

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51050 of 2012

Arising Out of PS.Case No. -326 Year- 2012 Thana –Muzaffarpur Sadar District- Muzaffarpur.

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1. Sharukh Khan @ Sharukhmirtaj Khan S/O Late Mirtaj Khan, R/O Mannat, Land End Bandstand, Bandra (West), Mumbai - 50
 2. Gauri Khan @ Gauri Chibbar W/O Sharukh Khan, R/O Mannat, Land End Bandstand, Bandra (West), Mumbai - 50
 3. Varun Dhawan S/O David Dhawan, R/O 2nd Floor, Beach Wood, Oberoi Enclave, Juhu, Mumbai - 49
 4. Karan Johar S/O Late Yash Johar, R/O 52 Eden Roc, Union Park Hill, Bandra (West), Mumbai - 50
 5. Dharma Production Pvt. Ltd., through its Director, Karan Johar, having Office at 29 Jains Arcade, 2nd Floor, 14th Road, Khar (West), Mumbai - 52
 6. Alia Bhatt D/O Mahesh Bhatt, R/O 205 B, Silver Beach Apartment, Juhu, Mumbai - 49
 7. Sidharath Malhotra S/O Sunil Malhotra, R/O 7/C, Balmoral Hall, Mount Mary Road, Bandra (West), Mumbai - 50

.... Petitioners

Versus

1. The State of Bihar
2. Sudhir Kumar Ojha Son Of Krishandeo Ojha, R/O Village - Lahladpur Patahi, P.S. Sadar, District – Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioners : Mr. Chittaranjan Sinha, Sr. Advocate.
Mr. Satyavrat Verma, Advocate.
For the Opposite Party/s : Mr. Vijay Kumar Singh, Advocate.
Mr. Pankaj Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date: 19-05-2015

Heard learned counsel for the petitioners and
learned APP for the State.

2. The present petition has been filed for quashing
the F.I.R. in Muzaffarpur Sadar P.S. Case No. 326 of 2012 for
the offences under Sections 294, 295 and 295A of the Indian
Penal Code instituted in pursuance of an order under Section

156(3) Cr. P.C. passed by the learned Chief Judicial Magistrate, District- Muzaffarpur in Complaint Case No. 3099 of 2012.

3. According to the complaint, the complainant, who claims to be a Hindu, viewed the film "Student of the Year" on CD and Videocon Dish Channel which contained an objectionable song in the context of the Indian God referred herein as 'K' and Goddess 'R'. It is alleged that the accused persons have made the said film which contains a song referring to Goddess 'R' as 'Sexy', in order to intentionally hurt Hindu sentiments and the film is being exhibited all over the country.

4. Learned Senior counsel, Mr. Chittaranjan Sinha, appearing for the petitioners submits that the petitioners have been falsely and maliciously implicated and no offence is made out even according to the accusations contained in the F.I.R. It is submitted that the petitioner nos. 2 to 7 are themselves Hindu by faith and practicing Hindus while petitioner no. 1 is a Muslim by faith but is married to petitioner no. 2 who is a Hindu and they have the highest regard for Hindu faith. The movie in question is not based on mythology or God and Goddesses and the name 'R' which describes the character of the female lead in the song was never intended to depict Devi 'R' much less in a derogatory manner. In any event it is submitted that the word 'Sexy' had already been substituted with the word 'Desi' while describing the female lead, 'R', in the song. Such

change was made in the film even prior to its release itself, as well as in all Audio C.D.S released thereafter which bear the changed word.

5. Learned A.P.P. assisted by learned counsel for the complainant/informant appears and opposes the petition.

6. The provisions of Sections 294, 295 and 295A of the Indian Penal Code may be reproduced hereunder for the sake of convenience.

" 294. Obscene acts and songs-

Whoever, to the annoyance of others-

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

295. Injuring or defiling place of worship with intent to insult the religion of any class- Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with

imprisonment of either description for a term which may extend to two years, or with fine, or with both.

295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs-

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of [citizens of India], [by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a terms which may extend to [three years], or with fine, or with both].”

7. It is quite apparent that the provisions of Section 294 Indian Penal Code are not attracted inasmuch as none of the petitioners are even alleged to have indulged in any obscene acts or sung any obscene song in any public place. Similarly, none of the petitioners has admittedly destroyed, damaged or defiled any place of worship or any sacred object and hence Section 295 Indian Penal Code would not be applicable. The provisions of Section 295A Indian Penal Code are also not attracted in the facts and circumstances of the case as there is nothing to show that the Hindu religion or its religious beliefs were either insulted or attempted to be insulted, much



less with deliberate and malicious intention of outraging the religious feelings of Hindus. It is noteworthy that the claim of the petitioners that the objectionable word in the song had been substituted even prior to the release of the film, has not been controverted by the opposite party no. 2.

8. Significantly the Censor Board does not appear to have raised any objection in this regard and appears to have cleared the song for being exhibited. It is not the case of the complainant that the film containing the song in question has not been cleared by the Censor Board.

9. The Hon'ble Supreme Court in para-102 of its oft-quoted decision rendered in State of Haryana vs. Bhajan Lal reported in 1992 Supp.(1) SCC 335 has indicated the circumstances in which a criminal prosecution may be quashed. One such circumstance is where the uncontroverted allegations in an F.I.R. or complaint do not disclose the commission of any offence and make out a case against the accused. The case at hand is such a case.

10. This Court is therefore of the view that the complaint filed by the opposite party no. 2 is out and out frivolous and completely lacks any substance whatsoever. Inasmuch as the provisions of Sections 294, 295 and 295A of the Indian Penal Code are not attracted, continuance of the prosecution of the petitioners in the facts and circumstances of

the case would tantamount to abuse of process of Court.

11. In the interest of justice, therefore, the F.I.R. in Muzaffarpur Sadar P.S. Case No. 326 of 2012 is hereby quashed. The petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

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