

SYNOPSIS

Introduction

1. The Petitioner is an Advocate practicing before the Hon'ble Courts in New Delhi having a standing of 10+ years at the Bar. Apart from practicing as an Advocate, the Petitioner was the National Spokesperson for the Bhartiya Janata Party ("BJP") and has been participating in Television debates responsibly for more than a decade. During her professional commitments, the Petitioner had to appear from time to time in various television debates and symposiums/discussions. It is respectfully submitted that during the discharge of such professional commitments during a TV debate in New Delhi, certain references were made by the Petitioner. It may be noted that the references have subsequently been publicly withdrawn by the Petitioner.

The said video of the Petitioner was doctored mischievously and thereafter highlighted and shared across various social media platforms by anti-social elements. Further, in response to the same, the Petitioner and her family members have constantly been receiving death threats/rape threats/beheading threats [both domestically and from various other countries] which has put the life and liberty of the Petitioner and her family in serious jeopardy. The Petitioner filed an appropriate complaint before the Delhi Police in this regard which was registered as FIR No. 0130 on 28.05.2022 which mentions the factum of the observations of the Petitioner on the said TV debate and therefore, forms a part of the transaction afore stated FIR.

It is submitted that in fact, the death threats and rape threats to the Petitioner and her family, and the FIRs have been filed, only after the doctored video was shared on social media by anti-social elements. It is submitted that therefore, in essence, it is not the observations of the Petitioner that have created in the present situation rather it is the malicious and deliberate dissemination of doctored video that has resulted in the filing of FIRs and threats.

2. To the utter shock of the Petitioner, rather than taking stock of the death threats and the open calls for violence, multiple First Information Report (s) ("FIRs") have been lodged against the Petitioner in various States on the same alleged incident for the same alleged remarks during a television debate. The FIRs and the death threats are a clear and coordinated campaign intended to silence Petitioner's right to freedom of speech and expression, guaranteed under Article 19 (1) (a), and right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. It is submitted that despite the first FIR filed by the Petitioner bearing FIR No 0130 before the Special Cell, Delhi Police, dated 28.05.2022, multiple Second FIRs have been filed against the Petitioner. The details of the FIRs are as under:

- a. FIR at the Pydhonie Police Station area in Mumbai, Maharashtra under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC) dated 28.05.2022 after a complaint by Raza Academy, a Sunni Barelvi organization of Indian Sunni Muslims, for her alleged "remarks on the Holy Prophet on a National channel".

- b. FIR at Cyber Cell Police Station Hyderabad, Telangana – FIR No. 959/2022 dated 30.05.2022 under Section 153A, 504, 505(2) and 506 of the Indian Penal Code.
- c. FIR at Mumbra Police State, Thane city, Maharashtra – FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code.
- d. FIR No. 0199 dated 30.05.2022 at Bhiwandi city, Thane city, Maharashtra under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;
- e. FIR at Pune at PS Kondhwa under sections 153A, 153B, 295A dated 31.05.2022 numbered as FIR no. 540/2022.
- f. FIR in West Bengal Narkeldanga PS Case No. 220 dated 04.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code.
- g. FIR in New Delhi by Delhi Police IFSO unit dated 08.06.2022;
- h. FIR at PS Nanalpeth, District Parbhani, Maharashtra dated 13.06.2022 under Section 295A of the Indian Penal Code;
- i. FIR at Amherst PS, Kolkata, West Bengal, PS Case No. 123 under Section 153A, 295A, 298 and 34 of the Indian Penal Code.

Apart from the above, it may be noted that other FIRs in other parts of the country may have been registered against the Petitioner, specifically in State of Assam, State of Karnataka, State of Rajasthan, State of Andhra Pradesh and State of Uttar Pradesh without the knowledge of the Petitioner. Further, it is the reasonable belief of the Petitioner that further FIRs may be filed on the same alleged incident in the future.

On 06.06.2022, Mumbra Police Station, Thane, Maharashtra served a notice to the Petitioner to appear physically before them on 22.06.2022. Thereafter, on 07.06.2022, Bhiwandi City PS, Bhiwandi, Maharashtra, served a notice to the Petitioner to appear before the police station in person on 13.06.2022. The Petitioner has replied to the said notice stating that there have been constant and multiple threats to her and her family's life and wellbeing since 27.05.2022 which includes serious threats from persons in the State of Maharashtra as well. The Petitioner sought a later date after 4 weeks' time to appear once these violent calls/demonstrations calling for her beheading etc. mellow down. The Petitioner further requested to participate in the legal process pursuant to the summons through an electronic medium - either through video conference or otherwise. The Petitioner further highlighted that she has withdrawn my statements made on 26.05.2022 by way of a public statement which clearly states that *"If my words have caused discomfort or hurt religious feelings of anyone whatsoever, I hereby unconditionally withdraw my statement. It was never my intention to hurt anyone's religious feelings."*

Apart from the above, the West Bengal police, has issued a notice under Section 41A Cr.P.C. dated 13.06.2022 seeking the Petitioner to appear personally before Narkeldanga PS, West Bengal on 20.06.2022.

3. Thereafter, a notice dated 13.06.2022 under Section 41A Cr.P.C. was received on 16.06.2022 from PS Nanalpeth, District Parbhani, Maharashtra to appear on 16.06.2022 before the police station. The

Petitioner has replied to the Nanalpeth Police notice in the same manner.

4. It is critical note that the Petitioner has joined investigation before the Delhi Police in connection with FIR in New Delhi by Delhi Police IFSO unit dated 08.06.2022. The Petitioner has further given a statement to the Delhi Police on 18.06.2022.

5. The registration of the FIRs and the process pursuant to the same on the self-evident same incident and broadcast facts amounts to a gross violation of fundamental rights of the Petitioner as has been held by this Hon'ble Court in *Arnab Ranjan Goswami vs. Union of India & Ors*, (2020) 14 SCC SC 12. Further, in light of the various however same FIRs filed in various States in the country, the Petitioner has no option but to approach this Hon'ble Court in order to seek appropriate reliefs.

Case of the Petitioner in brief

6. In furtherance thereof, it is respectfully submitted that the sweeping power of criminal justice administration does not merit exposing a citizen each time to a fresh investigation by the police in respect of the same incident and if the facts and circumstances giving rise to FIRs are same, the subsequent FIRs are liable to be quashed as held in *T.T. Antony v. State of Kerala* (2001) 6 SCC 181.

7. It is submitted that however, the statement of Petitioner, as is evident from the unequivocal withdrawal, never sought to

intentionally or maliciously cause any injury of any kind or promote any enmity of any kind between groups, and therefore, cannot be a criminal offence either under Section 153A, 295A, 505 or 297 of the Indian Penal Code. It is submitted that the observations of the Petitioner, by its very nature, were to ensure that the atmosphere of the debate is not vitiated.

8. It is further submitted that while interpreting the above stated provisions, in light of the constitutional principles of free speech and right to life, this Hon'ble Court has consistently held that such provisions seek to criminalise only aggravated form of insults to religion when it is perpetuated with deliberate and malicious intent to outrage the religious feelings of that group. It is submitted that this Hon'ble Court has held that criminality would not be attracted unless deliberate or malicious intent to outrage the religious feelings or create public order situations has been established or asserted. In the present case, it is neither the case nor the allegation that the Petitioner had any malicious intent or had any deliberate intention to outrage the religious feelings or create public order situations. It is submitted that therefore, even on merits, in absence of the same, no offence whatsoever can be made out under Section 295A, 153A, 297 and 505 of the Indian Penal Code to maintain the impugned FIRs.

9. It is submitted that in fact, the observations did not attract any response or threats as mentioned above, till the time the doctored video was shared on social media by anti-social elements. The gist of the offences under Section 295A, 153A and 505 of the Indian Penal

Code and the constitutional validity of such provisions is premised on the 'public order' test. It is submitted that in the instant case, neither the subsequent second FIRs nor the facts available in public domain, at any point highlight that the speech of the Petitioner has led to any public order issue till the time the video was not doctored mischievously and shared on social media. It is submitted that in absence of the same, no offence whatsoever can be made out under Section 295A, 153A, 297 and 505 of the Indian Penal Code to maintain the impugned FIRs.

10. In light of the aforesaid background, it is respectfully submitted that the subject FIRs and Complaint(s) are false, baseless, and liable to be quashed as it is bereft of any merit or any averment which constitutes any criminal offence. It is submitted that in the present case no offence is made out. Furthermore, the Petitioner had no intention or any malicious purpose to insult any religious belief nor did she do so. In respect to the aforesaid, it is submitted that any purported utterance mentioned in the complaints/FIRs was in response to a serious instigation which occurred during a live TV debate. The said FIRs are filed in complete negation of the ratio of the judgment by the 5-judges - Constitution Bench of this Hon'ble Court in *Ramji Lal Modi v. State of U.P.*, AIR 1957 SC 620.

11. Further, in the absence of any offence being made out as per the admitted case of the complainants, the facts and circumstances of the present matter justifies quashing of the said FIRs and the same is squarely covered by the judgment of this Hon'ble Court in *State of*

Haryana v. Bhajan Lal, 1992 Supp (1)SCC 335. It is further submitted that, in *Manzar Sayeed Khan v. State of Maharashtra*, (2007) 5SCC 1, this Hon'ble Court has observed that an FIR can be quashed if it does not disclose an offence and there is no need for any investigating a tion or recording of any statement. Thus, in the present matter no useful purpose is likely to be served by continuing the investigation in the impugned FIR and the interference by this Hon'ble Court is necessary to prevent in justice and the agony of the Petitioner and for the purposes of securing the ends of justice.

12. It is respectfully submitted that all the FIRs or complaints which have been lodged in diverse jurisdictions arise out of one and the same incident -the broadcast on 26th May, 2022 on Times Now. It is submitted that, the foundation of the allegation that offences have been committed under the provisions of the Indian Penal Code u/s 295A (Malicious act to insult a religion), Section 153A (Promoting enmity between groups) and Section 505(2) (Statements conducting to public mischief) relates to the same incident and hence multiplicity of FIRs in different jurisdictions would only lead to duplicity of proceedings.

13. Hence in view of the aforesaid, indulgence of this Hon'ble court is necessary to protect the rights of the Petitioner as a citizen, along with ensuring the right to have an independent and free, and fair portrayal of differing views. Therefore, in such a situation to require the Petitioner to approach the respective High Courts having

jurisdiction for quashing would result in multiplicity of proceedings and cause unnecessary harassment to the Petitioner.

14. Therefore, the present Petition has been preferred under Article 32 of the Constitution of India praying for the quashment of multiple First Information Reports against her or in the alternative consolidate the investigation into the said FIRs from other states to Delhi Police. The Petitioner further seeks a stay on the investigations in the interim and protection from arrest or any other coercive measures.

Multiple FIRs are an abuse of process and violation of fundamental rights

15. It is respectfully submitted that despite FIR No 0130 before the Special Cell, Delhi Police, dated 28.05.2022, being the First FIR, multiple Second FIRs have been filed against the Petitioner. It is submitted that multiple FIRs on the same facts and cause of action registered in a well-coordinated manner to coerce, harass, and intimidate the Petitioner are nothing, but a well-orchestrated campaign before different police stations concurrently in various parts of the Nation and an abuse of process and liable to be quashed.

16. It is respectfully submitted that, the said well-orchestrated and baseless FIRs are intended to silence Petitioner's right of freedom of speech and expression guaranteed under Article 19(1)(a) and right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. It is respectfully submitted that the said

FIRs and Complaint(s) filed is a gross abuse of process of law and in gross violation of the Petitioner's fundamental rights, including, under Article 19(1)(a) and right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. Furthermore, the said FIRs also have a stifling and chilling effect on the exercise of freedom of speech and expression and will effectively destroy the freedom of citizens. Therefore, the reliefs sought by the Petitioner in the present Writ Petition would ensure protection of the democratic interest in fearless and independent debate and discussion.

17. It is respectfully submitted that the sweeping power of criminal justice administration does not merit exposing a citizen each time to a fresh investigation by the police in respect of the same incident. This Hon'ble Court in the judgment of *T.T. Antony vs. State of Kerala*, (2001) 6SCC 181 had observed that:

"20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 Cr PC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been

committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 CrPC.

27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution."

18. It is respectfully submitted that for the registration of the FIRs on the self-same incident and broadcast facts amounts to gross violation of fundamental rights and also violation of freedom of press. This Hon'ble Court recently in *Arnab Ranjan Goswami vs. Union of India & Ors.* (2020) 14 SCC SC 12, observed that:-

"38. Article 32 of the Constitution constitutes a recognition of the constitutional duty entrusted to this Court to protect the fundamental rights of citizens. The exercise of journalistic freedom lies at the core of speech and expression protected by Article 19(1)(a). The petitioner is a media journalist. The airing of views on television shows which he hosts is in the exercise of his fundamental right to speech and expression under Article 19(1)(a). India's freedoms will rest safe as long as journalists can speak truth to power without being chilled by a threat of reprisal. The exercise of that fundamental right is not absolute and is answerable to the legal regime enacted with reference to the provisions of Article 19(2). But to allow a journalist to be subjected to multiple complaints and to the pursuit of remedies traversing multiple States and jurisdictions when faced with successive FIRs and complaints bearing the same foundation has a stifling effect on the exercise of that freedom. This will effectively destroy the freedom of the citizen to know of the affairs of governance in the nation and the right of the journalist to ensure an informed society. Our decisions hold that the right of a journalist under Article 19(1)(a) is no higher than the right of the citizen to speak and express. But we must as a society never forget that one cannot exist without the other. Free citizens cannot exist when the news media is chained to adhere to one position. Yuval Noah Harari has put it succinctly in his recent book titled "21 Lessons for the 21st Century": "Questions you cannot answer are usually far better for you than answers you cannot question".

39. A litany of our decisions — to refer to them individually would be a parade of the familiar — has firmly established that any reasonable restriction on fundamental rights must comport with the proportionality standard, of which one component is that the measure adopted must be the least restrictive measure to effectively achieve the legitimate State aim. Subjecting an individual to numerous proceedings arising in different jurisdictions on the basis of the same cause of action cannot be accepted as the least restrictive and effective method of achieving the legitimate State aim in prosecuting crime. The manner in which the petitioner has been subjected to numerous FIRs in several States, besides the Union Territories of Jammu and Kashmir on the basis of identical allegations arising out of the same television show would leave no manner of doubt that the intervention of this Court is necessary to protect the rights of the petitioner as a citizen and as a journalist to fair treatment (guaranteed by Article 14) and the liberty to conduct an independent portrayal of views. In such a situation to require the petitioner to approach the respective High Courts having jurisdiction for quashing would result into a multiplicity of proceedings and unnecessary harassment to the petitioner, who is a journalist."

19. For that there are grave death threats, rape threats, and beheading threats that are made to the Petitioner due to the incident and hence there is a great apprehension of life and liberty to Petitioner in the places where the said FIRs and complaints are registered.

Submissions on Section 295A of the Indian Penal Code

20. It is respectfully submitted that in the present case the words in the context do not constitute an offence under Section 295A of the Indian Penal Code. It is respectfully submitted that Section 295A IPC only applies to insult of a 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 of citizens. In the facts of present circumstances - the words spoken neither constitutes an aggravated insult to religion/ beliefs or even an insult to religion or beliefs at all. That being the case, nothing novel or undignified was observed by the Petitioner in the present case.

21. It is respectfully submitted that, this Hon'ble Court in **Ramji Lal Modi v. State of U.P.**, AIR 1957 SC 620 (5-Judges Constitution Bench) advertng to the multiple aspects and various facets of Section 295A IPC held as follows :-

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 insofar as it covers the first variety may be said to have been enacted in the interests of public order within the meaning of clause (2) of Article 19, but insofar 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 clause (2) of Article 19 protects a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression "in the interests 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 Section 295-A 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 clause (2) of Article 19 as being a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression guaranteed by Article 19(1)(a). ...".

22. It is respectfully submitted that it is clear as crystal that Section 295-A does not stipulate everything to be penalized and that any and

every act would tantamount to insult or attempt to insult the religion or the religious beliefs of a class of citizens. It penalizes only those acts of insults 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. It is submitted that the constitution bench in fact states that even insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage there ligious feelings of that class do not come within the criminal compass section.

23. It is submitted that in *Priya Prakash Varrier and Others vs. State of Telangana and Anöther*, (2019) 12 SCC 432, the nature of relief claimed was set out in paragraph 1 of the decision whereafter this Court relied upon the dictum of the Constitution Bench in *Ramji Lal Modi vs. State of U.P.*, AIR (1957) SC 620] that for an offence to come within the parameters of Section 295-A of the IPC, the crime ought to have been committed with deliberate and malicious intention of outraging the religious feelings of a class. Finding such element to be completely absent, the relief prayed for was granted by this Court by observing as follows:

"13. If the ratio of the Constitution Bench is appropriately appreciated, the said provision was saved with certain riders, inasmuch as the larger Bench had observed that 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 Article 19(1)(a) of the Constitution. The emphasis was laid on 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.

14. As we perceive, the intervenor, who was an informant in FIR No. 34 of 2018, in all possibility has been an enthusiast to gain a mileage from the FIR, though the same was really not warranted. What is urged before us is that picturisation which involves the actress with a wink is blasphemous. Barring that there is no other allegation. Such an allegation, even if it is true, would not come within the ambit and sweep of Section 295-A IPC, as has been explained in Ramji Lal Modi [Ramji Lal Modi v. State of U.P., AIR 1957 SC 620 : 1957 Cri LJ 1006].

15. In view of the aforesaid, we allow the writ petition and quash FIR No. 34 of 2018. We also direct that no FIR under Section 154 or any complaint under Section 200 of the Code of Criminal Procedure should be entertained against the petitioners because of the picturisation of the song. However, there shall be no order as to costs."

24. It is further submitted that the Petitioner had no intention or *mens rea* to commit the alleged offence. It is submitted that *mens rea* is an essential part of offence under Section 295 A and same is not made out in the facts and circumstances of the present case.

Submissions on Section 153A and 505 of the IPC

25. It is respectfully submitted that, the gist of the offence under Section 153A IPC is the intention to promote feelings of enmity or hatred between different classes of people. Thus, the intention to

cause disorder or incite the people to violence is the sine qua non of the offence under Section 153A IPC. It is submitted that, none of the ingredients of the Section 153A is made out in present case.

26. It is note-worthy that the offence comprised in section 505(2) IPC is in *pari materia* with that comprised in section 153A IPC, inasmuch as it refers to acts and omissions that are intended to create enmity, hatred or ill-will between different religions or communities. While considering section 153A and also referring to section 505(2) IPC, this Hon'ble Court in *Manzar Sayeed Khan v. State of Maharashtra*, (2007) 5 SCC 1 taking note of the observations in *Bilal Ahmed Kaloo v. State of A.P.*, (1997) 7 SCC 431, records that common features of Sections 153-A and 505(2) being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes or communities, involvement of at least two groups or communities is necessary. Further, merely inciting the feeling of one community or group without any reference to any other community or group would not attract either provision. It was held as under :

"16. Section 153-A IPC, as extracted hereinabove, covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquillity. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A

IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused. The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. The matter complained of within the ambit of Section 153-A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning.”

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18. Again in Bilal Ahmed Kaloo v. State of A.P. it is held that the common feature in both the sections viz. Sections 153-A and 505(2), being promotion of feeling of enmity, hatred or ill will “between different” religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it was observed that merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.”

27. It is further submitted that for promotion of feeling of enmity, hatred or ill will “between different” religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it is observed that allegedly merely inciting the feeling of one community or group without any reference to any other community or group cannot attract the sections. It is stated that no such circumstances are alleged in the present FIRs and therefore FIRs cannot be sustained.

28. Further, in *Balwant Singh v. State of Punjab*, (1995) 3 SCC 214, this Hon'ble Court had held that mens rea is an essential ingredient of the offence under Section 153-A and only when the spoken or written words have the intention of creating public disorder for disturbance of law and order or affect public "tranquillity", an offence can be said to be committed. Similarly, in *Manzar Sayeed Khan supra*, the intention to promote feeling of enmity or hatred between different classes of people was considered necessary as Section 153-A requires the intention to cause disorder or incite the people to violence.

29. It is important to refer to the interpretation provided by this Hon'ble court in *Amish Devgan v. Union of India*, (2021) 1 SCC 1. While interpreting section 295A, 153A and 505 of the Indian Penal Code, this Hon'ble court held as under:

"98. In the context of Section 153-A(1)(b) we would hold that public tranquillity, given the nature of the consequence in the form of punishment of imprisonment of up to three years, must be read in a restricted sense synonymous with public order and safety and not normal law and order issues that do not endanger the public interest at large. It cannot be given the widest meaning so as to fall foul of the requirement of reasonableness which is a constitutional mandate. Clause (b) of Section 153-A(1), therefore, has to be read accordingly to satisfy the constitutional mandate. We would interpret the words "public tranquillity" in clause (b) to mean *ordre publique* a French term that means absence of insurrection, riot, turbulence or crimes of violence and would also include all acts which will endanger the security of the State, but not acts which disturb only

serenity, and are covered by the third and widest circle of law and order. Public order also includes acts of local significance embracing a variety of conduct destroying or menacing public order. Public order in clause (2) of Article 19 nor the statutory provisions make any distinction between the majority and minority groups with reference to the population of the particular area though as we have noted above this may be of some relevance. When we accept the principle of local significance, as a sequitur we must also accept that majority and minority groups could have, in a given case, reference to a local area.

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100. The two provisions have been interpreted earlier in a number of cases including Ramji Lal Modi [Ramji Lal Modi v. State of U.P., AIR 1957 SC 620 : 1957 Cri LJ 1006] , Kedar Nath [Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955 : (1962) 2 Cri LJ 103] , Bilal Ahmed Kaloo [Bilal Ahmed Kaloo v. State of A.P., (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] . It could be correct to say that Section 295-A of the Penal Code encapsulates of all three elements, namely, it refers to the content-based element when it refers to words either spoken or written, or by signs or visible representation or otherwise. However, it does not on the basis of content alone makes a person guilty of the offence. The first portion refers to deliberate and malicious intent on the part of the maker to outrage religious feeling of any class of citizens of India. The last portion of Section 295-A refers to the harm-based element, that is, insult or attempt to insult religions or religious belief of that class. Similarly, sub-section (2) to Section 505 refers to a person making publishing or circulating any statement or report containing rumour or alarming news. Thereafter, it refers to the intent of the person which should be to create or promote and then refers to the harm-based element, that is, likely to create or promote on the ground of religion, race, place of birth, residence, language, caste, etc. feeling of enmity, hatred or ill-will

between different religions, racial language, religious groups or castes or communities, etc.

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115. The true test for a valid FIR, as laid down in *Lalita Kumari* [*Lalita Kumari v. State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524], is only whether the information furnished provides reason to suspect the commission of an offence which the police officer concerned is empowered under Section 156(1) of the Criminal Procedure Code to investigate. The questions as to whether the report is true; whether it discloses full details regarding the manner of occurrence; whether the accused is named; or whether there is sufficient evidence to support the allegation are all matters which are alien to consideration of the question whether the report discloses commission of a cognizable offence. As per sub-sections (1)(b) and (2) of Section 157 of the Criminal Procedure Code, a police officer may foreclose an FIR before investigation if it appears to him that there is no sufficient ground to investigate. At the initial stage of the registration, the law mandates that the officer can start investigation when he has reason to suspect commission of offence. Requirements of Section 157 are higher than the requirements of Section 154 of the Criminal Procedure Code. Further, a police officer in a given case after investigation can file a final report under Section 173 of the Criminal Procedure Code seeking closure of the matter.

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B. The second prayer — Multiplicity of FIRs and whether they should be transferred and clubbed with the first FIR registered at Police Station Dargah, Ajmer, Rajasthan

122. We would now examine the second prayer of the petitioner viz. multiplicity of FIRs being registered in the States of Rajasthan, Maharashtra, Telangana, and Madhya Pradesh (now transferred to Uttar Pradesh) relating to the same broadcast. Fortunately, both the sides agree that the issue is covered by the decision of

this Court in T.T. Antony [T.T. Antony v. State of Kerala, (2001) 6 SCC 181 : 2001 SCC (Cri) 1048] which has been followed in Arnab Ranjan Goswami case [Arnab Ranjan Goswami v. Union of India, (2020) 14 SCC 12]. It would be appropriate in this regard to therefore reproduce the observations in Arnab Ranjan Goswami case [Arnab Ranjan Goswami v. Union of India, (2020) 14 SCC 12] which are to the following effect : (SCC pp. 36-39, paras 30-36)

“xxx

The aforesaid quotation refers to the judgment of this Court in Babubhai v. State of Gujarat [Babubhai v. State of Gujarat, (2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336] wherein the test to determine sameness of the FIRs has been elucidated as when the subject-matter of the FIRs is the same incident, same occurrence or are in regard to incidents which are two or more parts of the same transaction. If the answer to the question is affirmative, then the second FIR need not be proceeded with.

xxx

126. In view of our findings, we accept the prayer made in the last amended writ petition and transfer all FIRs listed at Serial Nos. 2 to 7 in para 3 (supra) to Police Station Dargah, Ajmer, Rajasthan, where the first FIR was registered. We do not find any good ground or special reason to transfer the FIRs to Noida, Uttar Pradesh. Statement of the complainant/informant forming the basis of the transferred FIRs would be considered as statement under Section 162 of the Criminal Procedure Code and be proceeded with. Compliance with the above directions to transfer papers would be made by the police station concerned within four weeks when they receive a copy of this order. The above directions would equally apply to any other FIR/complaint predicated on the same telecast/episode.”

30. Most recently, this Hon'ble court in *Patricia Mukhim Versus State of Meghalaya and Others*, 2021 SCC OnLine SC 258, while interpreting section 295A, 153A and 505 of the Indian Penal Code, has held as under:

"8. "It is of utmost importance to keep all speech free in order for the truth to emerge and have a civil society." -Thomas Jefferson. Freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution is a very valuable fundamental right. However, the right is not absolute. Reasonable restrictions can be placed on the right of free speech and expression in the interest of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of Court, defamation or incitement to an offence. Speech crime is punishable under Section 153 A IPC. Promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony is punishable with imprisonment which may extend to three years or with fine or with both under Section 153 A. As we are called upon to decide whether a prima facie case is made out against the Appellant for committing offences under Sections 153 A and 505(1)(c), it is relevant to reproduce the provisions which are as follows:

xxx

9. Only where the written or spoken words have the tendency of creating public disorder or disturbance of law and order or affecting public tranquility, the law needs to step in to prevent such an activity. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153 A IPC and the prosecution has to prove the existence of mens rea in order to succeed.¹

10. The gist of the offence under Section 153 A IPC is the intention to promote feelings of enmity or hatred

between different classes of people. The intention has to be judged primarily by the language of the piece of writing and the circumstances in which it was written and published. The matter complained of within the ambit of Section 153A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning².

11. In *Bilal Ahmed Kaloo v. State of A.P.*³, this Court analysed the ingredients of Sections 153A and 505(2) IPC. It was held that Section 153A covers a case where a person by "words, either spoken or written, or by signs or by visible representations", promotes or attempts to promote feeling of enmity, hatred or ill will. Under Section 505(2) promotion of such feeling should have been done by making a publication or circulating any statement or report containing rumour or alarming news. Mens rea was held to be a necessary ingredient for the offence under Section 153A and Section 505(2). The common factor of both the sections being promotion of feelings of enmity, hatred or ill will between different religious or racial or linguistic or religious groups or castes or communities, it is necessary that at least two such groups or communities should be involved. It was further held in Bilal Ahmed Kaloo (supra) that merely inciting the feelings of one community or group without any reference to any other community or group cannot attract any of the two sections. The Court went on to highlight the distinction between the two offences, holding that publication of words or representation is sine qua non under Section 505. It is also relevant to refer to the judgment of this Court in Ramesh v. Union of India⁴ in which it was held that words used in the alleged criminal speech should be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in

every hostile point of view. The standard of an ordinary reasonable man or as they say in English law "the man on the top of a Clapham omnibus" should be applied.

12. This Court in *Pravasi Bhalai Sangathan v. Union of India*⁵ had referred to the Canadian Supreme Court decision in *Saskatchewan (Human Rights Commission) v. Whatcott*⁶. In that judgment, the Canadian Supreme Court set out what it considered to be a workable approach in interpreting "hatred" as is used in legislative provisions prohibiting hate speech. The first test was for the Courts to apply the hate speech prohibition objectively and in so doing, ask whether a reasonable person, aware of the context and circumstances, would view the expression as exposing the protected group to hatred. The second test was to restrict interpretation of the legislative term "hatred" to those extreme manifestations of the emotion described by the words "detestation" and "vilification". This would filter out and protect speech which might be repugnant and offensive, but does not incite the level of abhorrence, delegitimization and rejection that risks causing discrimination or injury. The third test was for Courts to focus their analysis on the effect of the expression at issue, namely, whether it is likely to expose the targeted person or group to hatred by others. Mere repugnancy of the ideas expressed is insufficient to constitute the crime attracting penalty."

31. It is submitted that from the facts of the present case it is apparent that the words were spoken in a live heated debate and there was no intention or mens rea to commit the alleged offence or any calculated motive behind the same. It is submitted that in fact the participation of the petitioner and the observations made were with

the intent to ensure that the atmosphere is not vitiated due to the utterances of the other co-panelists. Therefore, quite contrary to having any malicious or deliberate intent to cause hurt or hatred or enmity or ill-will, the intentions of the Petitioner were a bonafide attempt to keep the debate in the correct direction and to ensure that the no groups/classes are hurt by either of the sides.

32. It is respectfully submitted that the Petitioner, in the present circumstances and the present atmosphere, does not seek to annex or plead any factual or logical basis for her observations on 26.05.2022. As stated above, the Petitioner has already withdrawn her statement. The Petitioner seeks liberty to additionally plead appropriate grounds and factual averments in this regard as and when required. It is submitted that however, the statement of Petitioner, as is evident from the unequivocal withdrawal, never sought to intentionally or maliciously cause any injury of any kind or promote any enmity of any kind between groups, and therefore, cannot be a criminal offence either under Section 153A, 295A, 505 or 297 of the Indian Penal Code.

33. In this regard, it is clarified and unequivocally submitted that it was never the intention of the Petitioner to insult or disregard the religious feelings of any class or community and certainly not to incite any ill-will between classes. Further, it is clarified that if viewed in the correct context, the Petitioner merely sought to convey to the other co-panelists, who had made an attempt to insult the religious beliefs of a class that the said attempts of the panelist are unfair and vitiates the debate. The attempt of the Petitioner, if viewed in the

correct context, was to keep the debate in the correct perspective and certainly not to commit any offence as mentioned in the aforementioned FIRs.

Death threats, harassment and abuse of Petitioner and serious concerns for her safety

34. It is respectfully submitted that the Petitioner and her family are receiving death and rape threats online constantly. Furthermore, her family has been abused, battered brutally and unabashedly on the social media and by personal messages by unknown persons. The Petitioner has also received various death threats from various anti-social elements. The Petitioner therefore fears for her life and limb, and of her family in such circumstances. In this regard, the Petitioner has filed an appropriate complaint before the Delhi Police dated 28.05.2022 which has been registered as FIR No. 0130 in the Special Cell, Delhi Police.

35. It is submitted that the Petitioner has been receiving death threats from India, Dubai, Pakistan, England, other south-east Asian countries etc. It is also important to mention here that the threats are also coming from members of various organized groups and organizations having vast intricate and often secretive networks across borders of various countries. It is submitted that bounties have been issued against the Petitioner within India, Pakistan, etc. endangering her and her family members' lives. Some anti-social elements have also gone ahead and issued rewards/bounties to

anybody who beheads her. Relevant videos and posts in this regard are available in the public domain and have been reported by major media houses as well.

36. On 29.05.2022, a city based political party AIMIM (Inquilab) The All India Majlis-E-Ittehadul Muslimeen in Hyderabad announced a reward of one crore rupees followed by a Pakistani Twitter handle named 'Labbaikians TV' which claims to share 'The Latest Speeches and interviews of Tehreek-e-Labbaik Pakistan (TLP)' has shared the announcement via their Twitter handle that a cash reward of Pakistani Rupees 5 million (Around 19.5 lakhs INR) to anyone who would behead the Petitioner for allegedly committing 'blasphemy'. The tweet reads as "Ghustaak-e-Rasool Nupur Sharma beheader will be given Rs 5 million reward -Labbaikians TV" followed by a comment by a user stating "Kash me India me hota to iss ka qatal kr hi data (I wish that I was in India. I would have killed her then). Further, the President of AIMIM (Inquilab) & Member of Parliament Lok Sabha (Hyderabad Constituency) Mr. Asaduddin Owaisi delivered the speech inciting violence against the Petitioner in an open ground before thousands of people. Further, an anti-social element by the name of Rahbar Siddiqui (Twitter Handle @rahbarsiddiqui5) has also issued a reward of five lakh rupees to anybody who beheads the Petitioner herein. There are lakhs of such beheading and "Gustakh-e-rasool/nabi ki ek saza, sar tann se juda sarr tann se juda" calls/threats made against the Petitioner which are all available in the public domain.

37. It is submitted while the threats previously were limited to electronic mediums or mediums of such like, over the course of time, the threats and their intensity and their nature have evolved and taken a far more tangible, real and proximate character. It is submitted that considering the event unfolding it is undeniable that a considerable threat exists as to the safety and well-being of the Petitioner and the family of the Petitioner.

38. It is submitted that the State and the Respondents ought to acknowledge that ignorance of such death threats and threats of violence [which have often resulted in actual violence] if ignored, cause a serious dent in the genuine exercise of free speech rights and right to life of individuals across the country and result in having a considerable degree of chilling effect on the same. It is submitted that this chilling effect is due to illegal or extra judicial/extra-legal methods thereby seriously jeopardizing legitimate claim to fundamental rights.

39. In such circumstances, there is a gross violation of the Petitioner's fundamental rights guaranteed under Article 19(1)(a) and under Article 21 of the Constitution of India, 1950. It is submitted that such malicious and well-coordinated campaign against the Petitioner also amounts to stifling the freedom of expression which is an essential part of fundamental rights enshrined under Article 19 (1)(a) of the Constitution of India.

40. It is respectfully submitted that multiple complaints and FIRs have been filed/registered against the Petitioner before various

police stations across the country. It is pertinent to note that the States where the complaints/FIRs have been registered against the Petitioner are also mostly registered in the States wherefrom the Petitioner has received the grave and chilling beheading threats, rape threats, and death threats. In fact, the summons from Maharashtra Police and West Bengal Police have been issued to the Petitioner to appear physically before police station which exists in the very same areas wherein the calls for the death of the Petitioner have been. It is inconceivable that the Petitioner in such situations can comply with such summons. Incidentally, the one crore rupees reward to anybody who beheads the Petitioner is given by a member of AIMIM (Inquilab) The All India Majlis-E-Ittehadul Muslimeen from Hyderabad, wherein FIR 959/2022, dated 30.05.2022 has been registered at Cyber cell Police Station, Hyderabad.

41. It is submitted that thus, neither would it be safe for the Petitioner to appear at these locations nor would the Petitioner be in a position to individually approach each such court, apart from the fact that there may be conflicting orders of various courts. Given the criminal antecedents of complainants it is unlikely that the Petitioner's life would be protected if she was to join inquiry in any of these Police Stations in States spread across the country. Therefore, to safeguard the life, and prevent any imminent danger to the Petitioner's life, it is the only and logical way to shift all cases and investigation under the ongoing investigation in this case in FIR 0130/2022 registered at special cell, Delhi Police. Therefore, the

Petitioner has no other equally efficacious remedy but to approach this Hon'ble Court.

Hence, the present Writ Petition.

LIST OF DATES

LIST	PARTICULARS
26 .05.2022	The Petitioner appeared in a Times Now debate hosted by Ms. Navika Kumar in New Delhi, wherein Petitioner pointed out certain factual references in response to objectionable remarks made by co-panelists.
27.05.2022 - 28.05.2022	<p>The highly edited video of the Petitioner's debate, without any context or the background behind it, was widely shared by some anti-social elements on social media and other forms of communication.</p> <p>The Petitioner and her family started receiving various death threats, beheading threats, and rape threats [which continue till date] from various anti-social elements which are all available in public domain.</p>
27.05.2022	<p>The Petitioner, through her tweets, highlighted the threats being received by the Petitioner to the Delhi Police. The following is a part of the tweet which the Petitioner tweeted on 27.05.2022 :</p> <p><i>“: @DelhiPolice @CPDelhi I am getting continuous death and beheading threats against my family and myself which are egged on by @zoo_bear because of his attempts to incite communal passions and vitiate the atmosphere by building a fake narrative. Attaching a few pics. Please note.”</i></p>

LIST	PARTICULARS
	<p>The Delhi Police, at 8:30 PM, responded as under :</p> <p><i>"The matter has been forwarded to the concerned officials for necessary action. You will be contacted shortly."</i></p> <p>Further, the Petitioner followed up and tweeted as under :</p> <p><i>"@CP Delhi I'm being bombarded with rape, death and beheading threats against my sister, mother, father & myself. I've communicated same to @Delhi Police. If anything untoward happens to me or any of my family members @CP Delhi please note wholely and solely @zoo_bear is responsible who instead of 'fact-checking', peddled a fake narrative to viciate the atmosphere, to cause communal disharmony and cause communal and targeted hatred against me and my family."</i></p> <p>It is important to mention that the Petitioner taken aback by the overwhelming rape, death, and beheading threats, sought time with the Commissioner of Police, New Delhi was in turn asked to come at 1:00 PM the next day, i.e., 28.05.2022.</p>
28.05.2022	<p>In this regard, the Petitioner reached the PHQ, Jai Singh Road, New Delhi at around 1:00 PM and by about 2:00 PM in the afternoon, the Petitioner submitted her complaint, clearly mentioning the incident and her participation in theTimes Now show aired on May 26th, 2022. The written complaint</p>

LIST	PARTICULARS
	<p>addressed to CP, PHQ, New Delhi, filed at 2:00PM, has been registered as an FIR by the Delhi Police as FIR No. 0130 in the Special Cell, Delhi Police.</p> <p>Around the same time, one Saket Gokhale, as per the reports in the media, filed a complaint against the Petitioner and her participation on Times Now on 26.05.2022 at the Chanakyapuri Police Station, New Delhi.</p>
28.05.2022	<p>It is also important to submit that at around 6:30 PM, after spreading fake news, dog-whistling, and propagating a false narrative that unleashed a wild onslaught of rape, death, and beheading threats against the Petitioner one of the anti-social element which the Petitioner recognized as @zoo_bear, posted another tweet asking for donation and money in response to and in exchange of causing grave threat and endangerment to the Petitioner's life, as under:</p> <p><i>"If you support the work that @Alt News does to expose the hate propagated in mainstream media, please contribute toward our endeavour and support us to hold mainstream media accountable. You can make a donation at pages.razorpay.com"</i></p> <p>It is pertinent to note that the said anti-social element after unleashing hate against the Petitioner profited by raising funds from the gullible public. Further, it is also important to mention here that the said anti-</p>

LIST	PARTICULARS
	social element managed to collect contributions upwards of twelve lakh rupees by 31.05.2022.
28.05.2022	At about 8:30 PM, another complaint/FIR was filed against the Petitioner at the Pydhonie Police Station area in Mumbai under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC) after a complaint by the Raza Academy, a Sunni Barelvi organization of Indian Sunni Muslims, for her alleged "remarks on the Holy Prophet on a National channel".
30.05.2022	Another FIR was lodged at Mumbra Police State, Thane city, Maharashtra – FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code.
30.05.2022	Another FIR, numbered as FIR No. 0199 dated 30.05.2022 was registered in Bhiwandi city, Thane city, Maharashtra under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;
31.05.2022	Another FIR has been registered against the Petitioner at Cyber Cell Police Station Hyderabad, Telangana – FIR No. 959/2022 dated 30.05.2022 under Section 153A, 504, 505(2) and 506 of the Indian Penal Code.

LIST	PARTICULARS
01.06.2022	A 4 th FIR has been registered against the Petitioner at PS Kondhwa under sections 153A, 153B, 295A as reported in the media.
04.06.2022	FIR in West Bengal Narkeldanga PS Cased No. 220 dated 04.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code.
05.06.2022	The Petitioner issued a public statement withdrawing her comments/observations and clarified that she had no intentions of hurting the religious sentiments of any person or community whatsoever.
06.06.2022	The Commissioner of Police, Mumbai, indicated that coercive steps would be taken against the Petitioner in the near future.
06.06.2022	Mumbra Police Station, Thane, Maharashtra served a notice to the Petitioner to appear physically before them on 22.06.2022.
07.06.2022	Bhiwandi City PS, Bhiwandi, Maharashtra, served a notice to the Petitioner to appear before the police station in person on 13.06.2022.
08.06.2022	FIR was registered in New Delhi by Delhi Police IFSO

LIST	PARTICULARS
	unit dated 08.06.2022
11.06.2022	<p>The Petitioner has replied to the Bhiwandi Police notice stating that there have been constant and multiple threats to her and her family's life and wellbeing since 27.05.2022 which includes serious threats from persons in the State of Maharashtra as well. The Petitioner sought a later date after 4 weeks' time to appear once these violent calls/demonstrations calling for her beheading etc. mellow down. The Petitioner further requested to participate in the legal process pursuant to the summons through an electronic medium - either through video conference or otherwise. The Petitioner further highlighted that she has withdrawn my statements made on 26.05.2022 by way of a public statement which clearly states that "<i>If my words have caused discomfort or hurt religious feelings of anyone whatsoever, I hereby unconditionally withdraw my statement. It was never my intention to hurt anyone's religious feelings.</i>"</p>
13.06.2022	<p>Apart from the above, the West Bengal police, has issued a notice under Section 41A Cr.P.C. dated 13.06.2022 seeking the Petitioner to appear personally before Narkeldanga PS, West Bengal on 20.06.2022.</p>

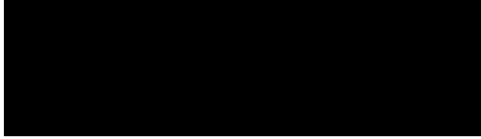
LIST	PARTICULARS
13.06.2022	An FIR was registered at PS Nanalpeth, District Parbhani, Maharashtra dated 13.06.2022 under Section 295A of the Indian Penal Code.
16.06.2022	A notice dated 13.06.2022 under Section 41A Cr.P.C. was received on 16.06.2022 from PS Nanalpeth, District Parbhani, Maharashtra to appear on 16.06.2022 before the police station.
16.06.2022	The Petitioner has replied to the Nanalpeth Police notice stating that there have been constant and multiple threats to her and her family's life and wellbeing since 27.05.2022 which includes serious threats from persons in the State of Maharashtra as well. The Petitioner sought a later date after 4 weeks' time to appear once these violent calls/demonstrations calling for her beheading etc. mellow down. The Petitioner further requested to participate in the legal process pursuant to the summons through an electronic medium - either through video conference or otherwise. The Petitioner further highlighted that she has withdrawn my statements made on 26.05.2022 by way of a public statement which clearly states that " <i>If my words have caused discomfort or hurt religious feelings of anyone</i>

LIST	PARTICULARS
	<i>whatsoever, I hereby unconditionally withdraw my statement. It was never my intention to hurt anyone's religious feelings."</i>
18.06.2022	It is critical note that the Petitioner has joined investigation before the Delhi Police in connection with FIR in New Delhi by Delhi Police IFSO unit dated 08.06.2022. The Petitioner has further given a statement to the Delhi Police on 18.06.2022.
20.06.2022	Hence, the present petition.

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (CRL.) NO. OF 2022
[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA]

BETWEEN:-

1. N. V. SHARMA



.... PETITIONER

VERSUS

2. UNION OF INDIA

Through the Secretary,
Ministry of Home Affairs North Block,
New Delhi - 110001 India

... RESPONDENT NO. 1

3. STATE OF NCT OF DELHI

Through its Investigating Officer
Special Cell, Police station
New Delhi - 110001

... RESPONDENT NO. 2

4. STATE OF MAHARASHTRA

Through the Secretary, Home Department,
New Administrative Building,
9TH floor, Opp. Mantralaya,
Mumbai-400032

... RESPONDENT NO. 3

5. STATE OF TELANGANA

Through the Secretary, Home Tankbund,
Basheer Bagh,
Near NTR Gardens,
Opposite Lumbini Park,
Telangana 500022

... RESPONDENT NO. 4

6. STATE OF WEST BENGAL

Through Director General of Police,
West Bengal Police Directorate -
Nabanna 325, Sarat Chatterjee Road,
Shibpur, Howrah-71102

... RESPONDENT NO. 5

7. STATE OF KARNATAKA,
Through its Secretary, Home Department,
II Floor, Vidhana Soudha,
Bengaluru-560 001

... RESPONDENT NO. 6

8. STATE OF UTTAR PRADESH
Through Secretary, Home,
Lal Bahadur Shastri Bhawan
Annexy Building
Sarojini Naidu Marg, Lucknow,
Uttar Pradesh - 226027

... RESPONDENT NO. 7

9. UNION TERRITORY OF JAMMU AND KASHMIR
Through its Secretary, Home Department,
Civil Secretariat,
Srinagar - 190001

... RESPONDENT NO. 8

10. STATE OF ASSAM
Through its Principal Secretary, Home Department,
Assam Secretariat, CM Block,
Second Floor Dispur,
Guwahati, Assam-781006

... RESPONDENT NO. 9

**WRIT PETITION UNDER ARTICLE 32 OF
THE CONSTITUTION OF INDIA**

TO,

**THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS LORDSHIPS OTHER COMPANION
JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA**

**THE HUMBLE PETITION OF THE PETITIONER
ABOVENAMED**

MOST RESPECTFULLY SHOWETH: -

1. The present Petition under Article 32 of the Constitution of India has been preferred by the Petitioner who is an Advocate practicing before the Hon'ble Courts in New Delhi having a standing of 10+ years at the Bar. Apart from practicing as an Advocate, the Petitioner was the National Spokesperson for the Bhartiya Janata Party ("BJP") and has been participating in Television debates responsibly for more than a decade. During her professional commitments, the Petitioner had to appear from time to time in various television debates and symposiums/discussions. It is respectfully submitted that during the discharge of such professional commitments during a TV debate in New Delhi, certain references were made by the Petitioner. It may be noted that the references have subsequently been publicly withdrawn by the Petitioner.

2. Thereafter, the said video of the Petitioner was doctored mischievously and thereafter highlighted and shared across various social media platforms by anti-social elements. Further, in response to the same, the Petitioner and her family members have constantly been receiving death threats/rape threats/beheading threats [both domestically and from various other countries] which has put the life and liberty of the Petitioner and her family in serious jeopardy. The Petitioner filed an appropriate complaint

before the Delhi Police in this regard which was registered as FIR No. 0130 on 28.05.2022 which mentions the factum of the observations of the Petitioner on the said TV debate and therefore, forms a part of the transaction aforestated FIR.

3. It is submitted that in fact, the death threats and rape threats to the Petitioner and her family, and the FIRs have been filed, only after the doctored video was shared on social media by anti-social elements. It is submitted that therefore, in essence, it is not the observations of the Petitioner that have created in the present situation rather it is the malicious and deliberate dissemination of doctored video that has resulted in the filing of FIRs and threats.

4. To the utter shock of the Petitioner, rather than taking stock of the death threats and the open calls for violence being made against the Petitioner, multiple First Information Report (s) ("FIRs") have been lodged against the Petitioner in various States on the same alleged incident for the same alleged remarks during a television debate. It may further be noted that other FIRs in other parts of the country may have been registered against the Petitioner without the knowledge of the Petitioner. Further, it is the reasonable belief of the Petitioner that further FIRs may be filed on the same alleged incident in the future.

5. In light of the aforesaid background, the present Petition has been preferred under Article 32 of the Constitution of India praying for the quashment of multiple First Information Reports against her or in the alternative consolidate the investigation into the said FIRs from other states to Delhi Police. Further, in light of the various however same FIRs filed in various States in the country, the Petitioner has no option but to approach this Hon'ble Court in order to seek appropriate reliefs. The Petitioner further seeks a stay on the investigations in the interim and protection from arrest or any other coercive measures.

6. The present Petition under Article 32 of the Constitution of India is filed for protection of fundamental rights of the Petitioner under Article 19, Article 21 and Article 14 of the Constitution of India. The Petitioner has not approached any other Court seeking the same reliefs.

I. DESCRIPTION OF PARTIES

7. The Petitioner is an Advocate practicing before this Hon'ble Courts in New Delhi having a standing of 10+ years at the bar. Apart from practicing as an Advocate, the Petitioner was the National Spokesperson for the Bhartiya Janata Party ("BJP"), wherein the Petitioner had to appear from time to time in various television debates and symposiums.

8. The Union of India, through Ministry of Home Affairs is the Respondent No. 1. The Delhi Police represented by its Commissioner is the Respondent No. 2. The State of Maharashtra through its Chief Secretary is Respondent No. 3, State of Telangana through its Chief Secretary is Respondent No. 4, State of West Bengal through Director General of Police is Respondent No. 5, State of Karnataka through its Chief Secretary is Respondent No. 6, State of Uttar Pradesh through its Chief Secretary is Respondent No. 7, Union Territory of Jammu and Kashmir is Respondent No. 8, State of Assam is Respondent No. 9. The Petitioner seeks permission to add necessary parties as and when the need arises.

9. It is stated that all Respondents fall within the definition of "State" under Article 12 of the Constitution of India and therefore amenable to the present Petition under Article 32 of the Constitution of India.

II. BRIEF STATEMENT OF FACTS

10. It is respectfully submitted that during the discharge of her professional commitments, the Petitioner had to appear from time to time in various television debates and symposiums/discussions. It is respectfully submitted that during the discharge of such professional commitments during a TV debate in New Delhi, certain references were made by the Petitioner. A copy of the

complete relevant transcript of the statements made by the Petitioner on 26.05.2022 in a show anchored by Ms. Navika Kumar on Times Now is annexed herewith and marked as "ANNEXURE P/1" at pg^{no} 66⁷²

11. It is submitted that the Petitioner has issued a public statement on 05.06.2022 withdrawing her comments/observations and clarified that she had no intentions of hurting the religious sentiments of any person or community whatsoever. A copy of the public statement of the Petitioner on 05.06.2022 is annexed herewith and marked as "ANNEXURE P/2" at pg, 73.

12. It is submitted that the Petitioner has been receiving death threats from various part in India, Dubai, Pakistan, England, other south-east Asian countries etc. It is also important to mention here that the threats are also coming from members of various organized groups and organizations having vast intricate and often secretive networks across borders of various countries. It is submitted that bounties have been issued against the Petitioner within India, Pakistan, etc. endangering her and her family members' lives. Some anti-social elements have also gone ahead and issued rewards/bounties to anybody who beheads her. Relevant videos and posts in this regard are available in the public domain and have been reported by major media houses as well.

13. To illustrate, on 29.05.2022, a city based political party AIMIM (Inquilab) The All India Majlis-E-Ittehadul Muslimeen in Hyderabad announced a reward of one crore rupees followed by a Pakistani Twitter handle named 'Labbaikians TV' which claims to share 'The Latest Speeches and interviews of Tehreek-e-Labbaik Pakistan (TLP)' has shared the announcement via their Twitter handle that a cash reward of Pakistani Rupees 5 million (Around 19.5 lakhs INR) to anyone who would behead the Petitioner for allegedly committing 'blasphemy'. The tweet reads as "Ghustaak-e-Rasool Nupur Sharma beheader will be given Rs 5 million reward -Labbaikians TV" followed by a comment by a user stating "Kash me India me hota to iss ka qatalkr hi data (I wish that I was in India. I would have killed her then). Further, the President of AIMIM (Inquilab) & Member of Parliament Lok Sabha (Hyderabad Constituency) Mr. Asaduddin Owaisi delivered the speech inciting violence against the Petitioner in an open ground before thousands of people. Further, an anti-social element by the name of Rahbar Siddiqui (Twitter Handle @rahbarsiddiqui5) has also issued a reward of five lakh rupees to anybody who beheads the Petitioner herein. There are lakhs of such beheading and "Gustakh-e-rasool/nabi ki ek saza, sartann se judasarrtann se juda" calls/threats made against the Petitioner which are all available in the public domain.

14. It is submitted while the threats previously were limited to electronic mediums or mediums of such like, over the course of

time, the threats and their intensity and their nature have evolved and taken a far more tangible, real and proximate character. It is submitted that considering the event unfolding it is undeniable that a considerable threat exists as to the safety and well-being of the Petitioner and the family of the Petitioner. A sample of tweets, messages, publicly aired/shared videos and news article highlighting the threat to the Petitioner and her family are annexed herewith and marked as "ANNEXURE P/3" at pg. 74 to 216

15. On 27.05.2022, the Petitioner, through her tweets, highlighted the threats being received by the Petitioner to the Delhi Police. The following is a part of the tweet which the Petitioner tweeted on 27.05.2022 :

" : @DelhiPolice @CPDelhi I am getting continuous death and beheading threats against my family and myself which are egged on by @zoo_bear because of his attempts to incite communal passions and vitiate the atmosphere by building a fake narrative. Attaching a few pics. Please note."

The Delhi Police, at 8:30 PM, responded as under :

"The matter has been forwarded to the concerned officials for necessary action. You will be contacted shortly."

Further, the Petitioner followed up and tweeted as under :

"@CPDelhi I'm being bombarded with rape, death and beheading threats against my sister, mother, father & myself. I've communicated same to @DelhiPolice. If anything untoward happens to me or any of my family members @CPDelhi please note wholly and solely @zoo_bear is responsible who

instead of 'fact-checking', peddled a fake narrative to viciate the atmosphere, to cause communal disharmony and cause communal and targeted hatred against me and my family."

It is important to mention that the Petitioner taken aback by the overwhelming rape, death, and beheading threats, sought time with the Commissioner of Police, New Delhi was in turn asked to come at 1:00 PM the next day, i.e., 28.05.2022.

A copy of the tweets of the Petitioner with the Delhi Police on 27.05.2022 are annexed herewith and marked as "ANNEXURE P/4" at pg. 217 to 218

16. In this regard, the Petitioner reached the PHQ, Jai Singh Road, New Delhi at around 1:00 PM and by about 2:00 PM in the afternoon, the Petitioner submitted her complaint, clearly mentioning the incident and her participation in the Times Now show aired on May 26th, 2022. The written complaint addressed to CP, PHQ, New Delhi, filed at 2:00PM, has been registered as an FIR by the Delhi Police as FIR No. 0130 in the Special Cell, Delhi Police. A copy of the complaint of the Petitioner along with the stamp of receiving of the complaint by the Delhi Police is annexed herewith and marked as "ANNEXURE P/5" at pg. , 219 to 220

17. Around the same time in the morning/afternoon of 28.05.2022, one Saket Gokhale, as per the reports in the media, filed a complaint against the Petitioner and her participation on

Times Now on 26.05.2022 at the Chanakyapuri Police Station, New Delhi. A copy of the news reports referring to the complaint filed by Saket Gokhale in the morning/afternoon on 28.05.2022 is annexed herewith and marked as "ANNEXURE P/6" at pg. 221 to 222 .

18. The complaint filed at 2:00PM, has been registered as an FIR by the Delhi Police as FIR No. 0130 in the Special Cell, Delhi Police. A copy of the FIR No. 0130 in the Special Cell, Delhi Police dated 28.05.2022 is annexed herewith and marked as "ANNEXURE P/7" at pg. , 223 to 225 .

19. It is also important to submit that at around 6:30 PM on 28.05.2022, after spreading fake news, dog-whistling, and propagating a false narrative that unleashed a wild onslaught of rape, death, and beheading threats against the Petitioner one of the anti-social element which the Petitioner recognized as @zoo_bear, posted another tweet asking for donation and money in response to and in exchange of causing grave threat and endangerment to the Petitioner's life, as under:

"If you support the work that @AltNews does to expose the hate propagated in mainstream media, please contribute toward our endeavour and support us to hold mainstream media accountable. You can make a donation at pages.razorpay.com"

It is pertinent to note that the said anti-social element after unleashing hate against the Petitioner profited by raising funds from the gullible public. Further, it is also important to mention

here that the said anti-social element managed to collect contributions upwards of twelve lakh rupees by 31.05.2022. A copy of the tweets of the anti social element raising funds dated 28.05.2022 is annexed herewith and marked as "ANNEXURE P/8" at pg. 1226 to 229.

20. To the utter shock of the Petitioner, rather than taking stock of the death threats and the open calls for violence, multiple First Information Report (s) ("FIR") have been lodged against the Petitioner in various States on the same alleged incident for the same alleged remarks during a television debate. The FIRs and the death threats are a clear and coordinated campaign intended to silence Petitioner's right of freedom of speech and expression guaranteed under Article 19 (1) (a) and right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. It is submitted that despite the first FIR filed by the Petitioner bearing FIR No 0130 before the Special Cell, Delhi Police, dated 28.05.2022, after the said First FIR, multiple Second FIRs have been filed against the Petitioner.

21. The details of further FIRs registered against the Petitioner are as under :

- a. At about 8:00 PM on 28.05.2022, a complaint is filed at the Pydhonie Police Station area in Mumbai, Maharashtra under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC) dated 28.05.2022 by Raza

Academy, a Sunni Bareilvi organization of Indian Sunni Muslims, for the Petitioner's alleged "remarks on the Holy Prophet on a National channel"

A copy of the FIR lodged at Pydhonie Police Station in Mumbai is annexed herewith and marked as "ANNEXURE P/9" at pg. , 230 to 236

- b. FIR at Cyber Cell Police Station Hyderabad, Telangana -
FIR No. 959/2022 dated 30.05.2022 under Section 153A, 504, 505(2) and 506 of the Indian Penal Code.

A copy of the FIR lodged at Cyber Cell Police Station Hyderabad, Telangana is annexed herewith and marked as "ANNEXURE P/10" at pg. 237 to 241.

- c. FIR at Mumbra Police State, Thane city, Maharashtra -
FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code.

A copy of the FIR lodged at Mumbra Police State, Thane city, Maharashtra is annexed herewith and marked as "ANNEXURE P/11" at pg. 242 to 246.

- d. FIR No. 0199 dated 30.05.2022 at Bhiwandi city, Thane city, Maharashtra under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;

A copy of FIR No. 0199 dated 30.05.2022 at Bhiwandi city, Thane city, Maharashtra is annexed herewith and marked as "ANNEXURE P/12" at pg. , 247 to 251

- e. FIR at Pune at PS Kondhwa under sections 153A, 153B, 295A dated 31.05.2022 numbered as FIR no. 540/2022.

A copy of the FIR at Pune at PS Kondhwa under sections 153A, 153B, 295A dated 31.05.2022 numbered as FIR no. 540/2022 is annexed herewith and marked as "ANNEXURE P/13" at pg. 252 to 255.

- f. FIR in West Bengal Narkeldanga PS Cased No. 220 dated 04.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code;
- g. FIR in New Delhi by Delhi Police IFSO unit dated 08.06.2022;
- h. FIR at PS Nanalpeth, District Parbhani, Maharashtra dated 13.06.2022 under Section 295A of the Indian Penal Code;
- i. FIR at Amherst PS, Kolkata, West Bengal, PS Case No. 123 under Section 153A, 295A, 298 and 34 of the Indian Penal Code.

Apart from the above, it may be noted that other FIRs in other parts of the country may have been registered against the Petitioner, specifically in State of Assam, State of Karnataka, State of Rajasthan, State of Andhra Pradesh and State of Uttar Pradesh without the knowledge of the Petitioner. Further, it is the reasonable belief of the Petitioner that further FIRs may be filed on the same alleged incident in the future. A copy of the media reports and social media posts indicating presence of other complaints is annexed herewith and marked as "ANNEXURE P/14" at pg. 256 to 295.

22. On 05.06.2022, the Petitioner issued a public statement withdrawing her comments/observations and clarified that she had no intentions of hurting the religious sentiments of any person or community whatsoever.

23. On 06.06.2022, the Commissioner of Police, Mumbai, indicated that coercive steps would be taken against the Petitioner in the near future. On 06.06.2022, Mumbra Police Station, Thane, Maharashtra served a notice to the Petitioner to appear physically before them on 22.06.2022. On 07.06.2022, Bhiwandi City PS, Bhiwandi, Maharashtra, served a notice to the Petitioner to appear before the police station in person on 13.06.2022. A copy of the summons by the Mumbra PS dated 06.06.2022 is attached herewith and marked as "ANNEXURE P/15" at pg 296 .
A copy of the summons by the Bhiwandi PS Maharashtra dated 07.06.2022 is attached herewith and marked as "ANNEXURE P/16" at pg. 297 to 298

24. On 08.06.2022, an FIR was registered in New Delhi by Delhi Police IFSO unit dated 08.06.2022. A copy of the public report indicating the registration of FIR dated 08.06.2022 in New Delhi by Delhi Police IFSO unit is attached herewith and marked as "ANNEXURE P/17" at pg 299 to 300

25. On 11.06.2022, the Petitioner replied to the Bhiwandi Police notice stating that there have been constant and multiple threats

to her and her family's life and wellbeing since 27.05.2022 which includes serious threats from persons in the State of Maharashtra as well. The Petitioner sought a later date after 4 weeks' time to appear once these violent calls/demonstrations calling for her beheading etc. mellow down. The Petitioner further requested to participate in the legal process pursuant to the summons through an electronic medium - either through video conference or otherwise. The Petitioner further highlighted that she has withdrawn my statements made on 26.05.2022 by way of a public statement which clearly states that *"If my words have caused discomfort or hurt religious feelings of anyone whatsoever, I hereby unconditionally withdraw my statement. It was never my intention to hurt anyone's religious feelings."* A copy of the email dated 11.06.2022 of the Petitioner to the Bhiwandi PS Maharashtra is attached herewith and marked as "ANNEXURE P/18" at pg 300 to 302

26. On 13.06.2022, apart from the above, the West.Bengal police, also issued a notice under Section 41A Cr.P.C. dated 13.06.2022 seeking the Petitioner to appear personally before Narkeldanga PS, West Bengal on 20.06.2022. A copy of the summon of West Bengal Police dated 13.06.2022 is attached herewith and marked as "ANNEXURE P/19" at pg 303 to 304

27. Further, an FIR was registered at PS Nanalpeth, District Parbhani, Maharashtra dated 13.06.2022 under Section 295A of the Indian Penal Code. A copy of the FIR was registered at PS

Nanalpeth, District Parbhani, Maharashtra dated 13.06.2022 is attached herewith and marked as "ANNEXURE P/20" at pg 304 to 306

28. Thereafter, a notice dated 13.06.2022 under Section 41A Cr.P.C. was received on 16.06.2022 from PS Nanalpeth, District Parbhani, Maharashtra to appear on 16.06.2022 before the police station. A copy of the notice dated 13.06.2022 under Section 41A Cr.P.C. was received on 16.06.2022 from PS Nanalpeth, District Parbhani, Maharashtra to appear on 16.06.2022 is attached herewith and marked as "ANNEXURE P/21" at pg 307 to 308

29. The Petitioner has replied to the Nanalpeth Police notice stating that there have been constant and multiple threats to her and her family's life and wellbeing since 27.05.2022 which includes serious threats from persons in the State of Maharashtra as well. The Petitioner sought a later date after 4 weeks' time to appear once these violent calls/demonstrations calling for her beheading etc. mellow down. The Petitioner further requested to participate in the legal process pursuant to the summons through an electronic medium - either through video conference or otherwise. The Petitioner further highlighted that she has withdrawn my statements made on 26.05.2022 by way of a public statement which clearly states that *"If my words have caused discomfort or hurt religious feelings of anyone whatsoever, I hereby unconditionally withdraw my statement. It was never my intention to hurt anyone's religious feelings."* A copy of the reply of the

Petitioner dated 16.06.2022 to the notice dated 13.06.2022 under Section 41A Cr.P.C. was received on 16.06.2022 from PS Nanalpeth, District Parbhani, Maharashtra is attached herewith and marked as "ANNEXURE P/22" at pg 309 to 310 .

30. It is critical note that the Petitioner has joined investigation before the Delhi Police in connection with FIR in New Delhi by Delhi Police IFSO unit dated 08.06.2022. The Petitioner has further given a statement to the Delhi Police on 18.06.2022.

31. It is submitted that the notices under section 41(1)(a) CrPC are violative of guidelines laid down in *Arnesh Kumar V State Of Bihar (2014) 8 SCC 273*. In the present case, it was imperative to issue notice under section 41A CrPC, rather Section 41(1)(a) of the CrPC. The said conduct brings out the vindictive manner in which the Respondents have approached the case of the Petitioner.

32. Hence, in view of the aforesaid, indulgence of this Hon'ble court is necessary to protect the rights of the Petitioner as a citizen and as a spokesperson, along with ensuring the right to have an independent, free and fair portrayal of differing views. Therefore, in such a situation to require the Petitioner to approach the respective High Courts having jurisdiction for quashing would result in multiplicity of proceedings and cause unnecessary harassment to the Petitioner.

33. Therefore, the present Petition has been preferred under Article 32 of the Constitution of India praying for the quashment of multiple First Information Reports against her or in the alternative transfer the investigation into the said FIRs from other states to Delhi. The Petitioner further seeks a stay on the investigations in the interim and protection from arrest or any other coercive measures.

III. CAUSE OF ACTION

34. It is respectfully submitted that it is trite law that multiple FIRs are an abuse of process and violation of the fundamental rights of the Petitioner. In this regard it is further submitted that, despite FIR No 0130 pending before the Special Cell, Delhi Police dated 28.05.2022, being the First FIR, multiple "Second FIRs" have been filed against the Petitioner. It is submitted that multiple FIRs on the same facts and cause of action have been registered in a well-coordinated manner to coerce, harass and intimidate the Petitioner are nothing, but a well-orchestrated campaign before different police stations concurrently in various parts of the country amounting to abuse of process and liable to be quashed.

35. It is submitted that the observations of the Petitioner, which by its very nature were to ensure that the atmosphere of the debate is not vitiated, have not caused any public order issue. It is

submitted that in fact, the observations did not attract any response or threats as mentioned above, till the time the doctored video was shared on social media by anti-social elements. The gist of the offences under Section 295A, 153A and 505 of the Indian Penal Code and the constitutional validity of such provisions is premised on the 'public order' test. It is submitted that in the instant case, neither the subsequent second FIRs nor the facts available in public domain, at any point highlight that the speech of the Petitioner has led to any public order issue till the time the video was not doctored mischievously and shared on social media. It is submitted that in absence of the same, no offence whatsoever can be made out under Section 295A, 153A, 297 and 505 of the Indian Penal Code to maintain the impugned FIRs.

36. It is further submitted that while interpretating the above stated provisions, in light of the constitutional principles of free speech and right to life, this Hon'ble Court has consistently held that such provisions seek to criminalise only aggravated form of insults to religion when it is perpetuated with deliberate and malicious intent to outrage the religious feelings of that group. It is submitted that this Hon'ble Court has held that criminality would not be attracted unless deliberate or malicious intent to outrage the religious feelings or create public order situations has been established or asserted. In the present case, it is neither the case nor the allegation that the Petitioner had any malicious intent or had any deliberate intention to outrage the religious

feelings or create public order situations. It is submitted that therefore, even on merits, in absence of the same, no offence whatsoever can be made out under Section 295A, 153A, 297 and 505 of the Indian Penal Code to maintain the impugned FIRs.

37. It is submitted that in fact, the death threats and rape threats to the Petitioner and her family, and the FIRs have been filed, only after the doctored video was shared on social media by anti-social elements. It is submitted that therefore, in essence, it is not the observations of the Petitioner that have created in the present situation rather it is the malicious and deliberate dissemination of doctored video that has resulted in the filing of FIRs and threats. It is submitted that it is the incitement by the anti-social elements that in the present case ought to attract criminal sanctions. It has also come to light that the said anti-social elements, after sharing the doctored videos have sought to raise funds from gullible public thereby profiting from the entire hate-mongering against the Petitioner. It is also important to mention here that the said anti-social element managed to collect contributions upwards of twelve lakh rupees by 31.05.2022.

38. It is respectfully submitted that the sweeping power of criminal justice administration does not merit exposing a citizen each time to a fresh investigation by the police in respect of the same incident and if the facts and circumstances giving rise to FIRs are same, the subsequent FIRs are liable to be quashed as

held in *T.T. Antony v. State of Kerala*(2001) 6 SCC 181; and *Babubhai v. State of Gujarat*,(2010) 12 SCC 254.

39. In light of the aforesaid background, it is respectfully submitted that the subject FIRs and Complaint(s) are false, baseless and liable to be quashed as it is bereft of any merit or any averment which constitutes any criminal offence. It is submitted that in the present case no offence is made out. Furthermore, the Petitioner had no intention or any malicious purpose to insult any religious belief nor did she do so. In respect to the aforesaid, it is submitted that any purported utterance mentioned in the complaints/FIRs was in response to a serious instigation which occurred during a live TV debate. The said FIRs are filed in complete negation of the ratio of the judgment by the 5-judges – Constitution Bench of this Hon'ble Court in *Ramji Lal Modi v. State of U.P.*, AIR 1957 SC 620.

40. Further, in the absence of any offence being made out as per the admitted case of the complainants, the facts and circumstances of the present matter justifies quashing of the said FIRs and the same is squarely covered by the judgment of this Hon'ble Court in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335. It is further submitted that, in *Manzar Sayeed Khan v. State of Maharashtra*,(2007) 5 SCC 1, this Hon'ble Court has observed that an FIR can be quashed if it does not disclose an offence and there is no need for any investigation or recording of

any statement. Thus, in the present matter no useful purpose is likely to be served by continuing the investigation in the impugned FIRs and the interference by this Hon'ble Court is necessary to prevent injustice and the agony of the Petitioner and for the purposes of securing the ends of justice.

41. It is respectfully submitted that, all the FIRs or complaints which have been lodged in diverse jurisdictions arise out of one and the same incident - the broadcast on 26th May, 2022 on Times Now. It is submitted that, the foundation of the allegation that offences have been committed under the provisions of the Indian Penal Code u/s 295A (Malicious act to insult a religion), Section 153A (Promoting enmity between groups) and Section 505(2) (Statements conducting to public mischief) relates to the same incident and hence multiplicity of FIRs in different jurisdictions would only lead to duplicity of proceedings.

42. It is respectfully submitted that, the said well-orchestrated and baseless FIRs are intended to silence Petitioner's right of freedom of speech and expression guaranteed under Article 19(1)(a) and right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. It is respectfully submitted that the said FIRs and Complaint filed is a gross abuse of process of law and in gross violation of the Petitioner's fundamental rights, including, under Article 19(1)(a) and right to life and personal liberty guaranteed under Article 21 of the

Constitution of India, 1950. Furthermore, the said FIRs also have a stifling and chilling effect on the exercise of freedom of speech and expression and will effectively destroy the freedom of citizens. Therefore, the reliefs sought by the Petitioner in the present Writ Petition would ensure protection of the democratic interest in fearless and independent debate and discussion.

43. For that there are grave death threats that are made to the Petitioner due to the incident and hence there is a great apprehension of life and liberty to Petitioner in the places where the said FIRs and complaints are registered.

44. It is respectfully submitted that the Petitioner, in the present circumstances and the present atmosphere, does not seek to annex or plead any factual or logical basis for her observations on 26.05.2022. As stated above, the Petitioner has already withdrawn her statement. The Petitioner seeks liberty to additionally plead appropriate grounds and factual averments in this regard as and when required. It is submitted that however, the statement of Petitioner, as is evident from the unequivocal withdrawal, never sought to intentionally or maliciously cause any injury of any kind or promote any enmity of any kind between groups, and therefore, cannot be a criminal offence either under Section 153A, 295A, 505 or 297 of the Indian Penal Code.

45. In this regard, it is clarified and unequivocally submitted that it was never the intention of the Petitioner to insult or disregard the religious feelings of any class or community and certainly not to incite any ill-will between classes. Further, it is clarified that if viewed in the correct context, the Petitioner merely sought to convey to the other co-panelists, who had made an attempt to insult the religious beliefs of a class that the said attempts of the panelist are unfair and vitiates the debate. The attempt of the Petitioner, if viewed in the correct context, was to keep the debate in the correct perspective and certainly not to commit any offence as mentioned in the aforementioned FIRs.

46. The Petitioner, in this regard, seeks to highlight that such threat to life is not illusionary or fanciful but is rather very apparent as there have been numerous previous instances where such incidents have occurred. It is respectfully submitted that in this regard the following incidents are pointed out :

- a. In 1924, a proprietor of a bookstore in Lahore by the name of Mahashe Rajpal printed a pamphlet titled *Rangila Rasul*. Rajpal was ultimately acquitted by the Hon'ble Lahore High Court in *Raj Paul v. Emperor*, [1927 SCC OnLine Lah 304: AIR 1927 Lah 590]

After several unsuccessful assassination attempts on Rajpal, he was stabbed to death by a young carpenter named Ilmud-din on April 6, 1929. It is respectfully submitted that, in view of serious death threats made to the Petitioner, there is

great apprehension of life and liberty to the Petitioner in the places where the said FIRs and complaints are registered. In view of the same it would be in interest of justice and for safety of the Petitioner that the FIRs and complaints are clubbed together at a neutral place like New Delhi or to a place where the Petitioner resides, i.e., Delhi.

- b. In 2015, there were similar calls by protestors against one Kamlesh Tiwari which demanded death for Tiwari. Finally on October 18, 2019, four years after incident, Tiwari was murdered in broad daylight, in his office-cum-residence at Lucknow.
- c. More recently, one KishanBharvad was shot dead on January 25, 2022 after he had allegedly shared a social media post. There are multiple other examples from the world over most infamously from France wherein these beheading and death threat calls are ultimately executed, resulting in mutilations and deaths of unsuspecting individuals.

47. It is submitted that therefore, there are clear historical occurrences and facts which justify that the Petitioner and her family's life and liberty is under threat. Further, it is clear that the pattern of violence and threats that have often been a fallout of any such comments, results in actual tangible action even after years and years have elapsed from date of the alleged occurrence. It is submitted that therefore, in a democracy which values freedom of speech and seeks to protect the life and liberty of

individuals, it is incumbent upon the Respondents and this Hon'ble court, to take all possible measures in order to protect fundamental rights and the life of the Petitioner.

48. It is submitted while the threats previously were limited to electronic mediums or mediums of such like, over the course of time, the threats and their intensity and their nature have evolved and taken a far more tangible, real and proximate character. It is submitted that considering the event unfolding it is undeniable that a considerable threat exists as to the safety and well-being of the Petitioner and the family of the Petitioner.

49. It is submitted that the State and the Respondents ought to acknowledge that ignorance of such death threats and threats of violence [which have often resulted in actual violence] if ignored, cause a serious dent in the genuine exercise of free speech rights and right to life of individuals across the country and result in having a considerable degree of chilling effect on the same. It is submitted that this chilling effect is due to illegal or extra judicial/extra-legal methods thereby seriously jeopardizing legitimate claim to fundamental rights.

50. In such circumstances, there is a gross violation of the Petitioner's fundamental rights guaranteed under Article 19(1)(a) and under Article 21 of the Constitution of India, 1950. It is submitted that such malicious and well-coordinated campaign

against the Petitioner also amounts to stifling the freedom of expression which is an essential part of fundamental rights enshrined under Article 19 (1)(a) of the Constitution of India.

51. It is respectfully submitted that multiple complaints and FIRs have been filed/registered against the Petitioner before various police stations across the country. It is pertinent to note that the States where the complaints/FIRs have been registered against the Petitioner are also mostly registered in the States wherefrom the Petitioner has received the grave and chilling beheading threats, rape threats, and death threats. In fact, the summons from Maharashtra Police and West Bengal Police have been issued to the Petitioner to appear physically before police station which exists in the very same areas wherein the calls for the death of the Petitioner have been. It is inconceivable that the Petitioner in such situations can comply with such summons. Incidentally, the one crore rupees reward to anybody who beheads the Petitioner is given by a member of AIMIM (Inquilab) The All India Majlis-E-Ittehadul Muslimeen from Hyderabad, wherein FIR 959/2022, dated 30.05.2022 has been registered at Cyber cell Police Station, Hyderabad.

52. It is submitted that thus, neither would it be safe for the Petitioner to appear at these locations nor would the Petitioner be in a position to individually approach each such court, apart from the fact that there may be conflicting orders of various courts.

Given the criminal antecedents of complainants it is unlikely that the Petitioner's life would be protected if she was to join inquiry in any of these Police Stations in States spread across the country. Therefore, to safeguard the life, and prevent any imminent danger to the Petitioner's life, it is the only and logical way to shift all cases and investigation under the ongoing investigation in this case in FIR 0130/2022 registered at special cell, Delhi Police. Therefore, the Petitioner has no other equally efficacious remedy but to approach this Hon'ble Court.

IV. GROUNDS

53. The present petition is filed by the Petitioner on the following amongst other grounds which are taken in the alternative and without prejudice to each other:-

- A. **BECAUSE**, various FIRs have been filed precipitated with malice against the Petitioner. In particular, these complaints have been filed to muzzle the fundamental right to free speech and expression guaranteed under Article 19(1)(a) of the Constitution of India, 1950 and to infringe upon her right to life and personal liberty guaranteed under Article 21 of the Constitution.

- B. **BECAUSE**, the complaints and the FIRs contain baseless and unsubstantiated allegations which are not borne out from the broadcasts aired on the news channel.
- C. **BECAUSE**, the allegations in the Complaints and the FIRs are merely conjectures and surmises based on a complete and vindictive misreading of only a miniscule part of the broadcast.
- D. **BECAUSE**, the FIRs fail to take in to account the genuine withdrawal of the statement made by the Petitioner at the public platform. The said withdrawal further establishes the fact that the Petitioner did not and could not have had any ill will or malicious intention to cause insult or hurt religious sentiments, which is a necessary requirement for the offence alleged against the Petitioner.
- E. **BECAUSE**, the Complaints and FIRs have been filed in quick succession against the Petitioner in various parts of the country, clearly showing an ill-motive masquerading as genuine concern.
- F. **BECAUSE**, none of the ingredients of the offences as mentioned in the complaint and the FIR are made out and the present is a fit case for this Hon'ble Court to quash all such FIR's in the interests of justice.

- G. BECAUSE, this Hon'ble Court has taken the view in *Satinder Singh Bhasin vs. Government (NCT of Delhi) & Others* [2019 (10) SCC 800] that in cases where there are a group of cases in different States, this Hon'ble Court can exercise jurisdiction under Article 32 of the Constitution and grant necessary relief.
- H. BECAUSE, the sweeping power of criminal justice administration does not merit exposing a citizen each time to a fresh investigation by the police in respect of the same incident and if the facts and circumstances giving rise to FIRs are same, the subsequent FIRs are liable to be quashed as held in *T.T. Antony v. State of Kerala* (2001) 6 SCC 181; and *Babubhai v. State of Gujarat* (2010) 12 SCC 254.
- I. BECAUSE the sweeping power of criminal justice administration does not merit exposing a citizen each time to a fresh investigation by the police in respect of the same incident. This Hon'ble Court in the judgment of *T.T. Antony vs. State of Kerala* (2001) 6 SCC 181 had observed that :

20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent

information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 CrPC.

27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh

investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution.

J. BECAUSE for the registration of the FIRs on the self-same incident and broadcast facts amounts to gross violation of fundamental rights and also violation of freedom of speech. This Hon'ble Court recently in *Arnab Ranjan Goswami vs. Union of India & Ors.* (2020) 14 SCC SC 12, observed that:-

38. Article 32 of the Constitution constitutes a recognition of the constitutional duty entrusted to this Court to protect the fundamental rights of citizens. The exercise of journalistic freedom lies at the core of speech and expression protected by Article 19(1)(a). The petitioner is a media journalist. The airing of views on television shows which he hosts is in the exercise of his fundamental right to speech and expression under Article 19(1)(a). India's freedoms will rest safe as long as journalists can speak truth to power without being chilled by a threat of reprisal. The exercise of that fundamental right is not absolute and is answerable to the legal regime enacted with reference to the provisions of Article 19(2). But to allow a journalist to be subjected to multiple complaints and to the pursuit of remedies traversing multiple States and jurisdictions when faced with successive

FIRs and complaints bearing the same foundation has a stifling effect on the exercise of that freedom. This will effectively destroy the freedom of the citizen to know of the affairs of governance in the nation and the right of the journalist to ensure an informed society. Our decisions hold that the right of a journalist under Article 19(1)(a) is no higher than the right of the citizen to speak and express. But we must as a society never forget that one cannot exist without the other. Free citizens cannot exist when the news media is chained to adhere to one position. Yuval Noah Harari has put it succinctly in his recent book titled "21 Lessons for the 21st Century": "Questions you cannot answer are usually far better for you than answers you cannot question".

39. A litany of our decisions — to refer to them individually would be a parade of the familiar — has firmly established that any reasonable restriction on fundamental rights must comport with the proportionality standard, of which one component is that the measure adopted must be the least restrictive measure to effectively achieve the legitimate State aim. Subjecting an individual to numerous proceedings arising in different jurisdictions on the basis of the same cause of action cannot be accepted as the least restrictive and effective method of achieving the legitimate State aim in prosecuting crime. The manner in which the petitioner has been subjected to numerous FIRs in several States, besides the Union Territories of Jammu and Kashmir on the basis of identical allegations arising out of the same television show would leave no manner of doubt that the intervention of this Court is necessary to protect the rights of the petitioner as a citizen and as a

journalist to fair treatment (guaranteed by Article 14) and the liberty to conduct an independent portrayal of views. In such a situation to require the petitioner to approach the respective High Courts having jurisdiction for quashing would result into a multiplicity of proceedings and unnecessary harassment to the petitioner, who is a journalist.

- K. BECAUSE, all the FIRs or complaints which have been lodged in diverse jurisdictions arise out of one and the same incident - the broadcast on 27th May, 2022 on Times Now. It is submitted that, the foundation of the allegation that offences have been committed under the provisions of the Indian Penal Code u/s 295A (Malicious act to insult a religion), Section 153A (Promoting enmity between groups) and Section 505(2) (Statements conducting to public mischief) relates to the same incident and hence multiplicity of FIRs in different jurisdictions would only lead to duplicity of proceedings.
- L. BECAUSE, in *Ramji Lal Modi v. State of U.P.*, AIR 1957 SC 620 (5-Judges Constitution Bench) adverting to the multiple aspects and various facets of Section 295A IPC held as follows :-

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 insofar as it covers the first variety may be said to have been enacted in the interests of public order within the meaning of clause (2) of Article 19, but insofar 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 clause (2) of Article 19 protects a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression "in the interests 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 Section 295-A 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 clause (2) of Article 19 as being a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression guaranteed by Article 19(1)(a). ...”.

- M. **BECAUSE** it is clear as crystal that Section 295-A does not stipulate everything to be penalized 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 penalizes only those acts of insults 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. It is submitted that, 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.
- N. **BECAUSE** in *Priya Prakash Varrier and Others vs. State of Telangana and Another*, (2019) 12 SCC 432, the nature of relief claimed was set out in paragraph 1 of the decision whereafter this Court relied upon the dictum of the Constitution Bench in *Ramji Lal Modi vs. State of U.P.*

[AIR (1957) SC 620] that for an offence to come within the parameters of Section 295-A of the IPC, the crime ought to have been committed with deliberate and malicious intention of outraging the religious feelings of a class. Finding such element to be completely absent, the relief prayed for was granted by this Court by observing as follows:

"13. If the ratio of the Constitution Bench is appropriately appreciated, the said provision was saved with certain riders, inasmuch as the larger Bench had observed that 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 Article 19(1)(a) of the Constitution. The emphasis was laid on 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.

14. As we perceive, the intervenor, who was an informant in FIR No. 34 of 2018, in all possibility has been an enthusiast to gain a mileage from the FIR, though the same was really not warranted. What is urged before us is that picturisation which involves the actress with a wink is blasphemous. Barring that there is no other allegation. Such an allegation, even if it is true, would not come within the ambit and sweep of Section 295-A IPC, as has been explained in Ramji Lal Modi [Ramji Lal Modi v. State of U.P., AIR 1957 SC 620 : 1957 Cri LJ 1006].

15. In view of the aforesaid, we allow the writ petition and quash FIR No. 34 of 2018. We also direct that no FIR under Section 154 or any

complaint under Section 200 of the Code of Criminal Procedure should be entertained against the petitioners because of the picturisation of the song. However, there shall be no order as to costs."

- O. **BECAUSE** the gist of the offence under Section 153A IPC is the intention to promote feelings of enmity or hatred between different classes of people. Thus, the intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153A IPC. It is submitted that, none of the ingredients of the Section 153A is made out in present case.
- P. It is note-worthy that the offence comprised in section 505(2) IPC is in *parimateria* with that comprised in section 153A IPC, inasmuch as it refers to acts and omissions that are intended to create enmity, hatred or ill-will between different religions or communities. While considering section 153A and also referring to section 505(2) IPC, this Hon'ble Court in *Manzar Sayeed Khan v. State of Maharashtra*, (2007) 5 SCC 1 taking note of the observations in *Bilal Ahmed Kaloo v. State of A.P.*, (1997) 7 SCC 431, records that common features of Sections 153-A and 505(2) being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes or communities, involvement of at least two groups or communities is necessary. Further,

merely inciting the feeling of one community or group without any reference to any other community or group would not attract either provision. It was held as under :

"16. Section 153-A IPC, as extracted hereinabove, covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquillity. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused. The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. The matter complained of within the ambit of Section 153-A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning."

* * * * *

"18. Again in Bilal Ahmed Kaloo v. State of A.P. it is held that the common feature in both the sections viz. Sections 153-A and 505(2), being promotion of feeling of enmity, hatred or ill will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two

such groups or communities should be involved. Further, it was observed that merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.”

- Q. It is further submitted that for promotion of feeling of enmity, hatred or ill will “between different” religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it is observed that allegedly merely inciting the feeling of one community or group without any reference to any other community or group cannot attract the sections. It is stated that no such circumstances are alleged in the present FIRs and therefore FIRs cannot be sustained.
- R. Further, in *Balwant Singh v. State of Punjab*, (1995) 3 SCC 214, this Hon’ble Court had held that mens rea is an essential ingredient of the offence under Section 153-A and only when the spoken or written words have the intention of creating public disorder for disturbance of law and order or affect public “tranquillity”, an offence can be said to be committed. Similarly; in *Manzar Sayeed Khan supra*, the intention to promote feeling of enmity or hatred between different classes of people was considered necessary as Section 153-A requires the intention to cause disorder or incite the people to violence.

S. It is important to refer to the interpretation provided by this Hon'ble court in *Amish Devgan v. Union of India*, (2021) 1 SCC 1. While interpreting section 295A, 153A and 505 of the Indian Penal Code, this Hon'ble court held as under:

*“98. In the context of Section 153-A(1)(b) we would hold that public tranquillity, given the nature of the consequence in the form of punishment of imprisonment of up to three years, must be read in a restricted sense synonymous with public order and safety and not normal law and order issues that do not endanger the public interest at large. **It cannot be given the widest meaning so as to fall foul of the requirement of reasonableness which is a constitutional mandate.** Clause (b) of Section 153-A(1), therefore, has to be read accordingly to satisfy the constitutional mandate. We would interpret the words “public tranquillity” in clause (b) to mean *ordre public* a French term that means absence of insurrection, riot, turbulence or crimes of violence and would also include all acts which will endanger the security of the State, but not acts which disturb only serenity, and are covered by the third and widest circle of law and order. Public order also includes acts of local significance embracing a variety of conduct destroying or menacing public order. Public order in clause (2) of Article 19 nor the statutory provisions make any distinction between the majority and minority groups with reference to the population of the particular area though as we have noted above this may be of some relevance. When we accept the principle of local significance, as a sequitur we must also accept that majority and minority groups could have, in a given case, reference to a local area.*”

100. The two provisions have been interpreted earlier in a number of cases including Ramji Lal Modi [Ramji Lal Modi v. State of U.P., AIR 1957 SC 620 : 1957 Cri LJ 1006] , Kedar Nath [Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955 : (1962) 2 Cri LJ 103] , Bilal Ahmed Kaloo [Bilal Ahmed Kaloo v. State of A.P., (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] . It could be correct to say that Section 295-A of the Penal Code encapsulates of all three elements, namely, it refers to the content-based element when it refers to words either spoken or written, or by signs or visible representation or otherwise. However, it does not on the basis of content alone makes a person guilty of the offence. The first portion refers to deliberate and malicious intent on the part of the maker to outrage religious feeling of any class of citizens of India. The last portion of Section 295-A refers to the harm-based element, that is, insult or attempt to insult religions or religious belief of that class. Similarly, sub-section (2) to Section 505 refers to a person making publishing or circulating any statement or report containing rumour or alarming news. Thereafter, it refers to the intent of the person which should be to create or promote and then refers to the harm-based element, that is, likely to create or promote on the ground of religion, race, place of birth, residence, language, caste, etc. feeling of enmity, hatred or ill-will between different religions, racial language, religious groups or castes or communities, etc.

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115. The true test for a valid FIR, as laid down in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , is only whether the information furnished provides reason to suspect the commission of an offence which the police officer concerned is empowered under Section 156(1) of the Criminal Procedure Code to investigate. The questions as to whether the report is true;

whether it discloses full details regarding the manner of occurrence; whether the accused is named; or whether there is sufficient evidence to support the allegation are all matters which are alien to consideration of the question whether the report discloses commission of a cognizable offence. As per sub-sections (1)(b) and (2) of Section 157 of the Criminal Procedure Code, a police officer may foreclose an FIR before investigation if it appears to him that there is no sufficient ground to investigate. At the initial stage of the registration, the law mandates that the officer can start investigation when he has reason to suspect commission of offence. Requirements of Section 157 are higher than the requirements of Section 154 of the Criminal Procedure Code. Further, a police officer in a given case after investigation can file a final report under Section 173 of the Criminal Procedure Code seeking closure of the matter.

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B. The second prayer — Multiplicity of FIRs and whether they should be transferred and clubbed with the first FIR registered at Police Station Dargah, Ajmer, Rajasthan

122. We would now examine the second prayer of the petitioner viz. multiplicity of FIRs being registered in the States of Rajasthan, Maharashtra, Telangana, and Madhya Pradesh (now transferred to Uttar Pradesh) relating to the same broadcast. Fortunately, both the sides agree that the issue is covered by the decision of this Court in T.T. Antony [T.T. Antony v. State of Kerala, (2001) 6 SCC 181 : 2001 SCC (Cri) 1048] which has been followed in Arnab Ranjan Goswami case [Arnab Ranjan Goswami v. Union of India, (2020) 14 SCC 12] . It would be appropriate in this regard to therefore reproduce the observations in Arnab Ranjan Goswami case [Arnab Ranjan Goswami v. Union of

India, (2020) 14 SCC 12] which are to the following effect : (SCC pp. 36-39, paras 30-36)

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The aforesaid quotation refers to the judgment of this Court in Babubhai v. State of Gujarat [Babubhai v. State of Gujarat, (2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336] wherein the test to determine sameness of the FIRs has been elucidated as when the subject-matter of the FIRs is the same incident, same occurrence or are in regard to incidents which are two or more parts of the same transaction. If the answer to the question is affirmative, then the second FIR need not be proceeded with.

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126. In view of our findings, we accept the prayer made in the last amended writ petition and transfer all FIRs listed at Serial Nos. 2 to 7 in para 3 (supra) to Police Station Dargah, Ajmer, Rajasthan, where the first FIR was registered. We do not find any good ground or special reason to transfer the FIRs to Noida, Uttar Pradesh. Statement of the complainant/informant forming the basis of the transferred FIRs would be considered as statement under Section 162 of the Criminal Procedure Code and be proceeded with. Compliance with the above directions to transfer papers would be made by the police station concerned within four weeks when they receive a copy of this order. The above directions would equally apply to any other FIR/complaint predicated on the same telecast/episode.”

- T. Most recently, this Hon'ble court in *Patricia Mukhim Versus State of Meghalaya and Others*, 2021 SCC OnLine SC 258, while interpreting section 295A, 153A and 505 of the Indian Penal Code, has held as under:

"8. "It is of utmost importance to keep all speech free in order for the truth to emerge and have a civil society." -Thomas Jefferson. Freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution is a very valuable fundamental right. However, the right is not absolute. Reasonable restrictions can be placed on the right of free speech and expression in the interest of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of Court, defamation or incitement to an offence. Speech crime is punishable under Section 153 A IPC. Promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony is punishable with imprisonment which may extend to three years or with fine or with both under Section 153 A. As we are called upon to decide whether a prima facie case is made out against the Appellant for committing offences under Sections 153 A and 505(1)(c), it is relevant to reproduce the provisions which are as follows:

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9. Only where the written or spoken words have the tendency of creating public disorder or disturbance of law and order or affecting public tranquility, the law needs to step in to prevent such an activity. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153 A IPC and the prosecution has to prove the existence of mens rea in order to succeed.'

10. The gist of the offence under Section 153 A IPC is the intention to promote feelings of enmity or hatred between different classes of people. The intention has to be judged primarily by the language of the piece of writing and the circumstances in

which it was written and published. The matter complained of within the ambit of Section 153A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning².

11. In *Bilal Ahmed Kaloo v. State of A.P.*³, this Court analysed the ingredients of Sections 153 A and 505(2) IPC. It was held that Section 153 A covers a case where a person by "words, either spoken or written, or by signs or by visible representations", promotes or attempts to promote feeling of enmity, hatred or ill will. Under Section 505(2) promotion of such feeling should have been done by making a publication or circulating any statement or report containing rumour or alarming news. Mens rea was held to be a necessary ingredient for the offence under Section 153 A and Section 505(2). The common factor of both the sections being promotion of feelings of enmity, hatred or ill will between different religious or racial or linguistics or religious groups or castes or communities, it is necessary that at least two such groups or communities should be involved. It was further held in Bilal Ahmed Kaloo (supra) that merely inciting the feelings of one community or group without any reference to any other community or group cannot attract any of the two sections. The Court went on to highlight the distinction between the two offences, holding that publication of words or representation is sine qua non under Section 505. It is also relevant to refer to the judgment of this Court in Ramesh v. Union of India⁴ in which it was held that words used in the alleged criminal speech should be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and

vacillating minds, nor of those who scent danger in every hostile point of view. The standard of an ordinary reasonable man or as they say in English law "the man on the top of a Clapham omnibus" should be applied.

12. This Court in *Pravasi Bhalai Sangathan v. Union of India*⁵ had referred to the Canadian Supreme Court decision in *Saskatchewan (Human Rights Commission) v. Whatcott*⁶. In that judgment, the Canadian Supreme Court set out what it considered to be a workable approach in interpreting "hatred" as is used in legislative provisions prohibiting hate speech. The first test was for the Courts to apply the hate speech prohibition objectively and in so doing, ask whether a reasonable person, aware of the context and circumstances, would view the expression as exposing the protected group to hatred. The second test was to restrict interpretation of the legislative term "hatred" to those extreme manifestations of the emotion described by the words "detestation" and "vilification". This would filter out and protect speech which might be repugnant and offensive, but does not incite the level of abhorrence, delegitimization and rejection that risks causing discrimination or injury. The third test was for Courts to focus their analysis on the effect of the expression at issue, namely, whether it is likely to expose the targeted person or group to hatred by others. Mere repugnancy of the ideas expressed is insufficient to constitute the crime attracting penalty."

- U. It is submitted that from the facts of the present case it is apparent that the words were spoken in a live heated debate and there was no intention or mens rea to commit the

alleged offence or any calculated motive behind the same. It is submitted that in fact the participation of the petitioner and the observations made were with the intent to ensure that the atmosphere is not vitiated due to the utterances of the other co-panelists. Therefore, quite contrary to having any malicious or deliberate intent to cause hurt or hatred or enmity or ill-will, the intentions of the Petitioner were a bonafide attempt to keep the debate in the correct direction and to ensure that the no groups/classes are hurt by either of the sides.

V. **BECAUSE** for the promotion of feeling of enmity, hatred or ill will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it is observed that merely inciting the feeling of one community or group without any reference to any other community or group cannot attract the sections. It is stated that no such circumstances are alleged in the present FIRs and therefore prosecution is highly unlikely.

W. **BECAUSE** it has been held by this Court in *LIC v. Manubhai Shah*, (1992) 3 SCC 637, that the freedom of speech and expression guaranteed to the citizens of this country "includes the right to propagate one's views through print media or through any other communication

channel, e.g., the radio and the television. Every citizen of this free country, therefore, has the right to air his or her views through the printing and/or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution.

- X. **BECAUSE** the said FIRs and Complaint filed is a gross abuse of process of law and in gross violation of the Petitioner's fundamental rights, including, under Article 19(1)(a) and right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. Furthermore, the said FIRs also have a stifling and chilling effect on the exercise of freedom speech and expression and will effectively destroy the freedom of citizens. Therefore, the reliefs sought by the Petitioner in the present Writ Petition would ensure protection of the democratic interest in fearless and independent debate and discussion.
- Y. **BECAUSE** in the absence of any offence being made out as per the admitted case of the complainants, the facts and circumstances of the present matter justifies quashing of the said FIRs and the same is squarely covered by the judgment of this Hon'ble Court in *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335. It is further submitted that, in *Manzar Sayeed Khan v. State of Maharashtra*, (2007) 5 SCC 1, this Hon'ble Court has observed that an FIR can be quashed if it does not disclose an offence and there is no

need for any investigation or recording of any statement. Thus, in the present matter no useful purpose is likely to be served by continuing the investigation in the impugned FIRs and the interference by this Hon'ble Court is necessary to prevent injustice and the agony of the Petitioner and for the purposes of securing the ends of justice.

- Z. **BECAUSE** in light of the aforesaid background, it is respectfully submitted that the subject FIRs and Complaint are false, baseless and liable to quashed as it is bereft of any merit or any averment which constitutes any criminal offence. It is submitted that in the present case no offence is made out. Furthermore, the Petitioner had no intention or any malicious purpose to insult any religious belief nor did she do so. In respect to the aforesaid, it is submitted that any purported utterance mentioned in the complaints/FIRs was in response to a serious instigation which occurred during a live TV debate. The said FIRs are filed in complete negation of the ratio of the judgment by the 5-judges - Constitution Bench of this Hon'ble Court in *Ramji Lal Modi v. State of U.P.*, AIR 1957 SC 620.

- AA. **BECAUSE** no part of cause of action arose the places where the FIRs / complaints are lodged. The subject words inadvertently spoken by the Petitioner were from the studio in Noida and the Petitioner also resides in the Noida.

Navinchandra N. Majithia v. State of Maharashtra,
(2000) 7 SCC 640.

BB. BECAUSE, in a line of cases, this Hon'ble court under its Writ Jurisdiction was pleased to quash the FIR:-

- (i) *Vijay Shekhar and Another vs. Union of India and Others,* (2004) 4 SCC 666
- (ii) *Rini Johar and Another vs. State of Madhya Pradesh and Others,* (2016) 11 SCC 703
- (iii) *Monica Kumar and Another vs. State of Uttar Pradesh and Others,* (2017) 16 SCC 169
- (iv) *Priya Prakash Varrier and Others vs. State of Telangana and Another,* (2019) 12 SCC 432
- (v) *Laxmibai Chandaragi B. and Another vs. State of Karnataka and Others,* (2021) 3 SCC 360

CC. BECAUSE, multiple Complaints and FIRs have been filed/registered against the Petitioner before various police stations across the country. The Petitioner would not be in a position to individually approach each such court, apart from the fact that there may be conflicting orders of various courts.

V. PRAYERS

In view of the facts and circumstances, stated above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to consider the following prayers:

- (i) Issue an appropriate writ quashing the following Complaints/FIRs filed against the Petitioner :
 - a. FIR at the Pydhonie Police Station, District Thane City area in Mumbai, Maharashtra - FIR No. 683 /2022, dated 28.05.2022 under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC);
 - b. FIR at Cyber Cell Police Station Hyderabad, Telangana - FIR No. 959/2022 dated 30.05.2022 under Section 153A, 504, 505(2) and 506 of the Indian Penal Code;
 - c. FIR at Mumbra Police State, Thane city, Maharashtra - FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code;
 - d. FIR at Bhiwandi Police Station, Thane city, Maharashtra- FIR No. 0199/2022, dated 30.05.2022 under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;
 - e. FIR at Kondhwa Police Station, Pune city, Maharashtra under sections 153A, 153B, 295A as FIR no. 540/2022 dated 31.05.2022.

- f. FIR in West Bengal Narkeldanga PS Case No. 220 dated 03.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code;
- g. FIR in New Delhi by Delhi Police (2/2) IFSO unit dated 08.06.2022 to the extent it relates to the present Petitioner only;
- h. FIR at PS Nanalpeth, District Parbhani, Maharashtra, FIR No.0221/2022, dated 13.06.2022 under Section 295A of the Indian Penal Code;
- i. FIR at Amherst PS, Kolkata, West Bengal, PS Case No. 125^{dated 07.06.22} under Section 153A, 295A, 298 and 34 of the Indian Penal Code
- j. Any other FIR that may have been registered with regard to the telecast on 26.05.2022 on Times Now; ; and/or
- (ii) In the alternative, issue an appropriate writ directing the transfer/consolidate the following FIRs :
- a. FIR at the Pydhonie Police Station area in Mumbai, Maharashtra- FIR No. 683/2022, dated 28.05.2022 under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC);
- b. FIR at Cyber Cell Police Station Hyderabad, Telangana - FIR No. 959/2022 dated 30.05.2022 under Section 153A, 504, 505(2) and 506 of the Indian Penal Code;

- c. FIR at Mumbra Police Station, Thane city, Maharashtra - FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code;
- d. FIR at Bhiwandi Police Station, Thane city, Maharashtra- FIR No. 0199 dated 30.05.2022 under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;
- e. FIR at Pune at PS Kondhwa under sections 153A, 153B, 295A dated 31.05.2022 numbered as FIR no. 540/2022.
and
- f. FIR in West Bengal Narkeldanga PS Cased No. 220 dated 03.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code;
- g. FIR in New Delhi by Delhi Police (2/2) IFSO unit dated 08.06.2022;
- h. FIR at PS Nanalpeth, District Parbhani, Maharashtra, FIR No.0221/2022, dated 13.06.2022 under Section 295A of the Indian Penal Code;
- i. FIR at Amherst PS, Kolkata, West Bengal, PS Case No. 125 ^{dated 07.06.22} under Section 153A, 295A, 298 and 34 of the Indian Penal Code
- j. Any other FIR that may have been registered with regard to the telecast on 26.05.2022 on Times Now, with the FIR No 0130 before the Special Cell, Delhi Police,

dated 28.05.2022 at New Delhi; and/or

- (iii) Issue an appropriate writ to the effect of staying of investigation in the following FIRs :
- a. FIR at the Pydhonie Police Station area in Mumbai, Maharashtra under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC), FIR No. 683/2022, dated 28.05.2022;
 - b. FIR at Cyber Cell Police Station Hyderabad, Telangana - FIR No. 959/2022 dated 30.05.2022 under Section 153A, 504, 505(2) and 506 of the Indian Penal Code;
 - c. FIR at Mumbra Police State, Thane city, Maharashtra - FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code;
 - d. FIR No. 0199 dated 30.05.2022 at Bhiwandi city, Thane city, Maharashtra under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;
 - e. FIR at Pune at PS Kondhwa under sections 153A, 153B, 295A dated 31.05.2022 numbered as FIR no. 540/2022;
 - f. FIR in West Bengal Narkeldanga PS Cased No. 220 dated 03.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code;

- g. FIR in New Delhi by Delhi Police(2/2) IFSO unit dated 08.06.2022 to the extent it relates to the present Petitioner only;
 - h. FIR at PS Nanalpeth, District Parbhani, Maharashtra, FIR No. 0221/2022 dated 13.06.2022 under Section 295A of the Indian Penal Code;
 - i. FIR at Amherst PS, Kolkata, West Bengal, PS Case No. 125^{doted 07.06.2022} under Section 153A, 295A, 298 and 34 of the Indian Penal Code;
and
 - j. Any other FIR that may have been registered with regard to the telecast on 26.05.2022 on Times Now;
and/or
- (iv) Issue an appropriate writ to the effect that the Petitioner shall not be arrested or not be subjected to any other coercive steps by the Respondents in the following FIRs :
- a. FIR at New Delhi being FIR No. 0130 in the Special Cell, Delhi Police dated 28.05.2022;
 - b. FIR at the Pydhonie Police Station area in Mumbai, Maharashtra under sections 295A, 153A and 505(1)B of the Indian Penal Code (IPC), FIR No.683/2022, dated 28.05.2022;
 - c. FIR at Cyber Cell Police Station Hyderabad, Telangana – FIR No. 959/2022 dated 30.05.2022

- under Section 153A, 504, 505(2) and 506 of the Indian Penal Code;
- d. FIR at Mumbra Police State, Thane city, Maharashtra – FIR No. 528/2022 dated 30.05.2022 under Section 153A, 153B, 295A, 298 and 505 of the Indian Penal Code;
- e. FIR No. 0199 dated 30.05.2022 at Bhiwandi city, Thane city, Maharashtra under Sections 153A, 153B, 295A and 505 of the Indian Penal Code;
- f. FIR at Pune at PS Kondhwa under sections 153A, 153B, 295A dated 31.05.2022 numbered as FIR no. 540/2022;
- g. FIR in West Bengal Narkeldanga PS Cased No. 220 dated 13.06.2022 under Section 153A, 295A, 298 and 34 of the Indian Penal Code;
- h. FIR in New Delhi by Delhi Police (2/2) IFSO unit dated 08.06.2022 to the extent it relates to the present Petitioner only;
- i. FIR at PS Nanalpeth, District Parbhani, Maharashtra, FIR No. 0221/2022 dated 13.06.2022 under Section 295A of the Indian Penal Code;
- j. FIR at Amherst PS, Kolkata, West Bengal, PS Case No. 123 under Section 153A, 295A, 298 and 34 of the Indian Penal Code;
- and

- k. Any other FIR that may have been registered with regard to the telecast on 26.05.2022 on Times Now; and/or
- (v) Issue an appropriate writ to the effect that no cognizance of any complaint would be taken by any court nor any FIR registered by the police on the cause of action in the present Writ Petition; and/or
- (vi) Issue a writ of mandamus directing the Respondents to provide adequate safety and security to the Petitioner and her family members across the country for the remainder of their lives; and/or
- (vii) Issue or pass any writ, direction or order which this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

FILED ON: 20.06.2022

FILED BY:

(RACHITTA RAI)
ADVOCATE FOR THE PETITIONER