Chandra Dwivedi
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 12289 of 2023
Applicant :- Data Ram And 3 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Binod Kumar Tripathi
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 12444 of 2023
Applicant :- Kamlesh And 2 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Ratnesh Kumar Jaiswal
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 12871 of 2023
Applicant :- Ranjeet Singh Verma
Opposite Party :- State Of U.P. And Another
Counsel for Applicant :- Dinesh Kumar Yadav
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 14838 of 2023
Applicant :- Ashok Kumar Singh Upadhyay
Opposite Party :- State Of U.P. 3 Others
Counsel for Applicant :- Raj Kapoor Upadhyay
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 9281 of 2023
Applicant :- Khalid And 3 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Laxmi Narayan Rathour

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Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 24471 of 2023

Applicant :- Banke Lal & 6 Other

Opposite Party :- State Of U.P. Through Its Secretary (Home) And Another

**Counsel for Applicant :- Kriti Mishra, Mahima Maurya
Kushwaha, Mukesh Kumar Kushwaha**

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 25672 of 2023

Applicant :- Vijay Pratap Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Bajarang Bahadur Singh

**Counsel for Opposite Party :- Basant Kumar Upadhyay, G.A., Lavkush
Kumar Bhatt**

With

Case :- APPLICATION U/S 482 No. - 26796 of 2023

Applicant :- Arjun Singh Parmar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rishikesh Tripathi

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 3024 of 2024

Applicant :- Nisha And Another

Opposite Party :- State Of Up Another

Counsel for Applicant :- Ajay Tripathi, Surya Prakash Pandey

Counsel for Opposite Party :- G.A., Saleem Ahmad

With

Case :- APPLICATION U/S 482 No. - 32231 of 2023

Applicant :- Santosh And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Bed Prakash Rai

Counsel for Opposite Party :- Arjun Singh Yadav, G.A.

With

Case :- APPLICATION U/S 482 No. - 32770 of 2023

Applicant :- Deepak Thakur

Opposite Party :- State of U.P. and Another

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Counsel for Applicant :- Garun Pal Singh
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 33143 of 2023
Applicant :- Tulsi Yadav Alias Vijay Lal Yadav
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Bipin Kumar Tripathi, Praveen Mani Shandilya
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 33494 of 2023
Applicant :- Soniya Devi
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Manvendra Narain Pathak, R.K. Paramhans Singh
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 34755 of 2023
Applicant :- Lalu Tiwari And 4 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Ashutosh Vishwakarma, Ram Kumar Malviya, Sudhir Singh Chauhan, Tarun Jha
Counsel for Opposite Party :- G.A., Santosh Kumar Verma

With

Case :- APPLICATION U/S 482 No. - 35879 of 2023
Applicant :- Rama Shankar Rai And 2 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Kumar Ashutosh Srivastava, Nagendra Bahadur Singh
Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 37050 of 2023
Applicant :- Netram Sharma And 2 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Ankit Srivastava, Ch. Dil Nisar
Counsel for Opposite Party :- Adnan Aamir, G.A.

With

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Case :- APPLICATION U/S 482 No. - 37087 of 2023

Applicant :- Papesh Kumar And 3 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Prateek Srivastava, Vivek Kumar Mishra

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 37645 of 2023

Applicant :- Golu Kesharwani @ Ritesh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ainul Haq

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 39315 of 2023

Applicant :- Dharendra Upadhyay And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Anand Kumar Chaubey, Vivek Kumar Mishra

Counsel for Opposite Party :- G.A.

With

Case :- APPLICATION U/S 482 No. - 39329 of 2023

Applicant :- Ankit Sharma And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Braham Singh, Sushil Kumar Tewari

Counsel for Opposite Party :- G.A., Santosh Kumar Pandey

With

Case :- APPLICATION U/S 482 No. - 39692 of 2023

Applicant :- Santosh Joshi @ Potey Joshi And 3 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Amit Daga, Lavlesh Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Siddhartha Varma, J.

Hon'ble Vinod Diwakar, J.

1. In an application under section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the "Cr.P.C.") being Application U/S 482 Cr.P.C. No.43713 of 2022 (Sushil Kumar Singh v. State of U.P. & Anr.), a learned Single Judge, while deciding the case on 22.3.2023, had held that an application under section 482 Cr.P.C. filed for the quashing of the entire proceedings of a particular

Sessions Trial which included the offences under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "**SC/ST Act**") would not be maintainable in view of the provisions of section 14-A of the SC/ST Act. In that case, the learned Single Judge, after referring to the judgments of **Ramawatar v. State of Madhya Pradesh** reported in (2022) 13 SCC 635, **Hitesh Verma v. State of Uttarakhand & Anr.** reported in AIR 2020 SC 5584, **Arnit Das v. State of Bihar** reported in 2000 (5) SCC 488, **In Re: Provisions of Section 14-A of the SC/ST (Prevention of Atrocities) Amendment Act, 2015 (CRIMINAL WRIT - PUBLIC INTEREST LITIGATION No.8 of 2018)** decided on 10.10.2018 and on **Ghulam Rasool Khan & Ors. v. State of U.P. & Ors.** reported in AIR Online 2022 All 68 (FB), concluded that when an enactment for redressal of grievances creates a statutory remedy, the exercise of inherent power by way of entertaining a petition under section 482 Cr.P.C. could not be done.

2. However, another learned Single Judge in another case, **Application U/S 482 Cr.P.C. No.11043 of 2023 (Devendra Yadav & Ors. v. State of U.P. & Anr.)**, while deciding the case on 10.4.2023, had held, again relying upon the judgments of **Ramawatar (supra)** and specifically relying upon paragraph nos.9 and 16 of that judgment, that even if the statutory appeal under section 14-A of the SC/ST Act was available, the application under section 482 Cr.P.C. could be entertained keeping in view the judgments of the Supreme Court in **Ramawatar (supra)** and **B.Venkateswaran & Ors. v. P. Bakthavatchalm** reported in AIR 2023 SC 262.

3. Confronted by these two judgments, a learned Judge of our Court, on 20.9.2023, referred the matter to a Larger Bench after framing the following questions :

"1. The first Question involved in this batch of Applications under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') is whether a challenge laid to the entire proceedings of a case under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ ST Act') with no challenge to any interlocutory order i.e. a summoning order, would be within the mischief of the rule laid down in

answer to Question No. (II) by the Full Bench in **Ghulam Rasool Khan v. State of U.P. and others, 2022 (8) ADJ 691 (FB) (LB)**.

2. The allied and second Question involved is whether a challenge to a proceeding under the SC/ ST Act can be laid before this Court through an Application under Section 482 of the Code, in view of the principle in the Full Bench in **Ghulam Rasool Khan (supra)**, where along with proceedings, the order taking cognizance and summoning the applicant is also challenged.

3. The third and a corollary to the aforesaid questions is: Whether there is a conflict of opinion between the learned Single Judge of this Court in **Sushil Kumar Singh v. State of U.P. and another, (2023) 123 ACC 544** and **Devendra Yadav and others v. State of U.P. and another, 2023 (5) ADJ 452**, necessitating reference to a larger bench."

4. While the facts of the leading case of Abhishek Awasthi @ Bholu Awasthi in Application U/S 482 No.8635 of 2023 were taken into consideration while referring the matter, learned Single Judge had also given the gist of the other 19 cases, which were before him.

5. Learned counsel for the applicant in the Application U/S 482 No.8635 of 2023 (Abhishek Awasthi @ Bholu Awasthi v. State of U.P. & Anr.), Shri Jayant Kumar has, while extending his arguments, drawn the attention of the Court to the **Question No. (iii)** which was framed in the judgment of **Ghulam Rasool Khan (supra)**, and the same is being reproduced here as under:

"(iii) Whether an aggrieved person who has not availed of the remedy of an appeal under the provisions of Section 14 A of Act 1989 can be allowed to approach the High Court by preferring an application under the provisions of Section 482 of the Cr.P.C.? "

6. Learned counsel for the applicant has submitted that the Full Bench of this Court has held the answer to Question No. (iii) would be in the negative. It was held that an aggrieved person having remedy of appeal under Section 14-A of the 1989 Act could not be allowed to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C. Learned counsel for the applicant has submitted that the judgment of the Full Bench has not considered the case of **Ramawatar (supra)**. He has relied explicitly while referring to the judgment of **Ramawatar (supra)**, paragraphs nos.9 and 16 of it, and the same are being reproduced here as under:

"9. Having heard learned Counsel for the parties at some length, we are of the opinion that two questions fall for our consideration in the present appeal. First, whether the jurisdiction of this Court under Article 142 of the Constitution can be invoked for quashing

of criminal proceedings arising out of a 'non-compoundable offence? If yes, then whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?

16. On the other hand, where it appears to the Court that the offence in Question, although covered under the SC/ST Act, is primarily private or civil in nature or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in Question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C."

7. Shri Kumar, Learned counsel for the applicant, has also referred to the judgment of **Ram Gopal v. State of Madhya Pradesh** reported in **AIR Online 2021 SC 807**. This decision is dated 29.9.2021. Learned counsel for the applicant has submitted, while referring to paragraph 20 of that judgment, that compounding of offences where the occurrence involved could be categorized as purely personal or was having overtones of criminal proceedings of private nature and also by looking into the nature of injuries incurred therein, the powers under section 482 Cr.P.C. could be invoked, and the entire case could be quashed. He has also relied upon the judgment of **B. Venkateswaran (supra)** decided by the Supreme Court on 5.1.2023. He has submitted while referring to paragraph 3.0 that a purely civil dispute between the parties is converted into criminal proceedings, and the case is tried for offences under sections 3(i)(v) and (v)(a) of the SC/ST Act then definitely the Court can interfere and stop the abuse of the process of law and the Court. This judgment, learned counsel stressed, has gone to the extent of saying that the High Court should quash the criminal proceedings in exercising powers under section 482 Cr.P.C. The relevant paragraphs i.e. paragraph nos.3.0 and 4.0 of the judgment as has been relied on by the learned counsel in **B. Venkateswaran (supra)** are extracted here as under:

"3.0. We have heard Shri Nagamuthu, learned senior counsel for the appellants – original accused and the respondent appearing in person. We have also gone through the complaint and considered

the allegations in the complaint made against the accused. Having considered the allegations in the complaint and the material on record, it appears that initiation of the criminal proceedings by the respondent against the appellants – original accused for the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is nothing but an abuse of process of law and the Court and also provision of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. It appears that a private dispute was going on between the parties with respect to the illegal construction. As per the allegations in the complaint, the original complainant had purchased the vacant land and constructed the building. It is alleged that adjacent to his house and on the common pathway, the accused have unlawfully encroached upon the pathway and started constructing the temple and thereby have put up illegal construction on his water pipeline, sewage pipeline and EB Cable. In the entire complaint, there are no allegations that the complainant is obstructed and / or interfered with enjoyment of his right on his property deliberately and willfully knowing that complainant belongs to SC/ST. From the material on record, it appears that a civil dispute is converted into criminal dispute and that too for the offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Prior to filing of the complaint, it appears that the temple was already in existence since many years. The complainant, who resides adjacent to the temple, filed WP No. 1272 of 2007 before the Madras High Court. Pursuant to the order passed by the High Court, the Commissioner of Corporation, Chennai conducted the inspection and found that there was absolutely no encroachment by the temple. It appears that thereafter the complainant filed another Writ Petition No. 30326 of 2013 before the Madras High Court. The High Court directed the official respondent to proceed with the inquiry against both the parties. At this stage, it is required to be noted that it was the case on behalf of the original accused that in fact complainant had violated all building norms and had constructed a building in blatant violation of the set-back rules and had also put up unauthorized construction on the ground floor and first floor. That thereafter, the Temple filed writ petition being No.3322 of 2017 before the High Court. The Division Bench of the High Court vide order dated 10.2.2017 stayed the proceedings against temple. It appears that thereafter the complainant filed a private complaint for the aforesaid offences under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. From the aforesaid, it seems that the private civil dispute between the parties is converted into criminal proceedings. Initiation of the criminal proceedings for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, therefore, is nothing but an abuse of process of law and Court. From the material on record, we are satisfied that no case for the offences under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is made out, even prima facie. None of the ingredients of Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are made out and/ or satisfied. Therefore, we are of the firm opinion and view that in the facts and circumstances of the case, the High Court ought to have quashed the criminal proceedings in exercise of powers under Section 482 of the Code of Criminal Procedure.

The impugned judgment and order passed by the High Court, therefore, is unsustainable and the same deserves to be quashed and set aside and the criminal proceedings initiated against the appellants deserves to be quashed and set aside.

4.0. In view of the above and for the reasons stated above, present appeal succeeds. The impugned judgment and order passed by the High Court dismissing the writ petition is hereby quashed and set aside. The criminal proceedings initiated against the appellants, initiated by the respondent herein – original complainant for the offence under Sections 3(1)(v) and (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 including summons issued by the learned Special Court in a private complaint filed by the respondent herein are hereby quashed and set aside. The present appeal is allowed accordingly."

8. Learned counsel for the applicant next referred to another judgment of the Supreme Court passed in **Hitesh Verma (supra)** and submitted that though the object of the SC/ST Act was to improve the socio-economic conditions of the Scheduled Caste and Scheduled Tribes, as they were denied a number of civil rights, and if the Court finds that due to a civil dispute, proceedings under the SC/ST Act has been initiated then the entire proceedings could be quashed. He further submits that the Supreme Court had taken cognizance of the matter and has held that the application under section 482 Cr.P.C. could also be entertained after the submission of even the charge sheet. Shri Jayant Kumar, learned counsel for the applicant, after that, referred to the Full Bench judgment of this Court passed in **In Re: Provisions of Section 14(a) of SC/ST (Prevention of Atrocities) Amendment Act, 2015** reported in **2018 Cr.L.J. 5010** and invited the attention of the Court to the questions as were reformulated for the consideration of the Full Bench and the same are being reproduced here as under for easy understanding:

"The questions formulated for the consideration of this Full Bench on the suo- moto petition read thus:

"A. Whether by virtue of the provisions of the Scheduled Castes and the Scheduled Tribes (Amendment) Act, 2015 the powers of the High Court under Articles 226/227 or its revisional powers or the powers under Section 482 Cr.P.C. shall stand ousted?

B. Whether the amended provisions of Section 14 A would apply to offenses or proceedings initiated or pending prior to 26 January 2016?

C. Whether upon the expiry of the period of limitation for filing of an appeal as specified in the second proviso to Section 14 (A) (3), Section 439 Cr.P.C. and the powers conferred on the High Court in terms thereof would stand revived.

D. Whether the power to directly take cognizance of offenses shall be exercisable by the existing Special Courts other than the Exclusive Special Courts or Special Courts to be specified under the amended Section 14?"

9. Learned counsel without referring to the facts of the case to save the Court's time, straight referred to the answers responded by the Full Bench of this Court, which are extracted herein below:

"In light of the above discussion, our answer to the Questions formulated are as follows:

A. Whether provisions of sub-section (2) of Section 14-A and the second proviso to sub-section (3) of Section 14-A of the Amending Act, are violative of Articles 14 and 21 of the Constitution, being unjust, unreasonable and arbitrary?

While we reject the challenge to section 14A (2), we declare that the second proviso to Section 14A (3) is clearly violative of both Articles 14 and 21 of the Constitution. It is not just manifestly arbitrary, it has the direct and unhindered effect of taking away the salutary right of a first appeal which has been recognised to be an integral facet of fair procedure enshrined in Article 21 of the Constitution. The absence of discretion in the Court to consider condonation of delay even where sufficient cause may exist renders the measure wholly capricious, irrational and excessive. It is consequently struck down.

B. Whether in view of the provisions contained in Section 14-A of the Amending Act, a petition under the provisions of Article 226/227 of the Constitution of India or a revision under Section 397 of the Code of Criminal Procedure or a petition under Section 482 Cr.P.C., is maintainable. OR in other words, whether by virtue of Section 14-A of the Amending Act, the powers of the High Court under Articles 226/227 of the Constitution or its revisional powers or the powers under Section 482 Cr.P.C. stand ousted ?

We therefore answer Question (B) by holding that while the constitutional and inherent powers of this Court are not "ousted" by Section 14A, they cannot be invoked in cases and situations where an appeal would lie under Section 14A. Insofar as the powers of the Court with respect to the revisional jurisdiction is concerned, we find that the provisions of Section 397 Cr.P.C. stand impliedly excluded by virtue of the special provisions made in Section 14A. This, we hold also in light of our finding that the word "order" as occurring in sub-section(1) of Section 14A would also include intermediate orders.

C. Whether the amended provisions of Section 14-A would apply to offences or proceedings initiated or pending prior to 26 January 2016?

We hold that the provisions of Section 14A would be applicable to all judgments, sentences or orders as well as orders granting or refusing bail passed or pronounced after 26 January, 2016. We further clarify that the introduction of this provision would not effect proceedings instituted or pending before this Court provided they relate to a judgment, sentence or order passed prior to 26 January 2016. The applicability of Section 14A does not depend upon the date of commission of the offence. The determinative factor would be the date of the order of the Special Court or Exclusive Court.

D. Whether upon the expiry of the period of limitation for filing of an appeal as specified in the second proviso to Section 14-A (3), Section 439 Cr.P.C. and the powers conferred on the High Court in terms thereof would stand revived ?

We hold that the powers conferred on the High Court under Section 439 Cr.P.C. do not stand revived. We find ourselves unable to sustain the line of reasoning adopted by the learned Judge in Rohit that the provisions of Section 439 Cr.P.C. would remain in suspension during the period of 180 days and thereafter revive on its expiry. The conclusion so arrived at cannot be sustained on any known principle of statutory interpretation. We are therefore, constrained to hold that both Janardan Pandey as well as Rohit do not lay down the correct law and must, as we do, stand overruled.

E. Whether the power to directly take cognizance of offences shall be exercisable by the existing Special Courts other than the Exclusive Special Courts or Special Courts to be specified under the amended Section 14?"

The existing Special Courts do not have the jurisdiction to directly take cognizance of offences under the 1989 Act. This power stands conferred only upon the Exclusive Special Courts to be established or the Special Courts to be specified in terms of the substituted section 14. However it is clarified that the substitution of Section 14 by the Amending Act does not have the effect of denuding the existing Special Courts of the authority to exercise jurisdiction in respect of proceedings under the 1989 Act. They would merely not have the power to directly take cognizance of offences and would be bound by the rigours of Section 193 Cr.P.C. Even if cognizance has been taken by the existing Special Courts directly in light of the uncertainty which prevailed, this would not ipso facto render the proceedings void ab initio. Ultimately it would be for the objector to establish serious prejudice or a miscarriage of justice as held in Rati Ram."

10. Referring to the answer to Question "B", he specifically states that the constitutional and inherent powers of this Court can not be ousted by section 14-A of the SC/ST Act. Further, he submits that they can not be invoked in cases and situations where the statutory appeal would definitely lie under section 14-A of the SC/ST Act.

11. Learned counsel for the applicant thereafter referred to **Ghulam Rasool Khan's (supra)** judgment and read out the questions placed before that Full Bench. The answers given by the Full Bench in **Ghulam Rasool Khan (supra)** were also read out and, therefore, after reproducing the questions, we are also reproducing the answers given by the Full Bench, and the same are as follows:

QUESTIONS

"(i) Whether a Single Judge of this Court while deciding Criminal Appeal (Defective) No. 523/2017 In re : Rohit Vs. State of U.P. and another vide judgment dated 29.08.2017 correctly permitted

the conversion of appeal under Section 14 A of the Act, 1989 into a bail application by exercising the inherent powers under Section 482 of the Cr.P.C.?

(ii) Whether keeping in view the judgment of Rohit (supra), an aggrieved person will have two remedies available of preferring an appeal under the provisions of Section 14 A of the Act, 1989 as well as a bail application under the provisions of Section 439 of the Cr.P.C.?

(iii) Whether an aggrieved person who has not availed of the remedy of an appeal under the provisions of Section 14 A of Act, 1989 can be allowed to approach the High Court by preferring an application under the provisions of Section 482 of the Cr.P.C.?

(iv) What would be the remedy available to an aggrieved person who has failed to avail the remedy of appeal under the provision of Act, 1989 and the time period for availing the said remedy has also lapsed? "

ANSWERS

"(i) Question No.(I) is answered in negative as Rohit Vs State of U.P. and another, (2017) 6 ALJ 754 has been overruled by Full Bench of this Court in In Re : Provision of section 14 (a) of SC/ST (Prevention of Atrocities) Amendment Act, 2015, (2018) 6 ALJ 631.

(ii) Question No.(II) is answered in negative holding that an aggrieved person will not have two remedies namely, i.e. filing an appeal under Section 14-A of the 1989 Act as well as filing a bail application in terms of Section 439 Cr.P.C.

(iii) Question No.(III) is answered in negative holding that the aggrieved person having remedy of appeal under Section 14A of the 1989 Act, cannot be allowed to invoke inherent jurisdiction of this Court under Section 482 Cr.P.C.

(iv) Question No.(IV) - There will be no limitation to file an appeal against an order under the provisions of 1989 Act. Hence, the remedies can be availed of as provided."

12. Shri Jayant Kumar, learned counsel for the applicant after that, submitted that the judgment of **Ghulam Rasool Khan (supra)** was passed on 28.7.2022 and that it had not taken into consideration the judgments of the Supreme Court in **Hitesh Verma (supra)** dated 5.9.2020; **Ram Gopal (supra)** dated 21.9.2021 and **Ramawatar (supra)** dated 25.10.2021. He further submits that the judgment of the Supreme Court in **B. Venkateswaran (supra)** dated 5.1.2023 has categorically held that the complaints for the offences under section 3(i)(v) and (v)(a) of the SC/ST Act including the summons issued by the learned Special Court could be quashed under the inherent powers of the High Court.

13. Learned counsel for the applicant has also referred to a judgment of the Supreme Court in **Gulam Mustafa v. State of**

Karnataka reported in **AIR 2023 SC (Criminal) 966** decided on 10.5.2023 and has submitted that if there was a miscarriage of justice by the filing of a case under the provisions of the SC/ST Act then the High Court could use its inherent powers under section 482 Cr.P.C. or even under the Constitution of India to quash the FIR and this would also mean that the High Court has powers to quash the charge sheet and the order of cognizance in the case therein.

14. Learned counsel for the applicant, therefore, submitted that the answer to the first Question referred by the learned Single Judge in **Application U/S 482 No.8635 of 2023 (Abhishek Awasthi @ Bholu Awasti v. State of U.P.)** should be that where the entire proceedings under the SC/ST Act are to be quashed, the same can be so done under the inherent powers of the High Court i.e. under Articles 226 and 227 of the Constitution of India and also under section 482 Cr.P.C. He also submits, relying upon the judgment of the Supreme Court in **B. Venkateswara (supra)**, that all interlocutory orders, including summoning orders, etc., etc., could be looked into by the High Court under its inherent jurisdiction. He submits that Question No.3 in the case of **Ghulam Rasool Khan (supra)**, which was to the effect that whether a person aggrieved by orders under the SC/ST Act has not availed the remedy of appeal, could be allowed to approach the High Court by preferring an application under the provisions of section 482 Cr.P.c., has been answered by saying that a person who could, under section 14-A of the SC/ST Act, file an appeal and if he has not so done then he should not avail the remedy of filing any application for invoking the inherent jurisdiction of the High Court. He, however, submits that definitely, the provisions contained in section 14-A of the SC/ST Act did not oust the inherent jurisdiction of the High Court if the remedy as per the judgments of the Supreme Court in **Hitesh Verma (supra)**; **Ram Gopal (supra)**; **Ramawatar (supra)**, **B. Venakateswaran (supra)** and **Gulam Mustafa (supra)** under 482 Cr.P.C. are available to the applicant.

15. While this case was being argued, certain other members of the Bar have also assisted the Court.

16. Shri Sushil Shukla, Advocate, submitted that the Supreme Court in **Prabhu Chawla v. State of Rajasthan & Anr.** reported in (2016) 16 SCC 30 has held that all inherent powers of the High Court when there has been an abuse of the process of Court could be used by the High Court. He next submitted that the only limitation is self-restraint and nothing more. He next submits that the judgment of the Supreme Court in **Prabhu Chawla (supra)** has relied upon the judgment of the Supreme Court in **Madhu Limaye v. State of Maharashtra** reported in (1977) 4 SCC 551. He further relied upon the judgment of the Supreme Court in **Punjab State Warehousing Corporation, Faridkot v. Shree Durga Ji Traders & Ors.** reported in (2011) 14 SCC 615 and has submitted that the remedy of appeal against any order provided under the Cr.P.C. or in any other Act itself did not operate as an absolute bar in entertaining an application under section 482 Cr.P.C. He again reiterated the law as pointed out by the earlier counsel passed by the Supreme Court in **Ramawatar (supra)** and **Ram Gopal (supra)**. He referred to the judgment of the Supreme Court passed in **Satya Narayan Sharma v. State of Rajasthan** reported in (2001) 8 SCC 607, which propounded that the inherent power of the High Court under section 482 Cr.P.C. could not be exercised against the express provisions of law enacted in any special Act. He has submitted that the judgment of the Supreme Court in **Asian Resurfacing of Road Agency Private Ltd. & Anr. v. CBI** reported in (2018) 16 SCC 299 has held that the inherent power of a Court set up by the Constitution is a power that inherits in such Court because it is a superior Court of record and not because it is conferred by the Cr.P.C. or any other provision of law and states that the law in **Satya Narayan Sharma (supra)** has been overruled. The relevant paragraph i.e. paragraph 54 of the judgment of the Supreme Court in **Asian Resurfacing of Road Agency Pvt. Ltd. (supra)**, is being reproduced here as under:

"It is thus clear that the inherent power of a Court set up by the Constitution is a power that inheres in such Court because it is a superior court of record, and not because it is conferred by the Code of Criminal Procedure. This is a power vested by the Constitution itself, inter alia, under Article 215 as aforesaid. Also, as such High Courts have the power, nay, the duty to protect the fundamental rights of citizens under Article 226 of the Constitution, the inherent power to do justice in cases involving the liberty of the citizen would also sound in Article 21 of the Constitution. This being the constitutional position, it is clear that Section 19(3)(c) cannot be read as a ban on the maintainability of a petition filed before the High Court under Section 482 of the Code of Criminal Procedure, the non-obstante clause in Section 19(3) applying only to the Code of Criminal Procedure. The judgment of this Court in Satya Narayan Sharma v. State of Rajasthan, (2001) 8 SCC 607 at paragraphs 14 and 15 does not, therefore, lay down the correct position in law. Equally, in paragraph 17 of the said judgment, despite the clarification that proceedings can be "adapted" in appropriate cases, the Court went on to hold that there is a blanket ban on stay of trials and that, therefore, Section 482, even as adapted, cannot be used for the aforesaid purpose. This, again, is contrary to the position in law as laid down hereinabove. This case, therefore, stands overruled."

17. He, submits that inherent powers being all pervasive, their exercise cannot be barred against either the express or alternative provisions engrafted within the Cr.P.C. or in any other special enactment. He, therefore, submits that the provisions of section 14-A cannot operate as a complete bar in entertaining any application under section 482 Cr.P.C. for quashing the criminal proceedings.

18. Shri V.P. Srivastava, a learned Senior Advocate, also appeared in this case and argued that in the celebrated case of **Mohd. Hafiz v. State & Ors.** reported in 1977 (14) ACC 288, this Court has held that Section 482 of the Code of Criminal Procedure is a short reminder to the High Courts that they are not merely courts of law but also the Courts of justice, and as such, they possess inherent powers to remove injustice. The power of the High Court under section 482 Cr.P.C. are wide enough to protect personal liberty when the same is put in jeopardy owing to the enforcement of a wholly fictitious order. He has taken the Court through the judgment of the Supreme Court passed in **Madhu Limaye (supra)**; **Maneka Gandhi v. Union of India & Anr.** reported in (1978) 1 SCC 248 and **State of Haryana & Ors. v. Bhajan Lal & Ors.** reported in 1992 Supp. (1) SCC 335 and has submitted that certain categories of cases could always be entertained under Article

226 of the Constitution of India or under the inherent powers of section 482 Cr.P.C. either to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. He has submitted that it was not possible to lay down precise and clear guidelines, but referring to the judgment of the Supreme Court in **State of Haryana & Ors. v. Hajan Lal (supra)**, he submitted that there were certain categories of cases where the inherent powers of the High Court shall be used. The relevant paragraphs of the judgment of State of **Haryana & Ors. v. Bhajan Lal & Ors.** are being reproduced here 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 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."

19. While referring to the judgment of **Bhajan Lal (supra)**, Learned Senior Counsel also referred to paragraph no.103, where the Supreme Court has cautioned that the power of quashing criminal proceedings is to be exercised very sparingly and with circumspection and that too in the rarest of rare cases. He further submitted that it should not be justified in embarking upon an enquiry as to the reliability and the genuineness or otherwise of the allegations made in the FIR or the complaint, and he submits that the extraordinary or inherent powers do not confer upon the High Court any arbitrary jurisdiction to act according to its whims and caprice.

20. Ms. Vijeta Singh, learned Advocate, submits that the nature and scope of the inherent power of the High Court is to save the inherent power to make such orders as may be necessary to give effect to any order under this Court or to prevent abuse of the process of any court or otherwise to secure the ends of justice. There is no doubt that the inherent power cannot be exercised in regard to matters specifically covered by the other provisions of the Code. In support of her arguments she relied upon **R.P. Kapur v. State of Punjab AIR 1960 SC 866**.

21. She next submits that if any intermediate order is passed by a Special Court or an exclusive Special Court in a case relating to an offence in the SC/ST Act, that will come in the category of order as provided under section 14-A(1) of the SC/ST Act against which only an appeal shall lie before the Court, both in facts and law; therefore, application u/s 482 Cr.P.C. cannot be filed against a summoning order, and thus relied upon **Anuj Kumar @ Sanjay and others v. State of U.P. and others** passed by this Court in Application u/s 482 No.2763 of 2022.

22. She next submits that though section 482 Cr.P.C. does not restrict or limit the inherent, inbuilt power of the High Court, further, it does not mean that it puts a blanket or is superior to all other

provisions of law. The word "nothing" instead of "notwithstanding" has been used in the section, which shows the legislature's intention that the provision is a saving clause. Whereas the word "notwithstanding" in section 14-A of SC/ST Act denotes that the provision has an overriding power on the general Act, which makes it a *non-obstante* clause and to bolster her arguments, relied upon **Union of India and others v. G.M. Kokil and others**, (AIR 1984 SC 1022) in which it has been held that a *non-obstante* clause is a legislative device employed to give overriding effect to certain provisions over some contrary provisions that may be found either in a same enactment or some other enactment to provide the operation and effect of all contrary provisions.

23. She next submits that to reconcile the *non-obstante* clause under two legislation, the approach of the Court should be to determine as to which Act shall prevail, and it shall depend on various factors such as (i) the purpose of two legislation, (ii) which of the two laws is general or special; and (iii) which law is later. In the instant case, section 482 Cr.P.C. is a general law, whereas section 14-A of the SC/ST Act 1989 is a special law. Section 5 of the Code of Criminal Procedure is also a saving clause that states that the Code of Criminal Procedure shall not affect any special or local law or any special jurisdiction or power conferred by any special form of procedure prescribed by any other law for the time being in force.

24. A statute is the edict of the legislature. It expresses the will of the legislature, and the function of the Court is to interpret the documents according to the intent of those who made them. It is a settled rule of construction of the statute that the provision should be interpreted by applying the plain rule of construction. The Courts normally would not imply anything that is inconsistent with the words expressly used by the statute.

25. Based on the aforesaid deliberations, she further states that the SC/ST Act has been specially enacted to deter acts of indignity, humiliation, and harassment against the members of the scheduled

castes and scheduled tribes; however, it will be extremely circumspect in its approach when dealing with offences arising out of special statutes.

26. She next submits that a focus glance at the provision contained in section 14-A(1) of the SC/ST Act shows that the special provision has been carved out relating to an appeal by providing that notwithstanding anything contained in the Code of Criminal Procedure, an appeal shall lie. This sub-section starts with a *non-obstante* clause, and consequently, in case of any conflict or inconsistency, the provisions of section 14-A(1) shall prevail over the general provisions. The said section was brought by an amendment with effect from 26.1.2016 with the objective to give effect to the concept of speedy trial of the offences committed against the persons who belong to the scheduled castes and scheduled tribes. Therefore, section 14-A(1) of the SC/ST Act makes an express provision for an appeal to be preferred to the High Court, both on facts and law.

27. Shri Amit Sinha and Ms. Archana Singh learned A.G.A. assisted by Ms. Mayuri Mehrotra, learned brief holder, however, submitted that if the Full Bench decision of this Court in **In Re : Provision of Section 14A of SC/ST Act (Prevention of Atrocities) Amendment Act, 2015 (supra)** and **Ghulam Rasool Khan (supra)** is read and understood conjointly, then it would become evident that the inherent powers of the High Court in view of the provisions of section 14-A of the SC/ST Act which start with a *non-obstante* clause, could not be exercised. Learned counsel for the State, since had drawn the attention of the Court to section 14-A of the SC/ST Act, the same is being reproduced here as under:

"[14A. Appeals.--(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.]"

28. He submits that though section 482 Cr.P.C. gives immense powers to the High Court and is an enabling provision that enables a litigant to knock on the doors of the High Court and invoke the inherent powers of it, the same would not mean that it was superior to all the provisions of Cr.P.C. and the other Acts.

29. Having heard learned counsel for the parties who appeared for the applicants, learned counsel appeared from the Bar to assist the Court and the learned A.G.A.; this Court is of the view that in **Ghulam Rasool Khan (supra)**, the then question No.III was to the effect when a person had not availed the remedy of appeal under the provisions of section 14-A of the SC/ST Act, could it then be allowed to approach the High Court by preferring an application under the provisions of section 482 Cr.P.C. and the Full Bench had answered the Question by observing that the Full Bench of this Court has already dealt the Question in **In Re: Provisions of Section 14-A of the SC/ST (Prevention of Atrocities) Amendment Act, 2015 (supra)** wherein the Question was answered whether in view of the provisions contained in section 14-A of the Amending Act, a petition under the provisions of Articles 226 and 227 of the Constitution or a Revision under section 397 of the Code of Criminal Procedure or a petition under section 482 Cr.P.C. was maintainable or in other words, whether by virtue of section 14-A of the Amending Act, the powers of the High Court under Articles 226 and 227 of the Constitution or its revisional power shall stand ousted. In the judgment of the **Ghulam Rasool Khan (supra)**, the answer of the Full Bench was that against the judgments

and orders for which remedy has been provided under section 14-A of the SC/ST Act invoking the jurisdiction of the High Court under Articles 226 or 227 of the Constitution or under section 482 Cr.P.C. was not recommended and, therefore, the Question No.III had been answered in the negative. It has been said that if an aggrieved person has a remedy of appeal under section 14-A of the SC/ST Act, he or she could not be allowed to invoke the inherent jurisdiction of the High Court under section 482 Cr.P.C.

30. We are conscious of the fact that the Full Bench of the Allahabad High Court in the case of **Ghulam Rasool Khan (supra)** had answered the Question as it was before it. In the instant case, the Question that has been posed before this Bench is as to whether when there was a challenge led to the entire proceedings of the case under the provisions of SC/ST Act with no challenge to any interlocutory order i.e. the summoning order then would the law as had been laid down by the Full Bench in **Ghulam Rasool Khan (supra)** prevent the aggrieved person from approaching the Court under section 482 Cr.P.C.

31. This Question has an absolutely different tenor from Question no.III, which the Full Bench answered in **Ghulam Rasool Khan (supra)**.

32. In view of all the arguments that have been advanced before us, we are of the definite view that the Supreme Court in the cases of **Hitesh Verma (supra)** dated 5.9.2020 reported in AIR 2020 SC 5584; **Ramgopal (supra)** dated 21.9.2021 reported in AIR Online 2021 SC 807; **Ramawatar (supra)** dated 25.10.2021 reported in (2022) 13 SCC 635; **B. Venkateswaran (supra)** dated 5.1.2023 reported in AIR 2023 SC 262 and in **Gulam Mustafa (supra)** dated 10.5.2023 reported in AIR 2023 SC (Criminal) 966, the law as was laid down by the Supreme Court in the cases of **R.P. Kapur (supra)** and **Madhu Limaye (supra)** and the judgment in the case of **Bhajan Lal (supra)** has been consistent. In fact, when by the judgment of **Satya Narayan Sharma (supra)** Supreme Court held that the inherent powers of this Court

under section 482 Cr.P.C. could not be exercised against expressed provisions of law engrafted in any other special Act, the same was overruled by a Larger Bench of the Supreme Court in the case of **Asian Resurfacing of Road Agency Pvt. Ltd. (supra)**.

33. Thus, what needs to be understood is that there has to be a distinction between a proceeding being "not maintainable" and "not liable to be entertained". "Not being maintainable" would mean that the proceedings would not lie at all, whereas "not liable to be entertained" would mean that the application, though it would lie, shall not be entertained in the given facts of the case. The distinction may seem to be fine, and at times, it gets blurred, but nevertheless, it does exist and has to be compulsorily kept in mind. Whether an application involving the inherent jurisdiction of the High Court is to be entertained or not is a question to be considered and answered case to a case basis in the given facts- and circumstances of the case, and no general proposition or straight jacket formula could be laid down. The guiding principle is whether, in the given case, the continuance of proceedings would amount to abuse of the process of the Court and/or whether interference of the High Court is necessary to secure ends of justice.

34. The Single Bench of this Court in **Smt. Usha v. State of U.P. and another (Criminal Appeal No.10230 of 2023)** have dealt with a similar controversy and thus held that since the jurisdiction of the appellate Court is limited, therefore, at least in cases where the trial is has yet to commence or is not pending, the appellate powers cannot always be exercised for setting aside the criminal proceedings on the basis of compromise between the parties. Particularly, in cases of compromise between the parties, the appropriate remedy would be to invoke the inherent powers of the Court under section 482 Cr.P.C. the relevant portion is extracted herein below:

"32. Recently, the Hon'ble Supreme Court in Ramawatar Vs. State of Madhya Pradesh, (2022) 13 SCC 635, again examined the inherent powers of the High Court contained in Section 482 Cr.P.C., specifically in the context of the "Atrocities Act, 1989" and held that where the proceedings are attended with mala fide

intentions and would be an abuse of the process of law, the High Court can exercise its powers to quash the proceedings. The relevant observations read as under:

15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin-fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in Question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in Question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.

33. The above view of the Hon'ble Supreme Court is again reiterated in Gulam Mustafa Vs. The State of Karnataka and Others, AIR 2023 SC 2999, wherein the offences, including the offence under the "Atrocities Act, 1989", were quashed. The relevant part is reproduced:

36. What is evincible from the extant case-law is that this Court has been consistent in interfering in such matters where purely civil disputes, more often than no, relating to land and/or money, are given the colour of criminality, only for the purposes of exerting extra-judicial pressure on the party concerned, which, we reiterate, is nothing but abuse of the process of the Court. In the present case, there is a huge, and quite frankly, unexplained delay of over 60 years in initiating a dispute with regard to the ownership of the land in Question, and the criminal case has been lodged only after failure to obtain relief in the civil suits, coupled with denial of relief in the interim therein to the respondent no.2/her family members. It is evident that resort was now being had to criminal proceedings which, in the considered opinion of this Court, is with ulterior motives, for oblique reason and is a clear case of vengeance.

37. The Court would also note that even if the allegations are taken to be true on their face value, it is not discernible that any offence can be said to have been made out under the SC/ST Act against the appellant. The complaint and FIR are frivolous, vexatious and oppressive.

38. This Court would indicate that the officers who institute an FIR based on any complaint are du y- bound to be vigilant before invoking any provision of a very stringent statute, like the SC/ST Act, which imposes serious penal consequences on the concerned accused. The officer has to be satisfied that the provisions he seeks to invoke prima facie apply to the case at hand. We clarify that our remarks, in no manner, are to dilute the applicability of special/stringent statutes but only to remind the police not to mechanically apply the law, dehors reference to the factual position.

39. For the reasons aforesaid, the Court finds that the High Court fell in error in not invoking its wholesome power under Section 482 of the Code to quash the FIR. Accordingly, the Impugned Judgment, being untenable in law, is set aside. Consequent thereupon, the FIR, as also any proceedings emanating therefrom, insofar as they relate to the appellant, are quashed and set aside.

34. Also, in many cases where, during the pendency of the cases, if the parties arrive at a compromise, even then, the appeals are filed before this Court under Section 14-A f "Atrocities Act, 1989" for setting aside the entire criminal proceedings including the order taking cognizance of the offences on the strength of the said compromise. But, in the considered opinion of this Court, such an appeal cannot be construed as an appropriate remedy, particularly when the said compromise between the parties is not a part of the record of the case pending before the Special Court. The Hon'ble Supreme Court has injected some elasticity in laying down the principles for quashing criminal proceedings, even in non-compoundable offences on the basis of compromise, but all such decisions relate to the exercise of inherent powers vested with High Courts under Section 482 Cr.P.C. In *Gian Singh Vs. State of Punjab* and another, 2012 (4) RCR (Criminal) 543, the Hon'ble Supreme Court has also discussed the powers of High Court under Section 482 Cr.P.C. and the relevant portion reads as under :

"The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominately civil flavour stand on a

different footing for the purposes of quashing, particularly the offences arising from a commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if, in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and the continuation of criminal case would put accused to great oppression and prejudice, and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above Question (s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

35. Consequently, in view of the above discussion, as well as in the light of the law laid down by the Hon'ble Supreme Court, it is abundantly clear that even if, Section 14A "Atrocities Act, 1989" provides for a remedy of appeal against an order taking cognizance of the offences, but in a given case, which falls within the guidelines and parameters laid down by the Hon'ble Supreme Court for the exercise of powers under Section 482 Cr.P.C., the said remedy can be availed by the litigant, and availability of alternative statutory remedy cannot be a ground for refusal to exercise the inherent powers under Section 482 Cr.P.C., if the merits of the case makes out a case for exercise of inherent powers under Section 482 Cr.P.C."

35. The first Question is thus answered by holding that there can be no hard and fast rule regarding the interference of the High Court under its inherent jurisdiction. The High Court can if it finds that by interfering in a particular case, it can prevent the misuse or abuse of the Court or law, then it may always so interfere.

36. We also would like to observe that Question No.III by the Full Bench in **Ghulam Rasool Khan (supra)** did not answer the aforesaid question. Therefore, we answer accordingly; when a challenge lies to the entire proceeding of a case registered under the SC/ST Act, the High Court could entertain the case under its inherent jurisdiction to secure the end of justice. High Courts are not merely Courts of law but also Courts of Justice, and as such, they possess inherent powers to remove injustice.

37. As far as the answers to Questions nos.2 and 3 are concerned, we would like to mention that, as has been held by the Supreme Court in **Gulam Mustafa (supra) decided on 10.5.2023**; the High Court can also look into the correctness and validity of the summoning order, etc., when it takes cognizance of the entire proceeding under Section 482 Cr.P.C. However, when the proceedings are not under challenge under Section 482 Cr.P.C., the only course open to an accused/applicant is to file an appeal under Section 14-A of the SC/ST Act.

38. The reference is, thus, answered.

39. The order passed by us be placed before the Bench concerned.

40. Since an interim order exists, the same shall continue till the decision of the various applications.

41. While parting, apart from recording our appreciation for the hard work which was done by the lawyers who appeared in the various cases, we would like to thank Mr. V.P. Srivastava, learned Senior Advocate, Mr. Sushil Shukla, Ms. Vijeta Singh and Mr. Amit Sinha, learned A.G.A. for their immense assistance in the case.

Order Date :- 26.11.2024
GS

(Vinod Diwakar, J.) (Siddhartha Varma, J.)