On November 5, 2020, the Supreme Court of India dismissed the criminal investigation under SC/ST (Prevention of Atrocities) Act 1989 (‘the Act’). The Court held that insulting or intimidating a person belonging to Scheduled Caste or Scheduled Tribe (SC/ST) community could not be considered as an offence under the Act unless such insult or intimidation is on account of victim belonging to SC/ST. The complaint had been filed by a Scheduled Caste women against hurling of derogatory slurs and threats to her by a higher caste accused. The Court stipulated that insulting remarks made inside the four walls of a building would not constitute a humiliation within public view. Thus, the criminal proceedings in the case were liable to be quashed.

The complainant, a woman belonging to the scheduled caste, filed a First Information Report on December 11, 2019 regarding an incident that allegedly happened on her fields where the construction of her house was going on. She alleged that the accused (along with his family members) ‘entered illegally into four walls of her building and started hurling abuses on her and her labourers and gave death threats and used castes’ remarks/abuses and took away the construction material such as Cement, Iron, Rod, Bricks… said that you are persons of bad caste and that we will not let you live in this mohalla/vicinity.’ [para. 2] She also alleged that the accused (along with his family members) since ‘past 6 months, [was] not allowing the applicant to work…[gave] death threats and [used] caste coloured abuses’. [para. 2]

The FIR was filed under section 3(1)(e) and section 3(1)(r) of the Act. However, the police filed the report only under section 3(1)(x). Sub-clause (e) deals with any act derogatory to human dignity, like removal of moustache etc. The constant threats and forcible taking away of construction material could be covered under the same. However, the legal proceedings were limited to the question of casteist remarks which the police reported to be covered under sub-clause (r) that deals with ‘intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view.’

The petition of the accused for dismissal of criminal proceedings i.e. quashing of the charge sheet and summoning order under the Act was dismissed by the High Court. The High Court observed that the offence of insulting was prima facie made out and that the accused failed to demonstrate any dereliction of duty or irregularity in the police investigation to merit the exceptional remedy under section 482 of Code of Criminal Procedure, 1973.

Justice Hemant Gupta authored the judgement on behalf of the bench comprising of Justice L Nageswara Rao and Justice Ajay Rastogi.
The Court appreciated the purpose of the special enactment for downtrodden sections of the society by relying on the Act’s Statement of Objects and Reasons , and noted that its intent was to protect vulnerable sections of the society from indignities and oppression and strive towards their rehabilitation. It also took cognizance of how the Scheduled Castes and Scheduled Tribes asserting their rights was not being taken kindly by others, and reflected in the form of atrocities being committed against them, as defined in s. 3 of the Act. (paras. 8 and 10)

According to the Court, there was no presumption against the Scheduled Castes and Scheduled Tribes for misuse of provisions of the Act and unsubstantiated complaints could often be due to faulty investigation or other human failings.

The Court held that because the remedy under s. 482 of Code of Criminal Procedure, 1973 had been provided for in and applied in cases under the Act, it should be applied in this case as well. The Court, however, did not consider that the precedents require the satisfaction of a high threshold of presence of exceptional circumstances, a grave error in the investigation or the necessity to meet ends of justice, to justify the grant of this exceptional remedy, as held in *Ishwar Pratap Singh & Ors. v. State of Uttar Pradesh & Anr***,** (2018) 13 SCC 612.

The only exception to this bar is when continuity of the criminal proceeding constitutes an ‘abuse of process’ such as when a complaint has been initiated with malice or to cause harm or where allegations are absurd and inherently improbable. (*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 at para 102-103) The Court, in *Prathvi Raj Chauhan v Union of India*, (2020) 4 SCC 727 also states that the cases can be quashed in ‘exceptional circumstances’ when misuse of provisions is established. In this case, there is no evidence for the misapplication of the section, irregularity in the investigation or any other infirmity.

The Court also reasoned that the offence was in relation to a property dispute and not relating to to ‘indignities, humiliations and harassment’ faced by vulnerable sections of society. ‘[T]he 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 No.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 No.2 is member of Scheduled Caste.’ (para 12). Mere membership of the Scheduled Castes or Scheduled Tribes was not sufficient to constitute an offence under s. 3(2)(v) of the Act, and there must be specific evidence to suggest that the offence was committed only because the victim belonged to the lower castes (*Khuman Singh v. State of Madhya Pradesh*, 2019 SCC OnLine SC 1104).

The Court also reasons that remarks made within four walls of any building would not be construed to be made within public view because of the absence of public. (para 15) For this, the Court relied upon *Swaran Singh & Ors. v. State through Standing Counsel & Ors*, (2008) 8 SCC 435, where the Court distinguished between a “public place” and a place within “public view”. Here, an offence committed outside the premises of a building would be witihin public view, but comments made within the premises of a structure in the presence of only some members of the public would not be. Furthermore, the Court concluded that '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, intimated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.' (para 16)

Ultimately, the Court quashed the proceedings under the Act because of non-fulfillment of the requirements of s. 3(1)(r), and set strict limitations on circumstances under which prosecution under the Act can be initiated.