

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Appeal Nos. 4244 of 2013 and 211 of 2014****Reserved on: 22.08.2026****Date of Decision: 09.09.2026****1. Cr. Appeal No. 4244 of 2013**

State of H.P.

...Appellant

Versus

Som Raj & Ors

...Respondents

2. Cr. Appeal No. 211 of 2014

Sunder Singh & Anr.

...Appellants

Versus

Som Raj & Ors

...Respondents

*Coram**Hon'ble Mr Justice Rakesh Kainthla, Judge.**Whether approved for reporting?¹ Yes.***Cr. Appeal No. 4244 of 2013**For the Appellant/State : Mr Lokender Kutlehria,
Additional Advocate General.

For the respondents : Mr Naresh Sharma, Advocate.

Cr. Appeal No. 211 of 2014

For the Appellant : None.

For respondents No.1 to 11 : Mr Naresh Sharma, Advocate.

For respondents No.12/State : Mr Lokender Kutlehria,
Additional Advocate General.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Rakesh Kainthla, Judge

The present appeals are directed against the judgment dated 29.06.2013 passed by learned Special Judge, Sirmaur, District at Nahan, H.P. (learned Trial Court) vide which the respondents (accused before learned Trial Court) were acquitted of the charged offences. Since both the appeals have arisen out of the common judgment, they are being taken up together for disposal. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

2. Briefly stated, the facts giving rise to the present appeal are that the complainants Sunder Singh (PW1) and Puran Chand (PW2) filed a complaint (Ext.PW1/A) before the learned Chief Judicial Magistrate, Nahan, District Sirmaur under Section 156(3) of the Code of Criminal Procedure (CrPC), 1973. It was asserted that the complainants belong to Schedule Caste category. Their ancestors were employed as bonded labourers with the rich people of the same village. The complainants and their family members refused to work as bonded labourers, and they were deprived of their basic right to live with dignity after such a refusal. A scheme for supply of drinking water was initiated by the Block Development Officer (BDO), Rajgarh, to the complainants' village.

However, the complainants and their family members were deprived of the use of the water from the scheme. A water spring is located near the complainants' house, which was cordoned off by Som Raj and Ranjit Singh in March 2007. The complainants and their family members were constrained to draw water from the seasonal *Nallah*, which is used by the accused to answer the call of nature. Hence, the complainants and their family members were forced to use water which is noxious and unfit for human consumption. The complainants and their family members were prevented from using the water for irrigation by saying that the members of schedule caste were not entitled to do so. They were not permitted to walk on the common village path, even though the path is located on the complainants' land. The accused used to abuse the complainants and their family members in the name of their caste. They were badly beaten, and their oxen were also killed. An FIR was registered against Som Raj, Ranjeet Singh, Geeta Ram, Sukh Dev, Baldev, Arun, Kapil Dev, Anil, etc., after the intervention of the Inspector General of Police, but the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SCST Act) were not invoked in these FIRS. The complainants made a complaint to the Deputy Commissioner,

Nahan, and the water source was opened for their use. The accused entered the complainant's field on 12.09.2008 and gave beatings to the complainants' father with sticks. They also abused the complainants' family members in the name of their caste. The complainants' family members went to the Police Station to seek help but no action was taken. Therefore, it was prayed that suitable action be taken against the accused.

3. Learned Chief Judicial Magistrate, Sirmaur at Nahan sent the complaint to the Police and the police registered the FIR (Ext.PW1/B). The police investigated the matter and submitted a cancellation report before the Court. The complainants filed a protest petition (Ext.PW1/C). Learned Judicial Magistrate First Class, Rajgarh, treated the protest petition as a complaint, and recorded the preliminary evidence of Randeep Singh (CW1), Sunder Singh (CW2), Puran Chand (CW3) and Som Dutt (CW4). The learned Judicial Magistrate found, after going through the complaint and the preliminary evidence, that offences punishable under Section 3 and 4 of the SCST Act and Section 147, 148, 323, 451 read with Section 149 of the Indian Penal Code (IPC) were made out against the accused. Hence, the learned Trial Court summoned the accused

and committed the case to the Court of the learned Special Judge, Nahan, for trial.

4. Learned Special Judge Nahan (learned Trial Court) charged the accused with the commission of offences punishable under Section 3(1)(ii)(v)(x)(xii) of the SCST Act, Sections 147, 323, 429 read with Section 149 of IPC, to which the accused pleaded not guilty and claimed to be tried.

5. The prosecution examined Sunder Singh (PW1), Puran Chand (PW2), Som Dutt (PW3), Randeep Singh (PW4), Prem Lal (PW5) and Bhagti Devi (PW6) to prove its case.

6. The accused, in their statement recorded under Section 313 of CrPC, denied the prosecution case in its entirety. They claimed that they were falsely implicated to claim compensation from the government. They did not produce any evidence in their defence.

7. Learned Trial Court held that there was a delay in reporting the matter to the police, for which no proper explanation was provided. No certificate showing that the complainants belonged to the scheduled caste was filed, and the necessary condition for invoking the provisions of the SC/ST Act was not satisfied. The statements of the prosecution witnesses

contradicted each other on material particulars, and it was difficult to rely upon the prosecution's case. No person had seen the accused administering poison to any of the oxen. All these circumstances made the prosecution case highly doubtful. Therefore, the accused were acquitted of the charged offences.

8. Being aggrieved by the judgment passed by the learned Trial Court, the State and the complainants have filed separate appeals. The State has asserted in the appeal filed by it that the learned Trial Court failed to appreciate the evidence properly. The statements of prosecution witnesses were wrongly discarded without any cogent reasons. The independent witness would not have supported the complainant party against the accused, and the learned Trial Court erred in rejecting the complainants' testimonies. Hence, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

9. The complainants asserted in their appeal that the learned Trial Court had failed to properly appreciate the evidence on record. The origin of the case was based upon a protest petition submitted against a cancellation report. The learned Judicial Magistrate First Class should have provided an opportunity to file

the complaint. The complaint and the objection petitions were never drafted to meet the requirements of a private complaint. The complainants were not provided any opportunity to prove that they belonged to the scheduled caste, and the accused did not belong to the scheduled caste. The learned Trial Court erred in rejecting the testimonies of the witnesses on the ground that they belong to the caste of the complainants. The police had not registered the FIR, and their complaint should not have been dismissed on the ground that they had failed to produce their caste certificates. Hence, it was prayed that the present appeal be allowed and the judgment passed by learned Courts below be set aside.

10. I have heard Mr Lokender Kutlehria, learned Additional Advocate General for the appellant/State and Mr Naresh Sharma, learned counsel for the respondents/accused. None appeared on behalf of the complainants, and none could be heard on the complainants' behalf.

11. Mr Lokender Kutlehria, learned Additional Advocate General for the appellant/State, submitted that the statements of the complainants were corroborated by the other witnesses and learned Trial Court erred in rejecting the statements based on some minor contradictions. The contradictions were bound to come with

time because of failure of memory and should not have been used to discard the prosecution case. The witnesses consistently stated that the accused had harassed the complainants for being members of the scheduled caste. They were subjected to various indignities by the accused persons. Therefore, he prayed that the present appeal be allowed and the judgment passed by learned Trial Court be set aside.

12. Mr Naresh Sharma, learned counsel for the respondent/accused, submitted that the complainants had not produced their caste certificates to prove that they belong to the scheduled caste, and the accused were not members of the scheduled caste. The statements of the witnesses contradicted each other on material aspects. The FIR was lodged belatedly, and the delay was not properly explained. The learned Trial Court had taken a reasonable view while acquitting the accused, and this Court should not interfere with the reasonable view of the learned Trial Court, even if another view is possible. Therefore, he prayed that the present appeal be dismissed.

13. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

14. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in *Sanjay Kumar v. State of Bihar*, 2026 SCC OnLine SC 1373, that the Court can interfere with a judgment of acquittal only if it is impossible, perverse, wholly unsustainable, or manifestly illegal. It was observed:

Scope of interference with an acquittal:

26. At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under Article 136 is even greater.

27. In *Kali Ram v. State of Himachal Pradesh* (1973) 2 SCC 808: 1973 SCC (Cri) 1048, this Court explained the golden thread running through criminal jurisprudence in the following words:

“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. A rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the

accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of State of Punjab v. Jagir Singh, a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.”

28. The decision in *Kali Ram* (supra) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not technical; it is a substantive safeguard flowing from the presumption of innocence.

29. In *Ghurey Lal v. State of Uttar Pradesh* (2008) 10 SCC 450: (2009) 1 SCC (Cri) 60, this Court reiterated the limited scope of interference with acquittals. This Court observed:

“75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence; therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the

Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable.”

30. The decision in *Ghurey Lal* (supra) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court's findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

31. In *Chandrappa v. State of Karnataka* (2007) 4 SCC 415: (2007) 2 SCC (Cri) 325, this Court held that though the appellate court has full power to review and reappreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.

32. The same principle was restated in *Mrinal Das v. State of Tripura* (2011) 9 SCC 479, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.

33. Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is impossible, perverse, wholly unsustainable, or manifestly illegal. Having examined the record, we are unable to hold so.

15. The present appeal has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

16. It is undisputed that the caste certificate of the complainants and accused have not been placed on record. It was laid down by this Court in *Chandu Ram vs. Nathu Ram and others* 2011: HHC:10502 that the provisions of the SCST Act are not attracted without the caste certificate. It was observed:

“12. On having gone through the record of the case, there is not even an iota of evidence to attract the offence under Section 3(1)(X) of the Act, as the prosecution has miserably failed to prove that the complainant was a member of the "Scheduled Caste" community.

13. Section 2(1)(c) of the Act says that "Scheduled Castes and Scheduled Tribes" shall have meanings assigned to them respectively under clause (24) and clause (25) of Article 366 of the Constitution. 'Scheduled Caste' under clause (24) means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be "Scheduled Castes" for the purposes of this Constitution and similarly under clause (25) "Scheduled Tribes" mean as stated in Article 342 of the Constitution of India.

14. Under Article 341 of the Constitution, a notification is required to be issued by the Central or State Government specifying the castes, races or tribes or part of or groups within castes, races or tribes which shall for the purpose of this Constitution be deemed to be "Scheduled Castes" in relation to that State (or Union Territory, as the case may be). However, Parliament by law may include or exclude from the list of "Scheduled Castes" specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

15. The notification as required under the above provision of the Constitution has not been produced or proved that the

complainant belongs to a caste which is declared to be a "Scheduled Caste" to attract the provisions of this Act. Hence, the charge against the accused persons under the Act is not proved at all.

17. Therefore, learned Trial Court had rightly held that ingredients of the complaint and the statements on oath, even if believed to be true, do not constitute any offence punishable under the provisions of SCST Act in the absence of the caste certificate.

18. Sunder Singh (PW1) stated that the relationship between him and the accused was cordial till the year 2007, but when they refused to work for the accused without payment of wages, the accused stopped the water from Bauri by fencing it and filling it with soil. He filed an application (Ext.PW1/A) before the learned Chief Judicial Magistrate, Nahan, regarding the incident. This complaint was filed before the learned Chief Judicial Magistrate on 01.10.2008. Thus, there was a delay of about one year from the date of the incident. It was laid down in *Mehraj Singh v. State of U.P. (1994) 5 SCC 188* that the delay in lodging FIR leads to embellishments, concoction and fabrication and the court should see the prosecution case with utmost care and caution in case of delay. It was observed:

"FIR in a criminal case and particularly in a murder case is a vital and valuable piece of evidence to appreciate the evidence led at the trial. The object of insisting upon prompt

lodging of the FIR is to obtain the earliest information regarding the circumstances in which the crime was committed, including the names of the actual culprits and the parts played by them, the weapons, if any, used, as also the names of the eyewitnesses, if any. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of the delay, the FIR not only gets bereft of the advantage of spontaneity, but danger also creeps in with the introduction of a coloured version or exaggerated story. With a view to determining whether the FIR was lodged at the time it is alleged to have been recorded, the courts generally look for certain external checks. One of the checks is the receipt of a copy of the FIR, called a special report in a murder case, by the local Magistrate. If this report is received by the Magistrate late, it can give rise to an inference that the FIR was not lodged at the time it is alleged to have been recorded, unless, of course, the prosecution can offer a satisfactory explanation for the delay in dispatching or receipt of the copy of the FIR by the local Magistrate. The prosecution has presented no evidence at all in this case. The second external check, equally important, is the sending of a copy of the FIR along with the dead body and its reference in the inquest report. Even though the inquest, prepared under Section 174 CrPC, is aimed at serving a statutory function, to lend credence to the prosecution's case, the details of the FIR and the gist of statements recorded during inquest proceedings get reflected in the report. The absence of those details is indicative of the fact that the prosecution's story was still in an embryonic state and had not been given any shape, and that the FIR came to be recorded later on, after due deliberations and consultations and was then ante-dated to give it the colour of a promptly lodged FIR. In our opinion, on account of the infirmities as noticed above, the FIR has lost its value and authenticity, and it appears to us that the same has been ante-dated and had not been recorded till the inquest proceedings were over at the spot by PW 8."

19. This position was reiterated in *P Rajagopal vs State of Tamil Nadu* 2019 (5) SCC 40, wherein it was observed: –

“12. Normally, the Court may reject the case of the prosecution in case of inordinate delay in lodging the first information report because of the possibility of a concoction of evidence by the prosecution. However, if the delay is satisfactorily explained, the Court will decide the matter on the merits without giving much importance to such delay. The Court is duty-bound to determine whether the explanation afforded is plausible enough given the facts and circumstances of the case. The delay may be condoned if the complainant appears to be reliable and without any motive for implicating the accused falsely. [See *Apren Joseph v. State of Kerala*, (1973) 3 SCC 114; *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1].”

20. A similar view was taken in *Sekaran v. State of T.N.*, (2024) 2 SCC 176; (2024) 1 SCC (Cri) 548: 2023 SCC OnLine SC 1653, wherein it was observed on page 182:

“14. We start with the FIR, to which exception has been taken by the appellant, urging that there has been no satisfactory explanation for its belated registration. It is trite that merely because there is some delay in lodging an FIR, the same by itself and without anything more ought not to weigh in the mind of the courts in all cases as fatal for the prosecution. A realistic and pragmatic approach has to be adopted, keeping in mind the peculiarities of each particular case, to assess whether the unexplained delay in lodging the FIR is an afterthought to give a coloured version of the incident, which is sufficient to corrode the credibility of the prosecution’s version.

15. In cases where delay occurs, it has to be tested on the anvil of other attending circumstances. If on an overall consideration of all relevant circumstances it appears to the court that the delay in lodging the FIR has been explained, mere delay cannot be sufficient to disbelieve the prosecution case; however, if the delay is not satisfactorily explained and it appears to the court that cause for the delay had been necessitated to frame anyone as an accused, there is no

reason as to why the delay should not be considered as fatal forming part of several factors to vitiate the conviction.”

21. Therefore, the learned Trial Court was justified in doubting the prosecution’s case because of the delay.

22. Som Dutt (PW3) admitted in his cross-examination that there was a land dispute between the parties. He stated that the complainant, Puran Chand (PW2), was drawing water from the Bowri located one kilometre from his house. This falsifies the contents of the complaint (Ext.PW1/A) that the complainants were drawing water from the water springs located near their house, which was fenced by the accused.

23. Bhagati Devi (PW6) stated that the accused gave beatings to the family of Puran Chand inside their house. Significantly, she has not mentioned any date on which such beating was given. She has not mentioned the names of the assailants and the names of the victims. It was laid down by the Hon’ble Supreme Court in *Pandurang vs. State of Hyderabad*, AIR 1955 SC 216, that it is unsafe to rely upon the omnibus statement that the accused had committed the offence. It was observed:

“Rasikabai says that the "accused" raised their axes and sticks and threatened her when she called out to them, but that again is an all-embracing statement which we are not prepared to take literally in the absence of further particulars. People do not ordinarily act in unison like a

Greek chorus, and, quite apart from dishonesty, this is a favourite device with witnesses who are either not mentally alert or are mentally lazy and are given to loose thinking. They are often apt to say "all" even when they only saw "some" because they are too lazy, mentally, to differentiate. Unless, therefore, a witness particularises when there are several accused, it is ordinarily unsafe to accept omnibus inclusions like this at their face value."

24. Therefore, her testimony that the accused had given beatings to the family of Puran Chand is not sufficient to record conviction.

25. No person deposed that the accused had administered poison to the complainants' oxen in their presence. The complainants had also not produced the report of the post-mortem examination of their oxen to show that the oxen had died because of the poisoning. Therefore, the averments in the complaint that the accused had killed the complainants' oxen by poisoning them were not proved.

26. The complainants claimed in the complaint that the accused had taken forcible possession of their cow shed and residential house. Learned Trial Court had rightly pointed out that the documents of the land where the house and cow shed were located were not produced.

27. It was asserted in the appeal filed by the complainant that a proper opportunity was not provided to the complainant to file a proper complaint. The ingredients of the complaint under Section 156(3) or the protest petition did not satisfy the requirements of the complaint. This submission will not help the complainant. It was for the complainant to mention the facts constituting the commission of a cognizable offence in the complaint made by them to the Court under Section 156(3) of the CrPC. It is undisputed that the police had submitted a cancellation report in the present matter. The complainants were entitled to file a protest petition against the cancellation report prepared by the police, and the Court could have treated the protest petition as a complaint. It was laid down by the Hon'ble Supreme Court in *Vishnu Kumar Tiwari v. State of U.P.*, (2019) 8 SCC 27: 2019 SCC OnLine SC 877 that the magistrate can take cognisance of the protest petition as a complaint if it discloses the commission of a cognisable offence. It was observed at page 47:

43. It is true that law mandates notice to the informant/complainant where the Magistrate contemplates accepting the final report. On receipt of notice, the informant may address the court, ventilating his objections to the final report. This he usually does in the form of the protest petition. In *Mahabir Prasad Agarwala v. State* [*Mahabir Prasad Agarwala v. State*, 1957 SCC OnLine Ori 5: AIR 1958 Ori 11], a learned Judge of the High Court of Orissa took the view that a

protest petition is in the nature of a complaint and should be examined in accordance with the provisions of Chapter XVI of the Criminal Procedure Code. We, however, also noticed that in *Qasim v. State* [*Qasim v. State*, 1984 SCC OnLine All 260: 1984 Cri LJ 1677], a learned Single Judge of the High Court of Judicature at Allahabad, inter alia, held as follows: (*Qasim case* [*Qasim v. State*, 1984 SCC OnLine All 260: 1984 Cri LJ 1677], SCC OnLine All para 6)

“6. ... In *Abhinandan Jha* [*Abhinandan Jha v. Dinesh Mishra*, AIR 1968 SC 117: 1968 Cri LJ 97 : (1967) 3 SCR 668] also what was observed was “it is not very clear as to whether the Magistrate has chosen to treat the protest petition as complaint”. This observation would not mean that every protest petition must necessarily be treated as a complaint whether it satisfies the conditions of the complaint or not. A *private complaint* is to contain a complete list of witnesses to be examined. A further examination of the complainant is made under Section 200 CrPC. If the Magistrate did not treat the protest petition as a complaint, the protest petition not satisfying all the conditions of a complaint to his mind, it would not mean that the case has become a complaint case. In fact, in the majority of cases, when a final report is submitted, the Magistrate has to simply consider whether, on the materials in the case diary, no case is made out to accept the final report or whether the case diary discloses a *prima facie* case to take cognisance. The protest petition in such situation simply serves the purpose of drawing the Magistrate's attention to the materials in the case diary and invites a careful scrutiny and exercise of the mind by the Magistrate, so it cannot be held that simply because there is a protest petition the case is to become a complaint case.” (emphasis supplied)

44. We may also notice that in *Veerappa v. Bhimareddappa* [*Veerappa v. Bhimareddappa*, 2001 SCC OnLine Kar 447: 2002 Cri LJ 2150], the High Court of Karnataka observed as follows: (SCC OnLine Kar para 9)

“9. From the above, the position that emerges is this: Where initially the complainant has not filed any complaint before the Magistrate under Section 200 CrPC,

but, has approached the police only and where the police after investigation have filed the 'B' report, if the complainant wants to protest, he is thereby inviting the Magistrate to take cognizance under Section 190(1)(a) CrPC on a complaint. If it were to be so, the protest petition that he files shall have to satisfy the requirements of a complaint as defined in Section 2(d) CrPC, and that should contain facts that constitute an offence, for which the learned Magistrate is taking cognizance under Section 190(1)(a) CrPC. Instead, if it is to be simply styled as a protest petition without containing all those necessary particulars that a normal complaint has to contain, then it cannot be construed as a complaint for the purpose of proceeding under Section 200 CrPC."

45. "Complaint" is defined in Section 2(d) of the Code as follows:

"2. (d) "**complaint**" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation. —A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;"

46. If a protest petition fulfils the requirements of a complaint, the Magistrate may treat the protest petition as a complaint and deal with the same as required under Section 200 read with Section 202 of the Code. In this case, in fact, there is no list of witnesses as such in the protest petition. The prayer in the protest petition is to set aside the final report and to allow the application against the final report. While we are not suggesting that the form must entirely be decisive of the question whether it amounts to a complaint or is liable to be treated as a complaint, we would think that essentially, the protest petition in this case is a summing up

of the objections of the second respondent against the final report.

28. Thus, there is no infirmity in the procedure adopted by the learned Magistrate in treating the protest petition as a complaint.

29. No other point was urged.

30. Therefore, the learned Trial Court had taken a reasonable view that could have been taken based on the evidence led before it and no interference is required with the reasonable view of the learned Trial Court, even if another view is possible.

31. In view of the above, the present appeals fail, and are dismissed. All the pending applications, if any, also stand disposed of.

32. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondents/accused are directed to furnish bail bonds in the sum of ₹25,000/- each with one surety each in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondents/accused on

receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

33. A copy of the judgment, along with records of the learned Courts below, be sent back forthwith.

(Rakesh Kainthla)
Judge

9th September, 2026
(Nikita)