



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO.102 OF 2025

Khushal s/o Vasant Ramteke, aged 57
years, Occ. Police Constable, r/o Plot No.
176, Empress Mill Colony, Bezonbagh,
Nagpur, Tq. and Distt. Nagpur.

... APPLICANT

VERSUS

1. State of Maharashtra, through Police
Station Officer, Kanhan, Nagpur
Rural, Tq. and Distt. Nagpur.
2. Vikrantsingh s/o Ravisingh Solanki,
aged about 33 years, Occ. Business,
r/o shivaji Nagar, Kanhan, Tq.
Parseoni, Dist. Nagur.

... NON-APPLICANT(S).

Shri P.R. Agrawal, Advocate for the applicant.
Shri G.S. Umale, Addl. Public Prosecutor for the State.
Non-applicant no.2 served.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.

DATE : 07.05.2025.

ORAL JUDGMENT : (Per : Pravin S. Patil, J.)

RULE. Rule made returnable forthwith.

2. In the present case the offence under Section 299 of the Bharatiya Nyaya Sanhita (BNS), 2023 came to be registered against the applicant on the allegation that, on 22.09.2024, non-applicant no.2 while using his mobile, saw the What's App status of the applicant and found that some blasphemous words/abusive statement were posted against lord Rama. Therefore, non-applicant no. 2 called him and inquired as to what problem applicant have with lord Rama. To which the applicant replied that it is his opinion and everyone has right to keep his opinion on What's App status. However, according to non-applicant no. 2 his sentiments were hurt as he is Hindu and devotee of lord Rama, he therefore lodged the police complaint against the applicant & accordingly, offence is registered.

3. The main and principal submission of the applicant to challenge the registration of the offence is that the allegations do not fulfill the essential ingredients to constitute the offence under Section 299 of BNS Act, and therefore, the same is liable to be quashed and set aside.

4. We have heard the learned Counsel appearing for the

parties at some length and perused the record.

5. Learned Counsel for the applicant has relied upon the judgment of this Court in the case of ***Mukesh vs. State of Maharashtra and ors. 2025(1) AIR BomR (Cri) 43***, wherein it is observed thus :

“Similarly to constitute an offence punishable under Section 295-A of the Code, the essence is intention of the accused to outrage the religious feelings of a particular class. The learned Counsel appearing for the applicant would submit that to constitute an offence under Section 295-A of the Code, deliberate and malicious intent is an essential ingredient. In this regard he has relied on the decision of Supreme Court in case of Mahendra Singh Dhoni .vrs. Yerraguntla Shyamsundar and another – [2017] 7 SCC 760, wherein it is observed that, insult to religion unwittingly or careless or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the purview of Section 295-A of the Code. Similarly, he relied on the decision of this Court in case of Pramod Udebhan Shendre .vrs. The State of Maharashtra and another – Criminal Application No.1077/2023 and one decided on 24.07.2024, wherein this Court has dealt in extenso the requirement to constitute an offence punishable under Section 295-A of the Code. In said case some whatsapp messages having objectionable material were circulated on whatsapp group. In said context, this Court after analyzing the facts observed that the whatsapp chat/messages of the group are end to end encrypted, that means within the group. A third person has no access to such messages. In absence of deliberate and malicious intention of outraging the religious feeling, the offence would not be complete.”

6. Considering the ingredients of Section 299 of BNS Act

(Section 295-A of the IPC), the necessary ingredients to attract the offence, it is necessary for the prosecution to prove that accused must insult or attempt to insult the religion or religious beliefs on any class of citizen of India. Secondly, the said insult must be made with deliberate or malicious intention of outraging the religious feelings of said class of citizen. However, in the present case, the applicant has only kept status on his mobile and no third person has any access to such What's App Status unless he is in contact list of the applicant. Hence, in absence of deliberate and malicious intention of outraging the religious feelings, the offence is not made out against the applicant.

7. Considering the facts of the present case, we are of the confirmed opinion that case of the applicant is squarely covered by the judgment of this Court in the case of *Mukesh vs. State of Maharashtra (supra)* and therefore, there is no reason to take any other view in the matter. Hence, the present application deserves to be allowed and accordingly, we pass the following order :

(a) The Criminal Application is allowed.

(b) First Information Report No.652 of 2024 registered with Kanhan Police Station, Nagpur Rural for the offence

punishable under Section 299 of the Bharatiya Nyaya Sanhita, 2023 is hereby quash and set aside against the present applicant.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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