IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 20th OF SEPTEMBER, 2024

WRIT PETITION No. 27241 of 2024

MOHAMMAD BILAL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Rishabh Singh – Advocate for petitioner.

Shri Abhishek Singh – Government Advocate for respondents /State.

ORDER

This petition under Article 226 of Constitution of India has been filed seeking following relief(s):

> "(i) To issue a writ in the nature of certiorari for quashing the FIR dated 17.08.2023 (Ann.P/1) registered at P.S. City Kotwali, District Satna in Crime No.586/2023, in the interest of justice.
> (ii) To call for the relevant record pertaining to the investigation of the matter for kind perusal of this Hon'ble Court.
> (iii) Any other suitable relief deemed fit in the facts and circumstances of the case and cost of the petition may also be given by this Hon'ble Court."

2. It is submitted by counsel for petitioner that on 15.08.2023, some persons by hacking his Instagram account uploaded an offensive post thereby hurting the feelings of another religion. On 15.08.2023, the

petitioner gave a written complaint to the S.H.O. Police Station, City Kotwali, District Satna to the effect that some unknown person has uploaded an offensive post on his Instagram account and the screenshot of the same has been sent to Mayank Tiwari who is abusing him on phone. Thereafter, on 17.08.2023, the father of the petitioner had also made a complaint with regard to uploading of the offensive post on his Instagram account. However, on 17.08.2023 itself, the FIR in question has been registered for offence under Sections 294, 153-A, 295(A) of IPC and under Section 3(1)(da), 3(1)(Dha) and 3(2)(Va) of SC & ST (POA) Act. It is submitted that the allegations made in the FIR are false and father of the petitioner had already expressed his apprehension on 17.08.2023 by making a complaint to Superintendent of Police, Satna.

3. Heard the learned counsel for petitioner.

5. The petitioner has admitted that an offensive post was uploaded on his Instagram account.

6. Now, the only question for consideration is as to whether it was a deliberate act on the part of the petitioner or somebody else uploaded the said post by hacking his Instagram account ?

7. It is a defence of the petitioner, which cannot be considered at this stage.

8. However, even if it is presumed (not a finding) that the offensive post was uploaded on the Instagram account of the petitioner by hacking his account still then petitioner had no right/authority to commit the offence as alleged in the FIR.

9. The FIR in question reads as under:-

> "फरियादी सुजल बाल्मीक पिता अशोक वाल्मीक उम्र 23 वर्ष निवासी सिन्धी फैम्प वाल्मीक कालोनी थाना कोलगवां जिला सतना का थाना

उपस्थित आकर एक किता लिखित आवेदन पत्र बिलाल खान के विरुद्ध पेश किया आवेदन पत्र मजमून से अपराध धारा 294, 153 A. 295A ताहि., 3 (1) (द)(ध), 3(2)(va) Sc st act का घटित होना पाये जाने से अपराध सदर कायम कर विवेचना में लिया गया। नकल आवेदन पत्र शब्दशः जैल है। श्रीमान थाना प्रभारी महोदय थाना सिटी कोतवाली सतना (म.प्र) विषय आर्मी कि भावनाये भडकाने, देश अशांती के लीये भगवान को अपशब्द पोस्ट करने व जातीसुचक गालीया देकर अपमानीत करने पर कार्यवाही हेतु। मान्यवर निवेदन है की में सुजन बाल्मीक पीता अशोक बाल्मीक सिंधी कैम्प सतना का रहने वाला है नजीराबाद के विलाल खान ने भगवान राम, हिन्दु जाती व हिन्दु राष्ट्र पर अपमान जनक पोस्ट इन्सटाग्राम में डाला था जिसकी जानकारी तुशार चाल्मीक को हुई तुशार ने मुझे 9329840038 से पोस्ट की स्क्रीन शाट भेजी इसे देखने के घाट में अपने नीजी से कार्य से डालीबाबा जा रहा था तभी गौशाला चोक के पास बीलाल मिल गया मैने रुककर बोला की तुम उटपटोग पोस्ट क्यों कर रहे हो तभी उसने मुझे कहा की मेहतर मादरचोद चमरा तु मुझे ज्ञान देगा में तुम्हारी भी गाड मारुंगा जा जो करना है कर लो तुम जैसे झटुओं से मेरा कुछ नहीं होगा तुम चमरा मादर चोद कबसे राम भक्त हो गए तुम्हारी हिन्दु जात के कारण ही ऐसा हो रहा है। पोस्ट में भगवान राम, मुख्य मंत्री योगी आदीत्यनाथ व हिन्दु धर्म के विरुद्ध सार्वजनिक अपमानजनक मादरचोद MC गाड मारने आदी शब्दों का उपयोग कीया गया था। निवेदन है की कार्यवाही करने की कृपा करे। पोस्ट की प्रती संलग्न है। दि 16/08/2023 हस्ताक्षर सुजल बाल्मीक प्रार्थी सुजल बाल्मीक S/o अशोक बाल्मीक 7024409022"

10. From the FIR, it is clear that the complainant had inquired from the petitioner as to why an offensive post has been uploaded on his Instagram account, then instead of explaining that the said post was uploaded by somebody else by hacking his account, he started abusing and humiliating the complainant and also hurt his religious feelings. This conduct of the petitioner indicates that the defence of uploading the offensive post on his Instagram account by somebody else is incorrect.

10. Be that whatever it may be.

11. Since, uploading of an offensive post on his Instagram account has been admitted by the petitioner himself, therefore, he had no right to react in a manner in which it was done with the complainant. Whether

allegations made in the FIR are correct or not cannot be considered at this stage.

12. This Court while exercising power under Section 482 of Cr.P.C. or under Article 226 of Constitution of India has to consider the allegations as a gospel truth and then come to a conclusion as to whether any offence is made out or not. The defence of the suspect/accused cannot be taken into account. Considering the fact that the FIR in question discloses the commission of cognizable offence, no case is made out warranting interference.

13. The petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

VB*