

Heard Sri Tejasvi L Surya, learned counsel for the petitioner and Sri B.A. Belliappa, learned SPP for respondent - State.

The petitioner is before this Court calling in question a crime registered in Crime No.140/2023 on 19.06.2023 for the offence punishable under Section 505(2) of IPC and Section 153(A), 120(b) R/w Section 34 of IPC. The petitioner avers to be the head of I.T. cell which handles social media posts of Bharatiya Janata Party. He is now dragged into the web of crime for a tweet that he has posted on his personal twitter account. The Tweet reads as follows:

“Rahul Gandhi is dangerous and playing an insidious game...”

The aforesaid tweet is alleged to become the ingredient of Section 153-A and 505(2) of the IPC. It is alleged that it is derogatory and would bring in enmity between two different groups. Section 153-A mandates that a person would become open for prosecution and punishment who would do acts that would promote enmity between two different groups on the grounds of religion, race, place of birth, residence, language which would be prejudicial to the maintenance of harmony. The kind of acts are enumerated in sub-clauses. Section 505(2) of the IPC is to the same effect which deals with statements made creating or promoting enmity, hatred or illwill between classes. Therefore, the kernel of the provisions are that it should create enmity between two different groups or between classes.

The tweet afore-quoted is against an individual who is said to be the leader of the Indian National Congress and if it is against an individual how would a tweet against an individual become an act of creating enmity between two different groups be invoked against the petitioner. Section 505(2) of the IPC which deals with enmity between classes cannot also indicate how a tweet against an individual would become a reason for enmity between classes. An individual is neither a group nor a class for invocation of Section 153-A or 505(2) of the IPC. The complaint does not divulge how the afore-quoted tweet could become the offences under the afore-said provisions of the IPC.

The matter would require consideration. In the teeth of the aforesaid facts if further investigation is permitted to continue, it would run foul of the judgment of the Apex Court in the case of Patricia Mukhim v. State of Meghalaya reported in (2021)15 SCC 35 wherein the Apex Court has interpreted the purport of the provisions of the aforesaid provisions of the IPC.

For all the aforesaid reasons, further investigation in Crime No.140 of 2023 pending before the 8th Addl. CMM Court, Bengaluru shall remain stayed.

Though the learned SPP is heard, liberty is reserved to the State to seek variance of this order.

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