



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1028 OF 2024

Khyyum s/o Khadir Patwari

Age: 48 years, Occu: business,

R/o: Talni, Tq. Ausa, Dist. Latur.

----- Applicant

VERSUS

1. The State of Maharashtra,
Through Police Station, Killari,
Tq. Ausa, Dist. Latur.

2. Govind s/o Kiran Babalsure
Age: 38 years, Occu: Agriculture,
R/o: Killari, Tq. Ausa, Dist. Latur

----- Respondents

Mr. I. D. Maniyar, Advocate for Applicant

Mr. G. A. Kulkarni, APP for Respondent No.1-State

CORAM	:Smt. Vibha Kankanwadi & Hiten S. Venegavkar, JJ.
DATE	: 12th September, 2025

JUDGMENT (PER : Hiten S. Venegavkar, J) :-

1. Rule. Rule made returnable forthwith.
2. With the consent of parties, application is taken up for final

hearing and disposal at the admission stage itself.

3. Before we proceed to decide the present criminal application filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C") on the basis of its factual matrix, arguments of the respective lawyers and legal pronouncements of the Hon'ble Apex Court, we must mention that the present application invites the Constitutional Court once again to answer the recurring question that falls in the midst of free speech and criminal law. In a situation to analyze as to when and in what narrow circumstances, can offensive words uttered in the heat of quarrel be leveled from their context and made to bear the weight of an aggravated offence such as one under Section 295 A of Indian Penal Code. The issue in our view cannot be answered merely on the basis of facts and circumstances but requires stricter and constitutional principles and safeguards guaranteed by the Constitution of India under Article 19 and also by keeping in mind the aims and object with which Indian legislature has drafted Section 295 A of Indian Penal Code (for short "I.P.C"). The law does protect religious belief from deliberate and strategic spread of false or misleading information or to be abused so as to cause damage in the society thereby affecting societal peace, law and order situation. However, it definitely does not create a criminal enclave around political leaders or community icons. However, may be the public following of said leader and however unwittingly

the insult may be when measured against politeness, respect and courteous behavior to hold otherwise or decide differently. Broader meaning if applied to terms used in Section 295A will affect the free speech, encourage unfair use of laws for political gains and turn a small exception into a larger problem. Keeping these safeguards and limitations in our mind, we now proceed to decide the case in hand on these parameters.

Factual Matrix of the case :-

4. The facts in the present case are not in serious dispute and can be stated briefly. On 12.12.2023 at about 6:30 PM, inside one Kinara Bar at Killari, the applicant said to have consumed liquor and got into a quarrel with the waiter of the said restaurant and bar. During the said altercation, he alleged to have used abusive words by referring to Mr. Manoj Jarange Patil a public figure associated and leading agitation for Maratha reservation, more specifically described in the First Information Report (for short “F.I.R.”) as “Maratha Yodha”. Even when the informant tried to intervene and advise the applicant not to use such derogatory remarks and abusive language towards Mr. Manoj Jarange Patil, still the applicant continued directing abuse towards the said person. The informant therefore, alleges that the words used are disrespectful and “hurting religious feelings” of the Maratha community. It is

further alleged in the F.I.R that applicant's entire behavior, language and conversation with the informant and the waiter was recorded in the mobile phone and the same was also submitted to the police during the registration of the subjected F.I.R. It is a matter of record that the police therefore, on receipt of information from respondent No. 2 registered an offence vide Crime No. 0351of 2023 for the offences punishable under Section 295A and Section 504 of I.P.C against the present applicant. It is also important to mention that the contents of the F.I.R itself disclose that the present applicant tendered apology to the informant on spot about his act of directing abuses to Mr. Manoj Jarange Patil. The record produced before us shows that applicant came to be arrested and produced before the learned Judicial Magistrate First Class (for short "J.M.F.C"), AUSA and was then released on regular bail on certain terms and conditions.

5. On these foundational facts, the applicant have approached seeking quashing of the subjected F.I.R under Section 482 of Cr.P.C urging that the allegations even if taken wholly at its face value does not satisfy the essential ingredients required for constituting Section 295 A of I.P.C and also Section 504 of I.P.C.

6. We have heard learned Advocates for both the parties at length.

We also note that respondent No. 2- the original informant in the present case was duly served with the Court notice, however he has failed to enter his appearance through himself or by engaging a lawyer on his behalf. As he has been duly served with the notice of the criminal application, we have decided to proceed the petition with the assistance of the learned Advocate and learned APP.

7. The learned Advocate for the applicant argued that Section 295 A of I.P.C occupies a very narrow field and punishes only aggravated form of insult, such as deliberate and malicious acts which are intended to outrage the religious feelings of a “Class” by insulting its religion or religious beliefs. He argued that the abusive words alleged to have been used in the present case were directed against a person or a living individual as we can refer to is a known socio political leader and not directed towards any deity, scripture, doctrine, ritual for provision of it. There is absolutely no averment or even a inference mentioned in the entire F.I.R that the applicant has acted with a specific *mens rea* of outraging religious feelings of any community, much less the community of which Mr. Manoj Jarange Patil is known to be a leader of. To buttress his submissions, learned Advocate relied upon the judgment of Bombay High Court, Bench at Nagpur delivered in Criminal Application No. 685/2021 and submitted that on similar facts and circumstances, the Division Bench has quashed proceedings of Section 295A of Indian Penal Code. We

have also perused the pleadings and the grounds raised by the applicant in his criminal application where the applicant has placed reliance on the Constitutional Bench judgment of the Hon'ble Apex Court in **Ramji Lal Modi vs. State of Uttar Pradesh AIR 1957 SC 620**, the applicant has also relied on the judgment of **Mahendra Singh Dhoni vs. Yerraguntla Shyamsundar (2017) 7 SCC 760**. Relying upon the aforesaid judgments, it has been argued that necessary ingredients for constituting Section 295 A of I.P.C are absent from the F.I.R. Thus, according to learned Advocate for the applicant continuing the present proceedings against the applicant will amount to abuse of process of law. The learned Advocate for the applicant in addition to his aforesaid submissions also argued that the mandatory sanction under Section 196 of Cr.P.C has not been obtained by the police before registering the subjected F.I.R and, therefore, in absence of the said sanction, the F.I.R in question is bad in law.

8. The learned APP appearing on behalf of State vehemently opposed the present criminal application thereby countering the arguments of the learned Advocate for applicant. The learned APP took us through the relevant portions of the F.I.R mentioning abuse towards Mr. Manoj Jarange Patil and submitted that he is a leader of Maratha Community and has several followers. It is argued by the APP that directing abusive words and making derogatory

remarks towards the leader of Maratha community falls within the meaning of essential ingredient “hurts the religious sentiments” of Maratha community for constituting Section 295 A of I.P.C. Thus, according to the learned APP, upon reading the contents of the FIR, offences under Sections 295A and 504 of the I.P.C are directly made out, and therefore, the criminal application deserves to be dismissed. The learned APP also argued that the F.I.R in question is still under investigation and the Investigating Officer is in the process of collecting material by conducting investigation. Thus, this Court should not quash the F.I.R at such a nascent stage and allow the Investigating Officer to complete his investigation and come to a final conclusion.

9. Before analyzing the arguments of both the Advocates canvassed before us, we would like to summarize the governing legal position in respect of Section 295 A and Section 504 of I.P.C which reads as follows :-

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 term which may extend to three years, or with fine, or with both.*

504. Intentional insult with intent to provoke breach of the peace.- *Whoever intentionally insults, and thereby gives*

provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

A] Section 295 A of I.P.C penalizes deliberate and malicious acts intended to outrage religious feelings by insulting its religion or religious beliefs. This very section was subjected to challenge soon after independence before the Hon'ble Supreme Court of India in the case of Ramji Lal Modi (cited supra) which reads as under:-

8) *It is pointed out that S. 295A has been included in chap. 15. Penal Code which deals with offence relating to religion and not in chap. 8 which deals with offences against the public tranquillity and from this circumstance it is faintly sought to be urged, therefore, that offences relating to religion have no bearing on the maintenance of public order or tranquillity and consequently a law creating an offence relating to religion and imposing restrictions on the right to freedom of speech and expression cannot claim the protection of cl. (2) of Art. 19. A reference to Arts. 25 and 26 of the Constitution, which guarantee the right to freedom of religion, will show that the argument is utterly untenable. The right to freedom of religion assured by those Articles is expressly made subject to public order, morality and health. Therefore, it cannot be predicated that freedom of religion can have no bearing whatever on the maintenance of public order or that a law creating an offence relating to religion cannot under any circumstances be said to have been enacted in the interests of public order. Those two Articles in terms contemplate that restrictions may be imposed on the rights guaranteed by them in the interests of public order.*

(9) Learned counsel then shifted his ground and formulated his objection in a slightly different way. Insults to the religion or the religious beliefs of a class of citizens of India, may, says learned counsel, lead to public disorders in some cases, but in many cases they may not do so and, therefore, a law which imposes restrictions on the citizens' freedom of speech and expression by simply making insult to religion an offence will cover both varieties of insults, i.e., those which may lead to public disorders as well as those which may not. The law in so far as it covers the first variety may be said to have been enacted in the interests of public order within the meaning of cl. (2) of Art. 19, but in so far as it covers the remaining variety will not fall within that clause. The argument then concludes that so long as the possibility of the law being applied for purposes not sanctioned by the Constitution cannot be ruled out, the entire law should be held to be unconstitutional and void. We are unable, in view of the language used in the impugned section, to accede to this argument. In the first place cl. (2) of Art. 19 protects a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression "in the interest of public order," which is much wider than "for maintenance of public order. If, therefore, certain activities have a tendency to cause public disorder, a law penalising such activities as an offence cannot but be held to be a law imposing reasonable restriction "in the interests of public order" although in some cases those activities may not actually lead to a breach of public order. In the next place S. 295A does not penalise any and every act of insult to or attempt to insult the religion or the religious beliefs of a class of citizens but it penalises only those acts of insults to or those varieties of attempts to insult the religion or the religious beliefs of a class of citizens, which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. It only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate

and malicious intention of outraging the religious feelings of that class. The calculated tendency of this aggravated form of insult 'is clearly to disrupt the public order and the section, which penalises such activities, is well within the protection of cl. (2) of Art. 19 as being a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression guaranteed by Art. 19 (1) (a). Having regard to the ingredients of the offence created by the impugned section, there cannot, in our opinion, be any possibility of this law being applied for purposes not sanctioned by the Constitution. In other words, the language employed in the section is not wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative action affecting the fundamental right guaranteed by Art. 19 (1) (a) and consequently the question of severability does not arise and the decisions relied upon by learned counsel for the petitioner have no application to this case.

(10) For the reasons stated above, the impugned section falls well within the protection of cl. (2) Art. 19 and this application must, therefore, be dis-missed.

The constitutional validity of these offences and its strict constructions were settled by a Constitutional Bench in this judgment. While upholding the constitutionality of the provision as a narrowly tailored restriction “in the interests of public order” emphasizing that insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention, do not fall within this section. Thus, the Constitutional Bench judgment sustained the validity of Section 295A precisely because “it is narrowly drawn” punishing only aggravated form of insult perpetrated with

deliberate and malicious intention of outraging religious feelings and, therefore, falling within the “reasonable restrictions in the interests of public order” as permitted by Article 19(2) of the Constitution of India. Insults offered unwittingly or carelessly or without such deliberate and malicious intentions were held to be beyond its urge.

B] In case of Mahendra Singh Dhoni (cited supra)

6. *On a perusal of the aforesaid passages, it is clear as crystal that Section 295-A does not stipulate everything to be penalised and any and every act would tantamount to insult or attempt to insult the religion or the religious beliefs of a class of citizens. It penalises only those acts of insults to or those varieties of attempts to insult the religion or religious belief of a class of citizens which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class of citizens. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. The Constitution Bench has further clarified that the said provision only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Emphasis has been laid on the calculated tendency of the said aggravated form of insult and also to disrupt the public order to invite the penalty.*

Reaffirming this narrow test, the Apex Court held that the complaint alleging “hurting religious sentiments” was quashed because the allegations “remotely do not satisfy the essential ingredients of the offence” under Section 295A of I.P.C. The Court reiterated in this Case that the provisions does not penalize “any and every act” but only those which

aggravate by deliberate and malicious intent with a view to disrupt public order.

C] In the case of *Amish Devgan vs. Union of India 2021 (1) SCC 1*, the Hon'ble Apex Court undertook an exhaustive survey of hate speech offence thereby analyzing Section 165A, 295A and Section 505 of I.P.C. While refusing to quash a case where the derogatory remarks were directed against a sufi saint, the Court scrutinized the standard for Section 295A and observe that the speech must target religion or religious beliefs of a class and prosecution must show deliberate and malicious intent to outrage religious feelings. The Court thus imposed a higher standard distinguishing from mere insult or political criticism thereby carefully distinguishing between criticism of religion and vilification design to provoke public disorder, underscoring that Section 295A targets only later. Thus, aforesaid pronouncements flows from a constitutional philosophy. Freedom of speech is the lifeblood of democracy. Article 19(2) of the Constitution of India permits curtailment only for specific aids i.e., public order, dicency, morality, etc. Thus, only where curtailment bears proximate and reasonable nexus to the mischief, Section 295A of I.P.C survives constitutional scrutiny as it targets deliberate and malicious attacks on religious belief or religion itself. To extend it to every insult of popular leader or a community icon is to convert an exception into the rule and to place the

sword of criminal prosecution over the head of every dissenter. Such situation would lead to anarchy, of course no one should use abusive language while dissenting.

10. Thus, the conflict that the present case poses before us is religious feelings against insult to a person or socio political figure. The gravamen of Section 295A of I.P.C is the insult to religion or religious beliefs. It protects religion as a system of belief or worship, however it does not protect the leaders of a caste, community or any movement, as such. The socio political figure may be admired or followed by several persons but criticism or even crude abuses directed upon such figure, however disrespectful or derogatory it may not by its translate into an insult to a religion or a deliberate attempt to outrage the religious feelings of a "Class" by attacking their religion. A person may represent a religion in certain ways but he/she does not become 'religion' by such representation.

11. Applying the above principles to the case in hand, we are satisfied that the subject F.I.R at the highest alleges crude abuses aimed at an individual by name Mr. Manoj Jarange Patil who is community leader and more particularly referred in F.I.R as "Maratha Yodha" who has been sphere heading agitation of reservation for Maratha community. In the entire averments made

in the F.I.R., there is no reference of any insult to any religion or religious beliefs of any class and neither there is any deliberate and malicious intention to outrage religious feelings. There are absolutely no allegations about disparaging, deity, scripture, rite or theological tenet by the present applicant. Abusing or using disrespectful words for a socio political figure even if such person is regarded as a community champion, the same cannot be equated with adherence to a faith. The phrase “religious feelings” cannot draw similarity with wounded pride or political sentiments. Equally significant is the absence of deliberate and malicious intention. The occurrence took place in a bar and restaurant and during the course of altercation after consuming alcohol. The contents of the F.I.R also discloses that the applicant had tendered an apology on the very spot immediately to the informant about the alleged incident. We do not find any material, averment about the alleged incident in the F.I.R to suggest a concluded design to inflame communal violence or disturb the public order. Thus, following the Constitutional Bench judgment in Ramji Lal Modi (cited supra), we are of the opinion that Section 295A of I.P.C punishes only act where such aggravated intent is present as a concluded tendency to disrupt public order.

12. In so far as the applicability of Section 504 of I.P.C is concerned, a very perusal of Section 504 requires (i) intentional insult (ii) intend or knowing

that it would provoke breach of peace (iii) the insult must be such as to give provocation to a person insulted to commit breach of peace or commit an offence. As held by Hon'ble Supreme Court in case of **Fiona Shrikhande vs. State of Maharashtra and another 2013 (14) SCC 44,**

13. Section 504 IPC comprises of the following ingredients viz. (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 IPC.

14. We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, prima facie, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504 IPC. It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. The background facts, circumstances, the occasion, the manner in which they are used, the person or person to whom they are addressed, the time, the conduct of the

person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 IPC.

It is held that mere abuse or discourtesy without specific *mens rea* is outside the scope of Section 504 of I.P.C.

13. In the case in hand, F.I.R contends no averment of intended or likely breach of peace. Furthermore a prompt apology underscores the absence of the statutory mental element. Thus, the statutory element required under Section 504 of I.P.C is conspicuously missing in the subjected F.I.R. To sustain a prosecution under Section 504 that present facts as mentioned in the F.I.R would read the mental element into and will be contrary to the settled principles of strict construction of penal law.

14. We would also like to deal with the arguments of the learned Advocate for the applicant in respect of Section 196 of Cr.P.C. The argument deserves to be rejected outrightly for the simple reason that sanction required under Section 196 of Cr.P.C is a condition precedent to the Court for taking cognizance. It is the Court who takes cognizance of an offence after a report under Section 173 of Cr.P.C is filed by the Investigating Officer. It does not fetter police powers to register an F.I.R and investigate. Therefore, the arguments of the learned Advocate for the applicant for applicability of Section

196 of Cr.P.C is misconceived and untenable in law. Though we must clarify that this argument about absence of sanction does not rendered the F.I.R *epso facto* illegal. In the present case, this question is merely academic as in our considered view the F.I.R itself fails on its own merits.

15. From the aforesaid discussion and on the basis of settled principle of law mentioned herein above, we are satisfied that the present case clearly falls within well established categories laid down by the Hon'ble Apex Court in the case of **State of Haryana vs. Bhajan Lal 1992 Supl (1) SCC 330**. The said judgment authorizes quashing were the allegations even if taken at the face value do not constitute any offence or where the proceedings are manifestly intended with malafides. When the criminal law is set in motion on the facts that do not disclose basic ingredients of the offence alleged to be involved, the Constitutional Courts are duty bound to interfere and interdict the abuse.

16. On careful and anxious consideration of above, we hold that the F.I.R alleges at its highest only crude abuses to a individual who is community leader referred in F.I.R as Maratha Yodha. There is no insult to any religion or any religious beliefs of any class and neither there is any deliberate and malicious intention to outrage religious feelings. On the present facts and

nature of allegations, therefore, the offence punishable under Section 295A and Section 504 of I.P.C does not get attracted. The contents of the F.I.R does not disclose any intent or knowledge on the part of the applicant to provoke breach of peace. In addition to this, the apology and absence of any ensuing disturbance and lack of necessary *mens rea*, we hold that the criminal application deserves to be allowed and thus, we proceed to pass following order :

ORDER

1. Rule made absolute.
2. Criminal application stands allowed.
3. F.I.R. dated 12.12.2023 bearing No. 0351/2023 registered with Killari Police Station, Killari District. Latur, for the offences punishable under Section 295A and 504 of I.P.C. stands quashed and set aside against applicant namely Khyyum s/o Khadir Patwari.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

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