

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7013 of 2020

Arising Out of PS. Case No.-45 Year-2019 Thana- NASRIGANJ District- Rohtas

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Bhim Kumar, S/o Raj Kumar Prasad, R/o village- Postal Road, Nasriganj
Ward No. 1, P.S.- Nasriganj, District- Rohtas.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Raghunandan Kumar Singh, Advocate
For the Opposite Party : Ms. Dr. Indihar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 22-03-2023

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

This application has been filed for quashing of
F.I.R. vide Nasriganj P.S. Case No. 45 of 2019 registered for the
offences under Sections 153-A and 295-A of the Indian Penal
Code.

As per the F.I.R. the informant, who is the Sub
Inspector of Police of Nasriganj Police Station, received an
information that due to some objectionable picture-message
posted on the WhatsApp, the persons of a particular community
raised hue and cry. On the basis of said information, the
informant reached the said place along with other police
personnel. After enquiry, the police found that one Shamsh



Tavrej @ Dilawan, who is the friend of the petitioner, has showed the WhatsApp status of the petitioner to his community and due to which the people of the said community are raising hue and cry. Accordingly, the present F.I.R. has been lodged against the petitioner.

Learned counsel for the petitioner submits that during the investigation, the police did not find any material to show that the petitioner has sent the alleged picture-message to others. He also submits that the petitioner has only posted the alleged picture-message on his WhatsApp status without any intention to harm the sentiments of a particular religion. He further submits that there is no material available on record to show that the alleged picture-message has been made viral by the petitioner.

Learned counsel for the petitioner also submits that the petitioner is a student and is preparing for competitive examinations. He lastly submits that from reading of the entire F.I.R. no offence is made out against the petitioner.

In support of his contentions, learned counsel for the petitioner has relied upon a decision of this Court rendered in the case of ***Akhilesh Dutta Verma @ Akhilesh Prasad Sinha vs. State of Bihar*** reported in ***2017 4 PLJR 225***.



Learned APP for the State fairly submits that in view of the judgment, on which the petitioner relies, the prosecution of the petitioner seems to be illegal and no offence is made out against him.

I have considered the submissions of the parties and perused the materials available on record.

The present F.I.R. has been lodged under Section 153-A and 295-A of the Indian Penal Code. The applicability of Sections 153-A and 295-A of the Indian Penal Code has been considered by the Hon'ble Supreme Court in catena of decisions and it has been held that *mens rea* is a necessary ingredient for attracting the offence under Section 153-A and 295-A of the Indian Penal Code.

From perusal of the F.I.R. it appears that the alleged picture-message has been posted by the petitioner on his whatsapp status only and the same has been shown by his friend to the people of a particular community. Further, there is nothing on record which suggests that it is the petitioner who has made viral the aforesaid picture-message in order to incite the feeling of a particular community. Moreover, the petitioner is a student and is preparing for competitive examinations and continuance of the present prosecution will spoil his entire



career.

Considering the aforesaid facts and also in the interest of justice, I find that no offence, as alleged in the F.I.R. is made out against the petitioner and the F.I.R is fit to be quashed in view of ratio laid down by the Hon’ble Apex Court in the case of *State of Haryana & Ors vs Ch. Bhajan Lal & Ors.* reported in *AIR 1992 604.*

Accordingly, this application is allowed. Consequently, F.I.R. vide Nasriganj P.S. Case No. 45 of 2019 registered for the offences under Sections 153-A and 295-A of the Indian Penal Code and all consequential proceedings arising out of the said FIR are quashed in the interest of justice.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	29.03.2023
Transmission Date	

