VERDICTUM.IN

Reserved on : 05.12.2024
Pronounced on : 12.12.2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.12267 OF 2024

BETWEEN:

SHRI L.S.TEJASVI SURYA
AGED ABOUT 33 YEARS
S/O LA SURYANARAYANA
RESIDING AT NO.381,
1ST 'A' MAIN ROAD,
NEAR VIVEKANANDA PARK,
GIRINAGAR, 1ST PHASE,
BENGALURU,
KARNATAKA – 560 085.

... PETITIONER

(BY SRI M.ARUNA SHYAM, SR.ADVOCATE A/W
SRI ANIRUDH A.KULKARNI, ADVOCATE)

AND:

1 . STATE OF KARNATAKA
BY HAVERI CEN CRIME POLICE STATION
REPRESENTED BY THE S.P.P. OFFICE,
HIGH COURT OF KARNATAKA,
BENGALURU – 560 001.

VERDICTUM.IN

2 . SUNIL HUCHANNANAVAR
AGED ABOUT 39 YEARS
S/O DILLESHWARA HUCHANNANAVAR
C/O DISTRICT POLICE OFFICE, HAVERI,
MANJUNATH NAGAR, HAVERI DISTRICT,
HAVERI – 581 110.

REPRESENTED BY THE S.P.P. OFFICE,
HIGH COURT OF KARNATAKA,
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI B.A.BELLIAPPA, SPP-I A/W
SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BHARATIYA NYAYA SANHITA, 2023, PRAYING TO QUASH THE COMPLAINT AND FIR IN CR.NO.99/2024 BOTH DATED 07.11.2024 REGISTERED BY HAVERI CEN CRIME P.S HAVERI FOR THE OFFENCE P/U/S 353(2) OF THE BHARATIYA NYAYA SANHITA, 2023 PENDING BEFORE HON'BLE PRL.CIVIL JUDGE (SR. DN.) AND C.J.M COURT, HAVERI DISTRICT ANNEXED AS ANNEXURE A AND B AT PAGE NOS.24 TO 27.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.12.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

VERDICTUM.IN

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner, a parliamentarian is knocking at the doors of this Court in the subject petition calling in question registration of a crime in Crime No.99 of 2024 for offences punishable under Section 353(2) of the Bharatiya Nyaya Sanhita, 2023.

2. Heard Sri M.Aruna Shyam, learned senior counsel appearing for the petitioner and Sri B.A. Belliappa, learned State Public Prosecutor-I for the 1st respondent.

3. Facts, in brief, germane are as follows:-

Somewhere during the month of September, 2024, the Revenue Department of Government of Karnataka sought to unilaterally effect changes of farm lands claimed to be belonging to farmers, by inserting the name of the Karnataka Waqf Board, in the revenue records. Show cause notices were issued to those farmers requiring them to show cause as to why the change as stated above should not be carried out in respect of their lands. The afore-said action of the Government generated fear and furor and every

VERDICTUM.IN

farmer getting anxious began protesting against the action of the State Government. In this regard, the petitioner being a Member of Parliament, representing Bangalore South Parliamentary Constituency and also a Member of the Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024, undertook a tour throughout the State. On 7-11-2024 he met the affected farmers. When he was at Hubballi, during the course of one such interaction, he was apprised of suicide of a farmer's son by name one Rudrappa in the neighbouring District of Haveri and was informed that the deceased had died due to the claim of the Waqf Board over the land belonging to him.

4. Taking the news as it was heard, the petitioner at about 5.45 p.m. posted a tweet on his handle on **'X'** (earlier twitter) sharing the news article of suicide of Rudrappa following the claim by the Karnataka Waqf Board upon his land. In response to the said tweet on the very same day, the Superintendent of Police, Haveri District clarified the position that the suicide of the deceased was not due to the land claim by the Waqf Board but on account of loan that he had taken on the crop and loss of the crop. The

VERDICTUM.IN

moment said clarification was issued, the petitioner thanking the Superintendent of police for such clarification, deleted his tweet. Between posting of the clarification by the Superintendent of Police and deletion of the tweet by the petitioner, the news was aired in several electronic media. A crime then comes to be registered on 07-11-2024 against the petitioner for the afore-quoted offence in Crime No.99 of 2024. Registration of crime is what has driven the petitioner to this Court in the subject petition.

5. The learned senior counsel Sri M. Arun Shyam appearing for the petitioner would vehemently contend that none of the ingredients necessary under Section 353(2) of BNS are present in the case at hand. It is his submission that the crime is deliberately registered, notwithstanding deletion of the tweet once the clarification was issued by the Superintendent of Police, Haveri. Therefore, there is nothing that would become an offence under the said provision of law. He would seek quashment of entire proceedings, by placing reliance upon several judgments of the Apex Court and that of this Court to buttress his contention in support of quashment of proceedings.

VERDICTUM.IN

6. Per contra, the learned State Public Prosecutor-I Sri B.A. Belliappa would vehemently refute the submissions contending that it is a false information that was tweeted by the petitioner. He ought to have been responsible while posting such a tweet on 'X'. He would contend that the said tweet is carried out by the electronic media which led the people to believe that a suicide also has happened due to the alleged claim of Waqf Board over the property of the deceased – Rudrappa. It is his submission that proceedings were instituted against the deceased in 2011 and he dies not because of the claim of the property by the Waqf board but he had committed suicide in the year 2022 itself. The petitioner ought to have been cautious prior to tweeting the said item. He may have deleted it immediately after the clarification, but nonetheless, since it was also a subject matter of discussion of news in the electronic media, it does attract the ingredients of Section 353(2) of BNS / 505(2) of the earlier regime - the IPC.

7. The learned senior counsel for the petitioner would join issue to submit that on the issue of petitioner's tweet, the father of the deceased was interviewed. The said interview is in public

VERDICTUM.IN

domain. The interview clearly supports what the petitioner had tweeted. He would submit that the petitioner clarified the position for the reason that it was tweeted, as it was told to him which is vindicated in the interview of the father of the deceased. In all, he would seekquashment of registration of the crime itself.

8. This Court, by a detailed interim order dated 14-11-2024, stalled further investigation into the matter.

9. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

10. The afore-narrated link in the dates and chain of events are all in public domain. The crime is registered against the petitioner under Section 353(2) of the BNS. Section 353(2) of the BNS reads as follows:

> **"353. Statements conducing to public mischief.—(1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means—**

VERDICTUM.IN

(*a*) **with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or**

(*b*) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

***Exception*.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, false information, rumour or report, has reasonable grounds for believing that such statement, false information, rumour or report is true and makes,**

VERDICTUM.IN

publishes or circulates it in good faith and without any such intent as aforesaid.”

(Emphasis supplied)

Section 353 is Section 505 of the earlier regime of IPC. Section 353(2) punishes a person who makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means with intent to create or promote disharmony, enmity, hatred or ill-will between different religions with certain exceptions. It becomes germane to notice whether the facts in the case at hand would meet the ingredients as necessary. All begins with a tweet of the petitioner. The tweet reads as follows:

> **“BREAKING : ಜಮೀನಿನ ಪಹಣಿಯಲ್ಲಿ ' ವಕ್ಫ್' ಹೆಸರು ನಮೂದು : ಹಾವೇರಿಯಲ್ಲಿ ಮನನೊಂದು 'ರೈತ' ಆತ್ಮಹತ್ಯೆ..!**
>
> **07-11-2024 1:03PM IST/ No Comments / Posted In: Karnataka, Latest News, Live News**
>
> **ಹಾವೇರಿ : ಜಮೀನಿನ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ್ ಹೆಸರು ನಮೂದು ಆಗಿದ್ದಕ್ಕೆ ಹಾವೇರಿಯಲ್ಲಿ ಮನನೊಂದು ರೈತರೊಬ್ಬರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎನ್ನಲಾಗಿದೆ.**
>
> **ಹಾವೇರಿ ಜಿಲ್ಲೆಯ ಹರನಗಿ ಗ್ರಾಮದ ರೈತ ಚನ್ನಪ್ಪ ಎಂಬುವವರ ಪುತ್ರ ರುದ್ರಪ್ಪ ಎಂಬುವವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎಂದು ರೈತರೊಬ್ಬರು ಆರೋಪ ಮಾಡಿದ್ದಾರೆ.**

VERDICTUM.IN

> **4 ಎಕರೆ ಹೊಲದ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ್ ಹೆಸರು ನಮೂದು ಆಗಿದ್ದಕ್ಕೆ ಅವರು ಆತ್ಮಹತ್ಯೆಗೆ ಶರಣಾಗಿರುವುದು ಬೆಳಕಿಗೆ ಬಂದಿದೆ. ಘಟನೆ ಹಿನ್ನೆಲೆ ಗ್ರಾಮದ ಜನರು ಆಕ್ರೋಶ ಹೊರ ಹಾಕಿದ್ದಾರೆ."**

(Emphasis added)

The tweet is immediately clarified by the Superintendent of Police, Haveri. It reads as follows:

> "ದಿನಾಂಕ: 07.11.2024 ರಂದು ಕನ್ನಡ ನ್ಯೂಸ್ ನೌ ಎಂಬ ಹೆಸರಿನ ಡಿಜಿಟಲ್ ನ್ಯೂಸ್ ದಲ್ಲಿ ಹಾವೇರಿ ಜಿಲ್ಲೆಯ ಹರಣಗಿ ಗ್ರಾಮದ ರೈತ ಚನ್ನಪ್ಪ ಎಂಬುವವರ ಪುತ್ರ ರುದ್ರಪ್ಪ ಎಂಬ ರೈತ, 08 ವರ್ಷಗಳ ಹಿಂದೆ, 04 ಏಕರೆ ಹೊಲದ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ್ ಹೆಸರು ಬಂದಿರುವದಕ್ಕೆ ಮನನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವದಾಗಿ ಹಾವೇರಿ ರೈತರು ಆರೋಪಿಸಿದ್ದಾರೆಂದು ವರದಿ ಪ್ರಕಟ ಮಾಡಿರುತ್ತಾರೆ. ಆದರೆ ಮೃತ ರುದ್ರಪ್ಪ ತಂದೆ ಚನ್ನಪ್ಪ ಬಾಳಿಕಾಯಿ ಇತನು ತಮ್ಮ ಆಸ್ತಿಯ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ್ ಅಂತಾ ನಮೂದು ಆಗಿದ್ದಕ್ಕೆ ಮನನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾನೆ ಅಂತಾ ಯಾವುದೇ ರೀತಿ ಪ್ರಕರಣ ದಾಖಲಾಗಿರುವದಿಲ್ಲ.
>
> ದಿನಾಂಕ: 06.01.2022 ರಂದು ರುದ್ರಪ್ಪ ತಂದೆ ಚನ್ನಪ್ಪ ಬಾಳಿಕಾಯಿ, ವಯಾ: 24 ವರ್ಷ, ಸಾ॥ ಹರಣಗಿರಿ ಗ್ರಾಮ, ಹಾನಗಲ್ ತಾಲೂಕ, ಇವರು ಐಸಿಐಸಿಐ ಬ್ಯಾಂಕ್ ಹಾವೇರಿ ಶಾಖೆಯಲ್ಲಿ 03 ಲಕ್ಷ ಹಾಗೂ ಖಾಸಗಿಯಾಗಿ 04 ಲಕ್ಷ ರೂಪಾಯಿ ಕೈಗಡ ಸಾಲ ಮಾಡಿಕೊಂಡಿದ್ದು, ಅತೀ ಹೆಚ್ಚು ಮಳೆಯಾಗಿ ಬೆಳೆ ಹಾನಿಯಾಗಿದ್ದರಿಂದ ಮನ ನೊಂದು ವಿಷ ಸೇವಿಸಿ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ ಅಂತಾ ಇವರ ತಂದೆ ಚನ್ನಪ್ಪ ಬಾಳಿಕಾಯಿ, ಇವರು ವರದಿ ಕೊಟ್ಟಿದ್ದು, ಆಡೂರ ಪೊಲೀಸ್ ಠಾಣೆ ಯುಡಿಆರ್ ಸಂಖ್ಯೆ: 03/2022, ಕಲಂ: 174 ಸಿಆರ್‌ಪಿಸಿ ಪ್ರಕಾರ ಯುಡಿಆರ್ ದಾಖಲಿಸಿಕೊಂಡಿದ್ದು ಇರುತ್ತದೆ. ಅದರಲ್ಲಿ ತಮ್ಮ ಆಸ್ತಿಯಲ್ಲಿ ವಕ್ಫ್ ಅಂತಾ ನಮೂದಾಗಿದ್ದಕ್ಕೆ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾನೆ ಅಂತಾ ಯಾವುದೇ ರೀತಿ ನಮೂದಿಸಿರುವದಿಲ್ಲ.
>
> ಸದರಿ ಮೃತನ ಬಗ್ಗೆ ಪಿಎಸ್‌ಐ ಆಡೂರ ರವರು ತನಿಖೆ ಕೈಗೊಂಡು, ಆತನು ಬೆಳೆ ಹಾನಿಯಾಗಿದ್ದರಿಂದ ಸಾಲ ಮಾಡಿದ್ದಕ್ಕೆ ಮನ ನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾನೆ ಅಂತಾ ಸಾಕ್ಷಾಧಾರಗಳನ್ನು ಸಂಗ್ರಹಿಸಿ, ಅಂತಿಮ ವರದಿಯನ್ನು ತಹಶೀಲ್ದಾರ ಹಾನಗಲ್ ರವರಿಗೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಮೃತನ ಕುಟುಂಬಕ್ಕೆ ಸರ್ಕಾರದಿಂದ 05 ಲಕ್ಷ ರೂಪಾಯಿ ಪರಿಹಾರ ಒದಗಿಸಲಾಗಿರುತ್ತದೆ."

VERDICTUM.IN

The moment clarification is issued, the petitioner deletes the tweet and informs such deletion. The deletion reads as follows:

> **"Tejasvi Surya @Tejasvi_Surya.6d**
>
> **Thanks for the information. The tweet stands deleted. I will henceforth not rely on the news agency that reported it.**
>
> **Given the rampant amount of WAQF conversion notices to 1000s of farmers across the State, one is easily led to believe such outcomes."**
>
> (Emphasis added)

The posting of the tweet, the clarification and the deletion happens on the same day i.e., 07-11-2024. By then, it appears, that certain news channels had aired the subject news. Therefore, in the evening on the same day i.e., 07-11-2024 a crime comes to be registered at 8.30 p.m. in Crime No.99 of 2024, the impugned crime. It becomes germane to notice the complaint which led to registration of crime. It reads as follows:-

> ಗೆ,
> ಮಾನ್ಯ ಪೊಲೀಸ್ ಇನ್ಸಪೆಕ್ಟರ್,
> ಸಿ.ಇ.ಎನ್. ಕ್ರೈಂ ಪೊಲೀಸ್ ಠಾಣೆ,
> ಹಾವೇರಿ,
>
> ನಾನು ಸುನಿಲ ತಂದೆ ದಿಲ್ಲೇಶ್ವರ ಹುಚ್ಚಣ್ಣನವರ, ವಯಾ: 39 ವರ್ಷ, ಜಾತಿ: ಹಿಂದೂ ಕುರುಬರ, ಉದ್ಯೋಗ: ಸಿಪಿಸಿ-876, ಸೊಶಿಯಲ್ ಮಿಡಿಯಾ ಮಾನಿಟರಿಂಗ್ ಸೆಲ್, ಜಿಲ್ಲಾ ಪೊಲೀಸ್

VERDICTUM.IN

ಕಛೇರಿ ಹಾವೇರಿ, ವಿಳಾಸ: ಸಾ|| ಮಂಜುನಾಥ ನಗರ, ಹಾವೇರಿ, ಹಾವೇರಿ, ಮೊ.ನಂ. 7892398279 ನೀಡುವ ಗಣಕೀಕೃತ ಫಿರ್ಯಾದು ಎನೆಂದರೆ,

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು, ಜಿಲ್ಲಾ ಪೊಲೀಸ್ ಕಛೇರಿ ಹಾವೇರಿಯಲ್ಲಿ ಕಳೆದ 3 ವರ್ಷಗಳಿಂದ ಸೊಶಿಯಲ್ ಮಿಡಿಯಾ ಮಾನಿಟರಿಂಗ್ ಸೆಲ್‌ನಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿರುತ್ತೇನೆ. ಈ ದಿನ ನಾನು ಕಛೇರಿಯಲ್ಲಿದ್ದು ಸೊಶಿಯಲ್ ಮಿಡಿಯಾ ಮಾನಿಟರಿಂಗ್ ಸೆಲ್‌ನಲ್ಲಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ಮಧ್ಯಾಹ್ನ 1:00 ಗಂಟೆ ಸುಮಾರಿಗೆ E-Paper ಕನ್ನಡ ದುನಿಯಾ ದಲ್ಲಿ "Breaking: ಜಮೀನಿನ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ ಹೆಸರು ನಮೂದು: ಹಾವೇರಿಯಲ್ಲಿ ರೈತ ಆತ್ಮಹತ್ಯೆ! ಎಂಬ ಶಿರ್ಷಿಕೆ ಅಡಿಯಲ್ಲಿ ಹಾವೇರಿ: ಜಮೀನಿನ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ ಹೆಸರು ನಮೂದಾಗಿದ್ದಕ್ಕೆ ಹಾವೇರಿಯಲ್ಲಿ ಮನನೊಂದು ರೈತರೊಬ್ಬರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎನ್ನಲಾಗಿದೆ. ಹಾವೇರಿ ಜಿಲ್ಲೆಯ ಹರನಗಿ ಗ್ರಾಮದ ರೈತ ಚನ್ನಪ್ಪ ಎಂಬುವವರ ಪುತ್ರ ರುದ್ರಪ್ಪ ಎಂಬುವವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎಂದು ಆರೋಪ ಮಾಡಿದ್ದಾರೆ 4 ಎಕರೆ ಹೊಲದ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ ಹೆಸರು ನಮೂದಾಗಿದ್ದಕ್ಕೆ ಅವರು ಆತ್ಮಹತ್ಯೆಗೆ ಶರಣಾಗಿರುವುದು ಬೆಳಕಿಗೆ ಬಂದಿದೆ. ಘಟನೆ ಹಿನ್ನಲೆ ಗ್ರಾಮದ ಜನರು ಆಕ್ರೋಶ ಹೊರ ಹಾಕಿದ್ದಾರೆ" ಅಂತಾ ಮತ್ತು E-Paper Kannada News ನಲ್ಲಿ "Breaking ಜಮೀನಿನ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ ಹೆಸರು ನಮೂದು: ಹಾವೇರಿಯಲ್ಲಿ ರೈತ ಆತ್ಮಹತ್ಯೆ ಎಂಬ ಶಿರ್ಷಿಕೆ ಅಡಿಯಲ್ಲಿ "ಹಾವೇರಿ: ಜಮೀನಿನ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ ಹೆಸರು ಬಂದಿರುವುದಕ್ಕೆ ಮಾನಸಿಕವಾಗಿ ಮನನೊಂದು ರೈತರೊಬ್ಬರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎಂದು ಹಾವೇರಿ ರೈತರು ಆರೋಪಿಸಿದ್ದಾರೆ. ಹಾವೇರಿ ಜಿಲ್ಲೆಯ ಹರನಗಿ ಗ್ರಾಮದ ರೈತ ಚನ್ನಪ್ಪ ಎಂಬುವವರ ಪುತ್ರ ರುದ್ರಪ್ಪ ಎಂಬುವವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದಾಗಿ ರೈತರು ಆರೋಪಿಸಿರುತ್ತಾರೆ. 8 ವರ್ಷಗಳ ಹಿಂದೆ 4 ಎಕರೆ ಹೊಲದ ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ ಹೆಸರು ಬಂದಿರುವುದಕ್ಕೆ ಮನನೊಂದು ರೈತ ರುದ್ರಪ್ಪ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದಾಗಿ ಹಾವೇರಿಯ ರೈತರು ಆರೋಪಿಸಿದ್ದಾರೆ. ಸಧ್ಯ ರೈತರು ವಕ್ಫ ನೋಟಿಸ್ ವಿರುದ್ಧ ಪ್ರತಿಭಟನೆ ನಡೆಸುತ್ತಿದ್ದಾರೆ" ಎಂಬ ಸುದ್ದಿಯನ್ನು ತಮ್ಮ E-Paper ಗಳಲ್ಲಿ ಸಂಪಾದಕರು ಪ್ರಸಾರ ಮಾಡಿರುತ್ತಾರೆ. ನಂತರ ಮೇಲ್ಕಂಡ ಸುದ್ದಿಯನ್ನು ಬಿಜೆಪಿ ಸಂಸದರಾದ ಶ್ರೀ ತೇಜಸ್ವಿ ಸೂರ್ಯ ಇವರು ಕನ್ನಡ ದುನಿಯಾ E-Paper ನ ಸುದ್ದಿಯನ್ನು ಟ್ಯಾಗ್ ಮಾಡಿ @tejasvi_surya ಎಂಬ ಖಾತೆಯಲ್ಲಿ A farmer in Haveri commits suicide after finding his land is taken over by Waqf!, In their haste to appease minorities, CM @siddaramaiah and minister @BZZameerAhmedK have unleashed catastrophic effects in Karnataka that are becoming impossible to contain with every passing day ಅಂತಾ ಇತ್ಯಾದಿ ಪೋಸ್ಟ್ ಮಾಡಿರುತ್ತಾರೆ.

ನಂತರ ನಾನು ಮೇಲ್ಕಂಡ ಸುದ್ದಿ ಕನ್ನಡ ದುನಿಯಾ E-Paper ಮತ್ತು Kannada News E-Paper ನಲ್ಲಿ ಬಂದಿರುವ ಮಾಹಿತಿಯನ್ನು ಮಾನ್ಯ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರು, ಹಾವೇರಿ ಜಿಲ್ಲೆ ರವರಿಗೆ ತಿಳಿಸಿದಾಗ, ಮಾನ್ಯರು ಮೇಲ್ಕಂಡ ಸದರಿ ಸುದ್ದಿಯ ಬಗ್ಗೆ Fact Check ಮಾಡುವಂತೆ ತಿಳಿಸಿದರು. ನಂತರ ನಾನು ಮತ್ತು ಜಿಲ್ಲಾ ಪೊಲೀಸ್ - ಕಛೇರಿಯ, ಸಿಸ್ಟಂ ಎಡ್ಮಿನಿಸ್ಟ್ರೇಟರ್ ಪ್ರಕಾಶ ಗಾಯದ ಇವರು

VERDICTUM.IN

ಸೇರಿ Fact Check ಮಾಡಿದಾಗ, ಪ್ರಸ್ತುತದಲ್ಲಿ ಹಾವೇರಿ ಜಿಲ್ಲೆಯಲ್ಲಿ ಈ ರೀತಿ ವಕ್ಫ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ರೈತ ಆತ್ಮಹತ್ಯೆ ಪ್ರಕರಣ ನಡೆದಿರುವುದಿಲ್ಲ. ಆದರೆ ಮೇಲ್ಕಂಡ E-Paper ಗಳಲ್ಲಿ ಬಂದಂತ ಸುದ್ದಿ ದಿನಾಂಕ: 06/01/2022 ರಂದು ಆಡೂರ ಪೊಲೀಸ್ ಠಾಣೆಯ ವ್ಯಾಪ್ತಿಯ ಹರನಗಿ ಗ್ರಾಮದ ರೈತ ಸಾಲದಿಂದ ಮನನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡ ವಿಷಯವಾಗಿದ್ದು, ಈ ಕುರಿತು ಈಗಾಗಲೇ ಆಡೂರ ಪೊಲೀಸ್ ಠಾಣೆ ಯುಡಿಆರ್ ನಂ. 3/2022 ಕಲಂ 174 ಸಿಆರ್‌ಪಿಸಿ ಅಡಿಯಲ್ಲಿ ಪ್ರಕರಣ ದಾಖಲಾಗಿ ಅಂತಿಮ ವರದಿಯನ್ನು ತಹಶಿಲ್ದಾರ ಹಾನಗಲ್ ರವರಿಗೆ ಸಲ್ಲಿಸಿದ್ದು, ಸದರಿ ಪ್ರಕರಣ ಮುಕ್ತಾಯವಾಗಿರುತ್ತದೆ. ಇದೇ ಸುದ್ದಿಯನ್ನು ಪ್ರಸ್ತುತ ವಕ್ಫ ವಿಚಾರಕ್ಕೆ ನಡೆದಿದೆ ಅಂತಾ ಬಿಂಬಿಸಿ ಸುಳ್ಳು ಸುದ್ದಿಯನ್ನು ಪ್ರಸಾರ ಮಾಡಿರುವ ಬಗ್ಗೆ ಮಾನ್ಯ ಪೊಲೀಸ್ ಅಧೀಕ್ಷಕರಿಗೆ ತಿಳಿಸಿದಾಗ, ಮಾನ್ಯರು ಈ ಬಗ್ಗೆ ದೂರು ನೀಡುವಂತೆ ತಿಳಿಸಿದ ಮೇರೆಗೆ ಈ ದಿನ ಠಾಣೆಗೆ ದೂರು ನೀಡಲು ಬಂದಿರುತ್ತೇನೆ.

ಈ ರೀತಿ ಮೇಲ್ಕಂಡ ಸುದ್ದಿಯ ಸತ್ಯಾಸತ್ಯತೆಯನ್ನು ಪರಿಶೀಲಿಸದೆ ತಮ್ಮ @tejasvi_surya ಎಂಬ 'X' ಖಾತೆಯಲ್ಲಿ ಮೇಲ್ಕಂಡಂತೆ ಸುಳ್ಳು ಸುದ್ದಿಯನ್ನು ಪೋಸ್ಟ್ ಮಾಡಿದ ಬಿಜೆಪಿ ಸಂಸದರಾದ ಶ್ರೀ ತೇಜಸ್ವಿ ಸೂರ್ಯ ಮತ್ತು ಸುಳ್ಳು ಸುದ್ದಿ ಪ್ರಸಾರ ಮಾಡಿದ ಕನ್ನಡ ದುನಿಯಾ E-Paper ಮತ್ತು Kannada News E-Paper ಸಂಪಾದಕರ ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು ನನ್ನ ಫಿರ್ಯಾದು ಇರುತ್ತದೆ.

ಸ್ಥಳ: ಹಾವೇರಿ
ದಿನಾಂಕ: 07/11/2024

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/–"

(Emphasis added)

This becomes the subject crime. If the issue had stopped at that it would have been a circumstance something different. The father of the deceased/Rudrappa was interviewed by the media. The transcript of the interview reads as follows:

"ರಿಪೋರ್ಟರ್ : ಇವತ್ತು ರಾಜ್ಯಾದ್ಯಂತ ವಕ್ಫ್ ವಿಚಾರವಾಗಿ ಅನೇಕ ರೈತರು ಆಕ್ರೋಶವನ್ನು ಹೊರಹಾಕುತಿದ್ದಾರೆ. ಈ ಸಂದರ್ಭದಲ್ಲಿ ಒಬ್ಬ ರೈತ ಆತ್ಮಹತ್ಯೆಗೆ ಶರಣಾಗಿದ್ದ ಇದಕ್ಕೆ ಕಾರಣ ಏನು ಅಂತ ಹುಡುಕುತ್ತಾ ಹೋದಾಗ ಟ್ವಿಸ್ಟ್ ಮೇಲೆ ಟ್ವಿಸ್ಟ್ ಸಿಕ್ತಾ ಇದೆ. ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ್ ಅಂತ ಬಂದಿದ್ದಕ್ಕೆ ಅವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎಂದು ಕುಟುಂಬಸ್ಥರು ಆರೋಪ ಮಾಡ್ತಾ ಇದ್ದಾರೆ, ಅದ್ರೆ ಪೊಲೀಸರು

VERDICTUM.IN

ಆತನಿಗೆ ಸಾಲ ಇತ್ತು ಸಾಲದ ಹೊರೆಯಿಂದ ಆತ ಹೀಗೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ ಎಂದು ಫ್ಯಾಕ್ಟ್‌ಚೆಕ್ ರಿಪೋರ್ಟ್ ನೀಡಿದ್ದಾರೆ......

ರಿಪೋರ್ಟರ್ : ರೈತ ರುದ್ರಪ್ಪ ಆತ್ಮಹತ್ಯೆ ಕೇಸ್‌ಗೆ ಮತ್ತೊಂದು ಬಿಗ್ ಟ್ವಿಸ್ಟ್ ಸಿಕ್ತಾ ಇದೆ. ಪಹಣಿಯಲ್ಲಿ ವಕ್ಫ್ ಅಂತ ಉಲ್ಲೇಖ ಇದೆ ಅದ್ರೆ ರೈತನ ಆತ್ಮಹತ್ಯೆಗೂ ಇದಕ್ಕೂ ಸಂಬಂಧವಿದ್ಯಾ? ಸಾಲದ ಹೊರೆಯಿಂದ ಆತ್ಮಹತ್ಯೆನಾ ಅಥವಾ ವಕ್ಫ್‌ಗೆ ಹೆದರಿ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡ್ರ.. ಇಲ್ಲಿ ಕುಟುಂಬಸ್ಥರು ಹೇಳ್ತಿರೋದು ಸತ್ಯನಾ..ಪೊಲೀಸರು ಹೇಳಿರೋದು ಸತ್ಯನಾ.. ಇದನ್ನು ತಿಳಿಸಲು ಮೃತ ರುದ್ರಪ್ಪ ಅವರ ತಂದೆ ಈಗ ನಮ್ಮೊಂದಿಗೆ ನೇರ ಸಂಪರ್ಕದಲ್ಲಿದ್ದಾರೆ.

ರಿಪೋಟರ್:ಸರ್ ನಮಸ್ತೆ
ಮೃತನ ತಂದೆ : ನಮಸ್ತೆ ಸರ್

ರಿಪೋಟರ್ : ಪೋಲಿಸರು ನಿಮ್ಮ ಹತ್ತಿರ ಬಂದಿದ್ರ.. ಏನ್ ಆದ್ರು ಕೇಳುದ್ರ...
ಮೃತನ ತಂದೆ : ಇಲ್ಲಾ ಸರ್.. ಬಂದಿಲ್ಲ

ರಿಪೋಟರ್ : ನಿಮ್ಮ ಮನೆಯವರ ಹತ್ತಿರ.. ನಿಮ್ಮ ಕುಟುಂಬದವರನ್ನು ಏನು ಮಾತಾಡಿಸಿಲ್ವಾ?
ಮೃತ ರೈತನ ತಂದೆ : ಇಲ್ಲಾ ಸರ್..

ರಿಪೋಟರ್ : ಚೆನ್ನಪ್‌ಪ ಅವರೇ ರುದ್ರಪ್ಪ ಅವರು ನಿಮ್ಮ ಮಗ ಅಲ್ಲವೇ ಅವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳಲು ಕಾರಣವೇನು ?
ಮೃತ ರೈತನ ತಂದೆ : ಪ್ರಮುಖವಾಗಿ ಆಸ್ತಿನೇ ಕಾರಣ..ಅದು ಮುಸ್ಲಿಂಮರಿಂದ ಹಿಡಿದದ್ದು ಸರ್...ಅವರ ಆಜ್ಞೆ ಪ್ರಕಾರ ಬಂದಿದ್ದು ಅಣ್ಣತಮ್ಮರಿಗೆ... 1964 ರಲ್ಲಿ ನಮ್ಮ ತಂದೆವರು ಮುಸ್ಲಿಂಮರಿಂದ ಖರೀದಿ ಮಾಡಿದ್ರು.. ಒಟ್ಟು 4 ಎಕರೆ 34 ಗುಂಟೆ ಆಸ್ತಿ. 1964 ರಿಂದ 2015ರವರೆಗೆ ಯಾವುದೇ ತಕರಾರು ಇರಲಿಲ್ಲ.. 2015ರಲ್ಲಿ ಎ.ಸಿ ಯವರು ವಕ್ಫ್ ಮುಕಾಶಿ ಟ್ರಸ್ಟ್ ಅಂತ ಬದಲಾವಣೆ ಮಾಡಿಸಿದ್ದಾರೆ. ಅವತ್ತು ನನ್ನ ಮಗ ಬೆಳೆದಿದ್ದ ಹತ್ತಿ, ಜೋಳ, ಕಬ್ಬು ಎಲ್ಲವನ್ನು ರೋಟರಿ ಹೊಡೆದು ನಾಶ ಮಾಡಿ ಕಳುಹಿಸಿದರು. ಹೀಗಾಗಿ ನಮ್ಮ ಮಗ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ.

ರಿಪೋಟರ್ : ಚೆನ್ನಪ್ಪ ಅವರೇ ವಕ್ಫ್ ಅನ್ನೋ ಹೆಸರು ಬಂದ ಕಾರಣ ಬೇಜಾರ್ ಮಾಡಿಕೊಂಡು ಆತ್ಮಹತ್ಯ ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ ಎಂದು ಹೇಳ್ತಾ ಇದ್ದೀರಾ....
ಮೃತ ರೈತನ ತಂದೆ : ಹೌದ್ರಿ ಸರ್..

ರಿಪೋಟರ್ : ನಿಮ್ಮ ಮಗ ಸಾಲ ಮಾಡಿಕೊಂಡಿದ್ರಾ?
ಮೃತ ರೈತನ ತಂದೆ : ನನ್ನ ಮಗ ವ್ಯವಹಾರ ಮಾಡುತ್ತಿದ್ದ ಹಾಗಾಗಿ ಸಾಲ ಆಗಿತ್ತು.

VERDICTUM.IN

ರಿಪೋರ್ಟರ್ : ಚೆನ್ನಪ್ಪ ಅವರೇ ನಿಮ್ಮ ಮಗ ಸಾಲ ಮಾಡಿಕೊಂಡಿದಕ್ಕೆ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದ ಅಥವಾ ವಕ್ಫ್ ಅನ್ನೋ ಹೆಸರು ಬಂದಿದಕ್ಕೆ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದ..ನಿಮ್ಮ ಆರೋಪ ಏನು ?

ಮೃತ ರೈತನ ತಂದೆ : ವಕ್ಫ್ ಅನ್ನೋ ಹೆಸರು ಬಂದಿದ್ದಕ್ಕೆ ಮನಸ್ಸಿಗೆ ನೋವು ಮಾಡಿಕೊಂಡು ಅದೇ ಚಿಂತೆಯಲ್ಲಿ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ.

ರಿಪೋರ್ಟರ್ : ಮತ್ತೆ ಪೊಲೀಸರು ಹೇಳಿದ್ದಾರೆ, ರುದ್ರಪ್ಪನಿಗೆ ಸಾಲ ಇತ್ತು ಸಾಲಬಾಧೆ ತಾಳಲಾರದೇ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ ಎಂದು. ಇದನ್ನು ಒಪ್ಪಿಕೊಳ್ತಿರಾ?
ಮೃತ ರೈತನ ತಂದೆ : ಇಲ್ಲಾ ಸರ್ ಅದು ಆ ರೀತಿ ಅಲ್ಲಾ.. ಅವಾಗ ನಮಗೆ ವಕ್ಫ್ ಅಂದ್ರೆ ಏನು ಅಂತ ಗಡಿಬಿಡಿಯಲ್ಲಿ ಗೊತ್ತಾಗಲಿಲ್ಲ..ಆಗ ವಕ್ಫ್ ಅನ್ನೋ ಹೆಸರು ನೋಡಿ ಮಾನಸಿಕವಾಗಿ ನೊಂದು ಅತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ.

ರಿಪೋರ್ಟರ್ : ಹೇಳಿ ನಿಮ್ಮ ಅಭಿಪ್ರಾಯ ಹೇಳಿ
ಮೃತ ರೈತನ ತಂದೆ : ಅದೇ ಸಾರ್.. ವಕ್ಫ್ ಅನ್ನೋ ಹೆಸರು ಬಂದಿದಕ್ಕೆ ಬೇಸರಗೊಂಡು ನಮ್ಮ ಮಗ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ.. ಹಾಗಾಗಿ ನಮಗೆ ಪರಿಹಾರ ಕೊಡಿಸಿ ಅಂತ ಕೇಳ್ತಾ ಇದ್ದೀನಿ..ನಮ್ಮ ಆಸ್ತಿ ನಮ್ಮ ಹೆಸರಿಗೆ ಮಾಡಿಕೊಡಿ. ನಮಗೆ ಇರೋದು ಅದೊಂದೇ ಹೊಲ ಸರ್...
ರಿಪೋರ್ಟರ್ : ಖಂಡಿತ ಅದನ್ನು ಫಾಲೋ ಅಪ್ ಮಾಡ್ತೀವಿ ಚೆನ್ನಪ್ಪ ಅವರೇ.. ಧನ್ಯವಾದಗಳು ಇಷ್ಟು ಹೊತ್ತು ನಮ್ಮ ಜೊತೆ ಮಾತನಾಡಿದಕ್ಕೆ.

ರಿಪೋರ್ಟರ್ : ಖುದ್ದು ರುದ್ರಪ್ಪ ಅವರ ತಂದೆ ಚೆನ್ನಪ್ಪ ಅವರೇ ಹೇಳಿದ್ದಾರೆ. ವಕ್ಫ್ ಹೆಸರಿತ್ತು ಅದರಿಂದ ನೊಂದಿದ್ದ ಆತ.. ಸಾಲ ಮಾಡಿಕೊಂಡಿದ್ದ ಇಲ್ಲ ಅಂತ ಹೇಳ್ತಿಲ್ಲ ಆದ್ರೆ ಜಮೀನು ಕೈಬಿಟ್ಟು ಹೋಗುತ್ತೆ ಎಂಬ ಆತಂಕದಿಂದ ಆ ರೀತಿ ಮಾಡಿಕೊಂಡಿದ್ದಾನೆ ಎಂದು ರಿಪಬ್ಲಿಕ್ ಕನ್ನಡಕ್ಕೆ ಲೈವ್ ಅಲ್ಲೇ ಹೇಳಿದ್ದಾರೆ. ಪೊಲೀಸರು ಫ್ಯಾಕ್ಟ್ ಚೆಕ್ ಮಾಡಿ ಹೇಳಿರುವುದು ಸಾಲ ಮಾಡಿಕೊಂಡಿದ್ದ ಸಾಲಬಾಧೆಯಿಂದ ಸತ್ತ ಅಂತ ಹೇಳಿ ಯಾವ ವಿಚಾರವನ್ನು ನಂಬಬೇಕು? ಈಗ ಹೆತ್ತವರವನ್ನು ನಂಬಬೇಕಾ ಅಥವಾ ಹೆತ್ತವರನ್ನು ವಿಚಾರಣೆ ಮಾಡದೇ ಇನ್‌ವೆಸ್ಟಿಗೇಷನ್ ಮಾಡಿ ರಿಪೋರ್ಟ್ ಕೊಟ್ಟಿರುವ ಪೊಲೀಸರನ್ನು ನಂಬಬೇಕಾ ಎಂಬುದನ್ನು ಕಾದು ನೋಡಾಣ.....''

(Emphasis added)

The tweet is posted; tweet is clarified; and tweet is deleted. Therefore, it is ununderstandable as to how the ingredients of Section 353(2) of BNS are met in the case at hand. The

VERDICTUM.IN

interpretation of Section 353(2) need not detain this Court for long or delve deep into the mater.

11. The Apex Court has interpreted Section 153A which is ingrediantly identical to an offence under Section 505(2) IPC or 353(2) BNS as is alleged in the case at hand in the cases of ***JAVED AHMAD HAJAM v. STATE OF MAHARASHTRA***[1] and ***SHIV PRASAD SEMWAL v. STATE OF UTTARAKHAND***[2]**.** The Apex Court in the case of ***JAVED AHMAD HAJAM*** has held as follows:

> **"10. Now, coming back to Section 153-A, clause (*a*) of sub-section (1) of Section 153-AIPC is attracted when by words, either spoken or written or by signs or by visible representations or otherwise, an attempt is made to promote disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities. The promotion of disharmony, enmity, hatred or ill will must be on the grounds of religion, race, place of birth, residence, language, caste, community or any other analogous grounds. Clause (*b*) of sub-section (1) of Section 153-AIPC will apply only when an act is committed which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquillity.**
>
> **11.** Now, coming to the words used by the appellant on his WhatsApp status, we may note here that the first

[1] **(2024) 4 SCC 156**
[2] **(2024) 7 SCC 555**

VERDICTUM.IN

statement is that August 5 is a Black Day for Jammu and Kashmir. 5-8-2019 is the day on which Article 370 of the Constitution of India was abrogated, and two separate Union Territories of Jammu and Kashmir were formed. Further, the appellant has posted that "Article 370 was abrogated, we are not happy". On a plain reading, the appellant intended to criticise the action of the abrogation of Article 370 of the Constitution of India. He has expressed unhappiness over the said act of abrogation. The aforesaid words do not refer to any religion, race, place of birth, residence, language, caste or community. It is a simple protest by the appellant against the decision to abrogate Article 370 of the Constitution of India and the further steps taken based on that decision. The Constitution of India, under Article 19(1)(*a*), guarantees freedom of speech and expression. Under the said guarantee, every citizen has the right to offer criticism of the action of abrogation of Article 370 or, for that matter, every decision of the State. He has the right to say he is unhappy with any decision of the State.

12. In *Manzar Sayeed Khan* [*Manzar Sayeed Khan* v. *State of Maharashtra*, (2007) 5 SCC 1 : (2007) 2 SCC (Cri) 417] , this Court has read "intention" as an essential ingredient of the said offence. The alleged objectionable words or expressions used by the appellant, on its plain reading, cannot promote disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities. The WhatsApp status of the appellant has a photograph of two barbed wires, below which it is mentioned that "AUGUST 5 — BLACK DAY — JAMMU&KASHMIR". This is an expression of his individual view and his reaction to the abrogation of Article 370 of the Constitution of India. It does not reflect any intention to do something which is prohibited under Section 153-A. At best, it is a protest, which is a part of his freedom of speech and expression guaranteed by Article 19(1)(*a*).

13. Every citizen of India has a right to be critical of the action of abrogation of Article 370 and the change of status of Jammu and Kashmir. Describing the day the abrogation happened as a "Black Day" is an expression of protest and anguish. If every criticism or protest of the actions of the State is to be

VERDICTUM.IN

held as an offence under Section 153-A, democracy, which is an essential feature of the Constitution of India, will not survive.

14. The right to dissent in a legitimate and lawful manner is an integral part of the rights guaranteed under Article 19(1)(*a*). Every individual must respect the right of others to dissent. An opportunity to peacefully protest against the decisions of the Government is an essential part of democracy. The right to dissent in a lawful manner must be treated as a part of the right to lead a dignified and meaningful life guaranteed by Article 21. But the protest or dissent must be within four corners of the modes permissible in a democratic set up. It is subject to reasonable restrictions imposed in accordance with clause (2) of Article 19. In the present case, the appellant has not at all crossed the line.

15. The High Court has held [*Javed Ahmed Hajam* v. *State of Maharashtra*, 2023 SCC OnLine Bom 819] that the possibility of stirring up the emotions of a group of people cannot be ruled out. The appellant's college teachers, students, and parents were allegedly members of the WhatsApp group. As held by Vivian Bose, J., the effect of the words used by the appellant on his WhatsApp status will have to be judged from the standards of reasonable women and men. We cannot apply the standards of people with weak and vacillating minds. Our country has been a democratic republic for more than 75 years. The people of our country know the importance of democratic values. Therefore, it is not possible to conclude that the words will promote disharmony or feelings of enmity, hatred or ill will between different religious groups. The test to be applied is not the effect of the words on some individuals with weak minds or who see a danger in every hostile point of view. The test is of the general impact of the utterances on reasonable people who are significant in numbers. Merely because a few individuals may develop hatred or ill will, it will not be sufficient to attract clause (*a*) of sub-section (1) of Section 153-AIPC.

VERDICTUM.IN

> **16.** As regards the picture containing "Chand" and below that the words "14th August-Happy Independence Day Pakistan", we are of the view that it will not attract clause (*a*) of sub-section (1) of Section 153-AIPC. Every citizen has the right to extend good wishes to the citizens of the other countries on their respective Independence Days. If a citizen of India extends good wishes to the citizens of Pakistan on 14th August, which is their Independence Day, there is nothing wrong with it. It is a gesture of goodwill. In such a case, it cannot be said that such acts will tend to create disharmony or feelings of enmity, hatred or ill will between different religious groups. Motives cannot be attributed to the appellant only because he belongs to a particular religion.
>
> **17.** Now, the time has come to enlighten and educate our police machinery on the concept of freedom of speech and expression guaranteed by Article 19(1)(*a*) of the Constitution and the extent of reasonable restraint on their free speech and expression. They must be sensitised about the democratic values enshrined in our Constitution.
>
> **18.** For the same reasons, clause (*b*) of sub-section (1) of Section 153-AIPC will not be attracted as what is depicted on the WhatsApp status of the appellant cannot be said to be prejudicial to the maintenance of harmony among various groups as stated therein. Thus, continuation of the prosecution of the appellant for the offence punishable under Section 153-AIPC will be a gross abuse of the process of law."
>
> (Emphasis supplied)

The Apex Court in the case of ***SHIV PRASAD SEMWAL*** has held as follows:

> " … … …
>
> **21.** It may be noted that the entire case as set out in the impugned FIR is based on the allegation that the Facebook news post uploaded by one journalist Mr

VERDICTUM.IN

GunanandJakhmola was caused to be published on Parvatjan news portal being operated by the appellant.

22. Thus, essentially, we are required to examine whether the contents of the news report constitute any cognizable offence so as to justify the investigation into the allegations made in the FIR against the appellant.

23. For the sake of ready reference, the contents of the disputed news article are reproduced hereinbelow:

> "GunanandJakhmola
> 17-3-2020 at 30.05
>
> Trivender Uncle what amazing things you are doing?
>
> Uncle you are laying foundation stone of Art Gallery which is going to construct by acquiring government land.
>
> Uncle you are associating the mafias who are violating the decisions of Modi Government.
>
> Don't trap yourself with mafias, have you forgot the problems arisen out of marriage of Gupta brother's.
>
> Uncle you were not like this, what happened to you? Was the troubles arisen out of marriage of Gupta Brothers was not enough that you are now going to laying foundation stone of the Art Gallery which is going to construct by acquiring government land. Just think over it, or take report from LIU and other agencies about this Art Gallery which is going to construct on the acquired government land. This is a government land which is dismantled by mafias and your officers. Uncle you are innocent, anybody can use you. Advisers and officers surrounding you they are cunning.
>
> This cunning persons have brought you forward against the decisions of Modi Government.
>
> Uncle let I inform you for your knowledge that Modi Government means your honour has given sanction to planning for Singtali Project near Rishikesh. This project will reduce the distance between Kumau and Garhwal and also it will arrange sources of

VERDICTUM.IN

> employment in mountains. World Bank is also giving money, but the program of Mafias in which you are going to participate on 20 March, that is an enemy of mountains. It has no concern with the wellbeing of mountains. It is against the proposed project of Modi Government and your officers and advisers are in collusion with that. Please inquire it and then only you go.
>
> Note: Kindly see the invitation card given by mafias."

24. As per the counter-affidavit filed on behalf of the State, after investigation, two substantive offences were retained by the investigating officer against the appellant, which are Sections 153-A and 504 read with Sections 34 and 120-BIPC.

25. From a bare reading of the language of Section 153-AIPC, it is clear that in order to constitute such offence, the prosecution must come out with a case that the words "spoken" or "written" attributed to the accused, created enmity or bad blood between different groups on the ground of religion, race, place of birth, residence, language, etc. or that the acts so alleged were prejudicial to the maintenance of harmony.

26. Upon careful perusal of the offending news article, reproduced (supra), it is crystal clear that there is no reference to any group or groups of people in the said article. The publication focuses totally on the complainant imputing that he had encroached upon public land where the foundation stone laying ceremony was proposed at the hands of Hon'ble Chief Minister of Uttarakhand.

27. Apparently, the post was aimed at frustrating the proposed foundation stone laying ceremony on the land, of which the complainant claims to be the true owner. The post also imputes that the person who was planning the foundation stone ceremony was an enemy of mountains and had no concern with the well-being of the mountains.

VERDICTUM.IN

28. The learned Standing Counsel for the State tried to draw much water from these lines alleging that this portion of the post tends to create a sense of enmity and disharmony amongst people of hill community and the people of plains. However, the interpretation sought to be given to these words is far-fetched and unconvincing. The lines referred to supra only refer to the complainant, imputing that his activities are prejudicial to the hills. These words have no connection whatsoever with a group or groups of people or communities. Hence, the foundational facts essential to constitute the offence under Section 153-AIPC are totally lacking from the allegations as set out in the FIR.

29. In *Manzar Sayeed Khan* v. *State of Maharashtra* [*Manzar Sayeed Khan* v. *State of Maharashtra*, (2007) 5 SCC 1: (2007) 2 SCC (Cri) 417], this Court held that for applying Section 153-AIPC, the presence of two or more groups or communities is essential, whereas in the present case, no such groups or communities were referred to in the news article.

30. The other substantive offence which has been applied by the investigating agency is Section 504IPC. The said offence can be invoked when the insult of a person provokes him to break public peace or to commit any other offence. There is no such allegation in the FIR that owing to the alleged offensive post attributable to the appellant, the complainant was provoked to such an extent that he could indulge in disturbing the public peace or commit any other offence. Hence, the FIR lacks the necessary ingredients of the said offence as well.

31. Since we have found that the foundational facts essential for constituting the substantive offences under Sections 153-A and 504IPC are not available from the admitted allegations of prosecution, the allegations qua the subsidiary offences under Sections 34 and 120-BIPC would also be non est.

VERDICTUM.IN

32. The complainant has also alleged in the FIR that the accused intended to blackmail him by publishing the news article in question. However, there is no allegation in the FIR that the accused tried to extract any wrongful gain or valuable security from the complainant on the basis of the mischievous/malicious post.

33. In *State of Haryana* v. *Bhajan Lal* [*State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , this Court examined the principles governing the scope of exercise of powers by the High Court in a petition under Article 226 of the Constitution of India and under Section 482CrPC seeking quashing of criminal proceedings and held as follows : (SCC pp. 378-79, para 102)

> "*102*. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
>
> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

VERDICTUM.IN

> (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
>
> (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
>
> (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
>
> (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
>
> (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

34. Tested on the touchstone of the above principles, we are of the firm view that allowing continuance of the proceedings pursuant to the impugned FIR bearing No. 31 of 2020 registered at PS Muni Ki Reti, District Tehri Garhwal against the appellant is nothing but gross abuse of process of law because the allegations as set out in the FIR do not disclose necessary ingredients of any cognizable offence. Hence, the impugned FIR and all proceedings sought to be taken against the appellant are hereby quashed and set aside."

(Emphasis supplied)

VERDICTUM.IN

The Apex Court did not permit further investigation even in a crime before it. The FIR itself was quashed, as the High Court of Uttarakhand had rejected the petition which challenged the FIR.

12. Much earlier to the afore-quoted judgments in the cases of ***JAVED AHMAD HAJAM*** and ***SHIV PRASAD SEMWAL,*** the Apex Court in the case of ***PATRICIA MUKHIM v. STATE OF MEGHALAYA***[3] interpreting both Sections 153A and 505(2) of the IPC, which is 353(2) of the BNS has held as follows:

> **"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-AIPC. 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:

[3]**(2021) 15 SCC 35**

VERDICTUM.IN

"**153-A.** ***Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony***.—(1) Whoever—

(*a*) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(*b*) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, or

(*c*) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.—(2) Whoever commits an offence specified in sub-section (1) in

VERDICTUM.IN

any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

***

505. ***Statements conducing to public mischief*.— (1) Whoever makes, publishes or circulates any statement, rumour or report—**

****

(*c*) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both."

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-AIPC and the prosecution has to prove the existence of mens rea in order to succeed. [*Balwant Singh* v. *State of Punjab*, (1995) 3 SCC 214 : 1995 SCC (Cri) 432]

10. The gist of the offence under Section 153-AIPC 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 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 [*Manzar Sayeed Khan* v. *State of Maharashtra*, (2007) 5 SCC 1 : (2007) 2 SCC (Cri) 417] .

11. In *Bilal Ahmed Kaloo* v. *State of A.P.* [*Bilal Ahmed Kaloo* v. *State of A.P.*, (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] , this Court analysed the ingredients of Sections 153-A and 505(2)IPC. It was held that

VERDICTUM.IN

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 Sections 153-A and 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* [*Bilal Ahmed Kaloo* v. *State of A.P.*, (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] 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 India* [*Ramesh* v. *Union of India*, (1988) 1 SCC 668 : 1988 SCC (Cri) 266] 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* [*Pravasi Bhalai Sangathan* v. *Union of India*, (2014) 11 SCC 477 : (2014) 3 SCC (Cri) 400] had referred to the Canadian Supreme Court decision in *Saskatchewan (Human Rights Commission)* v. *William Whatcott*[*Saskatchewan (Human Rights Commission)* v. *William Whatcott*, 2013 SCC OnLine Can SC 6 : (2013) 1 SCR 467] . In that judgment, the Canadian Supreme Court set out what it considered to be

VERDICTUM.IN

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, delegitimisation and rejection that risks causing discrimination or injury. The third test was for the 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.

13. In the instant case, applying the principles laid down by this Court as mentioned above, the question that arises for our consideration is whether the Facebook post dated 4-7-2020 was intentionally made for promoting class/community hatred and has the tendency to provoke enmity between two communities. A close scrutiny of the Facebook post would indicate that the agony of the appellant was directed against the apathy shown by the Chief Minister of Meghalaya, the Director General of Police and the DorbarShnong of the area in not taking any action against the culprits who attacked the non-tribals youngsters. The appellant referred to the attacks on non-tribals in 1979. At the most, the Facebook post can be understood to highlight the discrimination against non-tribals in the State of Meghalaya. However, the appellant made it clear that criminal elements have no community and immediate action has to be taken against persons who had indulged in the brutal attack on non-tribal youngsters playing basketball. The Facebook post read in its entirety pleads for equality of non-tribals in the State of Meghalaya. In our understanding, there was no intention on the part of the appellant to promote

VERDICTUM.IN

class/community hatred. As there is no attempt made by the appellant to incite people belonging to a community to indulge in any violence, the basic ingredients of the offence under Sections 153-A and 505(1)(*c*) have not been made out. Where allegations made in the FIR or the complaint, even if they are taken on their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the FIR is liable to be quashed [*State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] .

14. India is a plural and multicultural society. The promise of liberty, enunciated in the Preamble, manifests itself in various provisions which outline each citizen's rights; they include the right to free speech, to travel freely and settle (subject to such reasonable restrictions that may be validly enacted) throughout the length and breadth of India. At times, when in the legitimate exercise of such a right, individuals travel, settle down or carry on a vocation in a place where they find conditions conducive, there may be resentments, especially if such citizens prosper, leading to hostility or possibly violence. In such instances, if the victims voice their discontent, and speak out, especially if the State authorities turn a blind eye, or drag their feet, such voicing of discontent is really a cry for anguish, for justice denied — or delayed. This is exactly what appears to have happened in this case.

15. The attack upon six non-locals, carried out by masked individuals, is not denied by the State; its reporting too is not denied. The State in fact issued a press release. There appears to be no headway in the investigations. The complaint made by the DorbarShnong, Lawsohtun that the statement of the appellant would incite communal tension and might instigate a communal conflict in the entire State is only a figment of imagination. The fervent plea made by the appellant for protection of non-tribals living in the State of Meghalaya and for their equality cannot, by any stretch of imagination, be categorised as hate

VERDICTUM.IN

> **speech. It was a call for justice — for action according to law, which every citizen has a right to expect and articulate. Disapprobation of governmental inaction cannot be branded as an attempt to promote hatred between different communities. Free speech of the citizens of this country cannot be stifled by implicating them in criminal cases, unless such speech has the tendency to affect public order. The sequitur of above analysis of the Facebook post made by the appellant is that no case is made out against the appellant for an offence under Sections 153-A and 505(1)(c)IPC.”**
>
> (Emphasis supplied)

Therefore, in the light of the interpretation of Section 353(2) of BNS / Section 505(2) or even 153A of the IPC as the case would be, by the Apex Court in the afore-quoted judgments, permitting further investigation in the case at hand, when there is nothing to investigate would become an abuse of the process of law. Even if the facts narrated are considered to become the ingredients, it would not make out an offence.

13. The learned State Public Prosecutor-I has sought to place reliance upon the history of the death of Rudrappa and other factors. Those would not become necessary even to be noticed in the case at hand, as those facts obtaining *qua* the lands of Rudrappa, who died. It has nothing to do with the present crime.

VERDICTUM.IN

14. Finding no ingredients of the allegations and to prevent miscarriage of justice, I deem it appropriate to exercise my jurisdiction under Section 482 of the Cr.P.C., and obliterate the crime.

15. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petition is allowed.

(ii) FIR in Crime No.99 of 2024 registered in CEN Crime Police Station, Haveri and pending before the Principal Civil Judge (Senior Division) & CJM, Haveri stands quashed.

Sd/-
(M. NAGAPRASANNA)
JUDGE

Bkp
CT:MJ