



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

TRANSFER PETITION (CRL.) NO. 846 OF 2023

Tejashwi Prasad Yadav

... Petitioner

versus

Hareshbhai Pranshankar Mehta

... Respondent

J U D G M E N T

ABHAY S. OKA, J.

FACTUAL ASPECTS

1. The respondent filed a private complaint against the petitioner in the Court of the Additional Chief Metropolitan Magistrate, Ahmedabad, alleging commission of the offence under Section 499, which is punishable under Section 500 of the Indian Penal Code (for short, 'the IPC'). The learned Magistrate issued a summons on 28th August 2023. The present petition seeks a transfer of the complaint from the Court in Ahmedabad to a Court in Delhi.

2. The complaint is based on the utterances of the petitioner, which formed part of a public statement made by the petitioner on 22nd March 2023, which was reported by both electronic and print media. It is alleged in the complaint

that the petitioner made a public statement to the following effect:-

“Jo bhi do thug hai na, jo thug hai, thug ko anumati jo hai, aaj ke desh ke condition me dekha jaye then only Gujarati hi thug ho sakte hai, aur uske thug ko maaf kiya jayega. LIC ko paisa do, bank ko paisa do, fir wo log le ke bhag jayenge, to kaun jimmedaar hoga?”

The respondent relied upon a pen drive of a video of the petitioner's statement appearing on YouTube. The case made out by the respondent is that by the above utterances, the petitioner has defamed the Gujarati people and the entire society of Gujarat. His contention is that the petitioner described all Gujarati people as “thugs”. According to the case made out in the complaint, as a result of the said utterances, people from other societies have started looking upon Gujaratis as crooks and criminals. When the complaint was filed, the petitioner was the Deputy Chief Minister of Bihar.

3. This Court issued notice on 6th November 2023 and granted a stay of proceedings of the Complaint. At that time, the statement of the learned senior counsel appearing for the petitioner was recorded that he would seek necessary instructions from the petitioner. The petitioner filed an affidavit dated 18th January 2024. Paragraphs 1 to 4 of the said affidavit read thus:

“1. At the outset, I wish to clarify that qua that part of the speech that is alleged to be defamatory, it was made in the context of a question asked to me with respect to the Red Corner notice issued against Mehul Choksi which has been revoked. In that context, I was asked whether the CBI has failed to bring back Mehul Choksi to India. I was responding to the failure of CBI to deal with such alleged swindlers.

2. My answer was in response to this specific question. I wondered how such swindlers were allowed to operate in India in the fashion that they did and in that context, I referred to the expression Gujarati and said "Only Gujarati may be swindler and these swindlers may be exonerated". I further said, "If provide the money of LIC and provide money of the bank to the swindlers then these swindlers will take money and ran away, who shall be responsible?"

3. My statement has been interpreted to mean that I intentionally wanted to defame Gujaratis as a community. This is far from the truth. I hold Gujaratis, as a community in great esteem and have no against them. Further want to state greatest gift to the mankind i.e. our great Mahatma Gandhi was from Gujarat. I had no intentions to defame Gujaratis as a community. However, if any Gujarati feels that I by using the expression noted above hurt their sentiments, that certainly was not my intention.

4. Therefore, I unconditionally withdraw that part of my statement made on 22.03.2023 in which I use the expression that only "Only Gujarati may be swindler and these swindlers may be exonerated"."

(underline supplied)

4. On 29th January 2024, when this petition was heard, the learned counsel appearing for the respondent pointed out that the petitioner had not withdrawn his entire offending statement. Therefore, the petitioner filed another affidavit dated 31st January 2024. Paragraphs 4 to 6 thereof read thus:

“4. Therefore, I unconditionally withdraw that part of my statement made on 22.03.2023 in which I use the expression that only "Only Gujarati may be swindler and these swindlers may be exonerated". Further I unconditionally withdraw any part of my statement made on 22.03.2023 against “People of State of Gujarat”.

5. I reiterate that the context in which the statement was made related to those fugitives who had swindled money, cheated the Government and ran away from the country. The said statement was not meant to hurt the sentiments of Gujaratis as a community.

6. I have clarified the intent of my statement made on 22.03.2023 and withdrawn it so that no Gujarati may feel defamed as alleged.”

(underline supplied)

5. From the two affidavits, it is clear that not only has the petitioner withdrawn the offending statements made by him based on which the complaint was filed, but he has also stated that he never intended to defame Gujaratis as a community. He has also stated that he holds Gujaratis as a community in great esteem. On a conjoint reading of both the affidavits, it is very clear that the petitioner has withdrawn the statements made by him on 22nd March 2023, which, according to the respondent, were defamatory to the entire Gujarati community.

6. On 22nd January 2024, the learned counsel for the respondent was granted time to take instructions on the first affidavit filed by the petitioner. On 29th January 2024, we had put the respondent to notice that if the petitioner withdraws his offending statements, it will be appropriate that the entire controversy is put to rest by quashing the complaint.

7. On 5th February 2024, the learned counsel appearing for the respondent stated that the respondent has not given him specific instructions to consent to quashing the complaint. However, the learned counsel fairly submitted that in the light of the withdrawal of the statements and two affidavits filed by the petitioner, this Court may pass appropriate orders.

8. We have already reproduced the statements on oath made by the petitioner. The conjoint reading of the affidavits of the petitioner indicates that the statements made by the

petitioner on the basis of which a complaint of defamation was filed, have been unconditionally withdrawn. The petitioner has stated that he holds Gujaratis as a community in great esteem and has no ill will or animus against them. In fact, he has stated that Gujarat has given the greatest gift to mankind of Mahatma Gandhi. He has repeatedly stated that he had no intention of defaming Gujaratis as a community. He stated that on 22nd March 2023, while briefing the media outside the Bihar Legislative Assembly, he made the statement in response to a question asked to him as regards the allegation that the Red Corner Notice issued against one Mehul Choksi has been revoked. Now by filing affidavits, the petitioner has unconditionally withdrawn the statements made by him which were objected to by the respondent.

9. It is true that every prosecution for defamation for the offence under Section 499, which is punishable under Section 500 of the IPC, cannot be quashed on the ground that the offending allegations have been withdrawn.

10. However, in the facts of the present case, not only that the statements have been unconditionally withdrawn, but the petitioner has also explained the circumstances and the context in which the statements were made. Under Article 142 of the Constitution of India, this Court possesses extraordinary Constitutional powers to pass any decree or order which is necessary for doing complete justice between the parties. In this case, the respondent appears to have been hurt in view of the statements made by the petitioner

generally about Gujarati people. Now, after the petitioner has explained the context in which he made the statements and after withdrawal of those statements, in the facts of the case, it is unjust to continue the prosecution. No purpose will be served by continuing the prosecution. Therefore, we are of the view that in the peculiar facts of the case, this is a fit case to quash the complaint.

11. Hence, we quash criminal case bearing no.CC/83849/2023 arising out of the case no.CR/EN/7110/2023, titled Hareshbhai Pranshankar Mehta versus Tejaswi Lalu Prasad Yadav, pending in the Court of the learned Additional Chief Metropolitan Magistrate, Ahmedabad. As the complaint has been quashed, the prayer for transfer will not survive.

12. The petition is disposed of on the above terms.

.....J.
(Abhay S. Oka)

.....J.
(Ujjal Bhuyan)

**New Delhi;
February 13, 2024.**