

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

259

CRM-M-7975-2017

Date of decision: 05.09.2023

Gurnam Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Harpinder Singh, Advocate
for the petitioner.

Mr. Pankaj Khullar, AAG, Punjab.

None for respondent No.2.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking quashing of FIR No.33 dated 31.03.2012 under Sections 295A/153A of the IPC registered at Police Station Subhanpur, District Kapurthala (Annexure P-1) and all other consequential proceedings arising therefrom.

2. Learned counsel for the petitioner *inter alia* contends that a perusal of the FIR in question which has been annexed as Annexure P-1, leaves no manner of doubt that no offence under Section 295A and 153A of the IPC is made out against the petitioner as *mens rea* which is one of the essential ingredients to attract the mischief of an offence specially under Section 295A of the IPC, is clearly missing in the case in hand. It has been further contended that the petitioner was working as a Granthi at Gurudwara Sahib; and while reading a book titled as 'Barah Maha Majh (Steek)' (hereinafter referred to as 'the Book'), he

noticed some remarks made therein qua Guru Valmik Ji, which he then brought to the notice of respondent No.2-complainant. Learned counsel has further submitted that the petitioner was neither the author nor publisher/printer/editor of the Book in question. However, while lodging the FIR in question, respondent No.2-complainant had strangely named the petitioner as an accused even though he was not even remotely connected with the co-accused who had allegedly printed and published the Book in question. Learned counsel has lastly contended that even otherwise the observations and other facts contained in the Book qua Maharishi Valmik were based on other scriptures and historical books and hence, no motive could be attributed to the petitioner to have caused any hurt or humiliation to the Valmik community in particular. Not only this, the offending portions pertaining to the life of Maharishi Valmik which had allegedly hurt the feelings of the complainant had been removed subsequently from the Book so as to assuage his feelings. Learned counsel has submitted that the FIR in question already stands quashed qua the publisher and author of the Book vide order dated 24.03.2023 passed in CRM-M-25233-2017. Hence, in the circumstances, the FIR in question and all subsequent proceedings qua the petitioner be also quashed as it would be an abuse of the process of law. In support of his contentions, learned counsel has placed reliance upon ***CRM-M-46173-2019 titled as 'Tilak Raj Vs. State of Punjab and another' decided on 28.02.2020; Mahendra Singh Dhoni Vs. Yerraguntia Shyamsundar : 2017(2) (Criminal) 746; Jai Ram Sharma Vs. State of Punjab : 1998(3) RCR (Criminal) 295; Shivaji S/o Sukhdeo Jaware Vs. The State of***

Maharashtra and another : 2014(24) RCR (Criminal) 766; Priya Prakash Varrier and others Vs. State of Telangana and another : 2018(4) RCR (Criminal) 176; CRM-M-18590-2010 titled as 'Manjula Sahdev and others Vs. State of Punjab and another' decided on 23.04.2019; Aash Mohammad Vs. State of Haryana and others : 2017(2) RCR (Criminal) 855 and CRM-M-31988-2012 titled as 'Maninder Singh and another Vs. State of Punjab and another' decided on 02.08.2013.

3. Reply by way of affidavit of Gaurav Toora, IPS, Assistant Superintendent of Police, Sub Division Bholath, District Kapurthala, is on record which has been filed on behalf of respondent No.1-State.

4. Per contra, learned State counsel has not disputed that no allegations much less specific had been levelled against the petitioner in the FIR in question. It has also not been disputed that in the FIR it had been mentioned that it was the petitioner who had brought to the notice of the complainant, the contents of the Book which contained the alleged offensive portions qua Maharishi Valmik. Learned State counsel has also not been able to dispute that the petitioner was a Granthi in a Gurudwara and he had no role to play in either printing, editing or publishing of the Book in question. Learned State counsel has not disputed that the FIR in question already stands quashed qua publisher and author of the Book.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding further, it would be apposite to reproduce Sections 295A and 153A of the IPC which read as thus:-

“295A. 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 term which may extend to three years, or with fine, or with both.

153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—

(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Offence committed in place of worship, etc.— Whoever

commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.”

7. A bare reading of the above reproduced provisions of law reveal that the basic ingredients to attract the mischief of an offence under Section 295A of the IPC are :-

- (i) the accused must insult or attempt to insult the religion or religious beliefs of any class of citizens of India;
- (ii) the said insult must be with a deliberate and malicious intention of outraging the religious feelings of the said class of citizens; and
- (iii) the said insult must be by words, either spoken or written, by signs or by visible representation or otherwise.

8. The basic ingredients to attract the offence under Section 153A of the IPC are:-

- (i) the words, statements, or signs must cause enmity, hatred, and disturbance of harmony between different racial, religious, and language groups;
- (ii) the alleged enmity must be caused among two or more communities;
- (iii) the presence of *mens rea*, i.e., the person must have the intention of causing enmity and disharmony between different groups and communities of people; and
- (iv) the words, spoken or written, must be of a serious nature and must directly hurt the deep religious sentiments

of the groups or community.

9. Considering the case at hand, it is nothing but preposterous to interpret the particular portions of the Book i.e. at pages 49, 50 and 51, as malicious or derogatory to any community or sect, in the instant case to the Balmik community. Even as per historical books and ancient scriptures, Maharishi Valmik was born as Ratnakar, before he attained enlightenment; while in meditative penance, eons passed and he remained in eternal bliss and trance, oblivious of the ant hill that had engulfed his entire body, thereby getting the name of Valmik. This Court fails to comprehend as to how the petitioner, who is neither the author of the Book nor the publisher or even the editor, could have committed an offence inviting the mischief of Section 295A of the IPC. As per the contents of the FIR, it is the petitioner who had mentioned about the Book to the complainant. A bare reading of the FIR reveals that no allegations have been levelled against the petitioner much less of distorting any facts relating to the life of Maharishi Valmik or he having intentionally circulated or distorted information about Maharishi Valmik. Thus, the petitioner without a doubt is on a much better footing than co-accused i.e. the publisher and author of the Book qua whom the FIR in question already stands quashed vide order dated 24.03.2023 passed in CRM-M-25233-2017.

10. It needs to be reiterated that Section 295A of the IPC does not penalize any and every act of insult or an attempt to insult the religion or the religious beliefs of a person or a community but it penalizes only those acts of insults or attempts which have been

perpetrated with a deliberate and malicious intent so as to outrage the religious feelings of a particular class/community. Insults to religion made unwittingly or carelessly without any malicious or deliberate intent would certainly be out of the purview of Section 295A of the IPC.

11. It would also be appropriate to notice here that the Publishing House had made amends in their subsequent publications in deference to the feelings of the complainant and had deleted the alleged offending portions of the Book.

12. In view of the above discussion, the instant petition is allowed and the FIR in question and all consequential proceedings arising therefrom are quashed qua the petitioner.

05.09.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No