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CRL RC No. 645 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 25-06-2026

ORDERS PRONOUNCED ON : 07-07-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL RC No. 645 of 2026

AND

CRL MP NO. 4867 OF 2026

K.Ponmudi
S/o.late.M.Kandaswamy,
No.1b, Temple Avenue,
Srinagar Colony,
Saidapet,
Chennai-600 015.

..Petitioner(s)

Vs

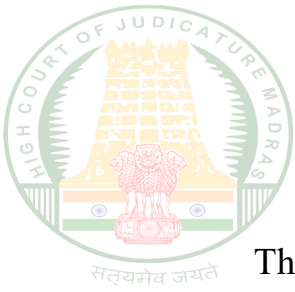
Uma Anandan
W/o.S.Anandan,
No.7, Old No.5, Veerabdraswami Street,
Nungambakkam,
Chennai-600 034.

..Respondent(s)

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) Act, 2023, praying to set aside Crl.MP.No.7141 of 2025 on the file of the learned III Metropolitan Magistrate, George Town, Chennai and pass any such further orders this Honble Court deems fit.

For Petitioner(s): Mr.N.R.Elango, Senior Counsel for
Mr.A.S.Aswin Prasanna

For Respondent(s): Mr.S.Makesh



Order

This Criminal Revision Case has been filed challenging the order dated 23.02.2026 passed in Crl.M.P. No.7141 of 2025 by the learned III Metropolitan Magistrate, George Town, Chennai, whereby the learned Magistrate took cognizance of the complaint lodged by the respondent and issued summons to the accused.

2.The respondent lodged a complaint alleging that on 06.04.2025, during the centenary celebration held in memory of their party member, Thiruvarur Thangaraj, at the DMK Youth Wing Head Office, namely, Anbagam, situated at No.614, Anna Salai, Teynampet, Chennai, the accused delivered an offensive speech, which was uploaded on the YouTube platform and was consequently viewed and heard by the general public. According to the respondent, the petitioner uttered malicious words deliberately promoting hatred towards a religion, outraging religious feelings, and insulting the religion and the religious beliefs of the respondent. It was further alleged that the respondent knew very well that the spoken words, signs, and gestures would be heard and viewed by citizens of India belonging to the Hindu religion. Therefore, the respondent lodged a complaint against the petitioner/accused for the offences punishable under Sections 196(i)(a), 299, and 302 of the Bharatiya Nyaya Sanhita, 2023 (BNS). After recording the sworn statements of the respondent and other witnesses, the trial Court took cognizance of the offences and issued summons

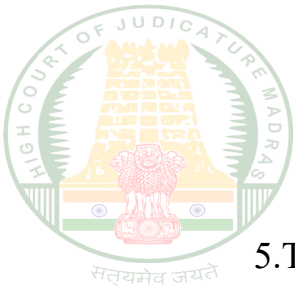


to the accused. The order taking cognizance and issuing summons to the accused is under challenge in this revision.

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3.The learned Senior Counsel appearing for the petitioner submitted that, even according to the respondent, no offence is made out against the accused on the basis of the alleged speech delivered on 06.04.2025, so as to attract the offences under Sections 196(i)(a) and 299 of the BNS. He further submitted that, before taking cognizance, previous sanction from the competent Government authority is mandatory under Section 217 of the Bharatiya Nagarik Suraksha Sanhita (BNSS). Therefore, in the absence of such sanction, the order of taking cognizance cannot be sustained and is liable to be set aside.

4.He further submitted that, insofar as Section 302 of the BNS is concerned, there must be a deliberate intention to wound the religious feelings of any person by uttering words, making sounds within the hearing of that person, making gestures in the sight of that person, or placing any object in the sight of that person. According to the respondent's own case, the petitioner delivered the speech in a closed premises and only in the presence of a particular group of persons assembled to commemorate the centenary of their party member, Late Thiruvarur Thangaraj. The respondent neither personally heard nor witnessed the speech delivered by the petitioner at the venue. Therefore, the offence under Section 302 of the BNS cannot be attracted.

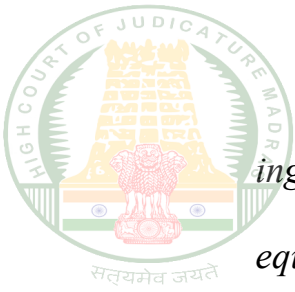


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5.The learned Senior Counsel appearing for the petitioner further submitted that, in order to attract Section 196(i)(a) of the BNS, the speech must promote enmity between different groups on the grounds of religion, race, place of birth, residence, language, or other grounds prejudicial to the maintenance of harmony. According to him, the alleged speech does not constitute an offence under Section 196(i)(a) of the BNS. Likewise, to attract Section 299 of the BNS, there must be evidence to establish that the act of the accused was deliberate and malicious, with the intention of outraging the religious feelings of any class by insulting its religion or religious beliefs. Even from the averments contained in the complaint, no offence is made out against the accused. Without considering these facts and circumstances, the trial Court mechanically took cognizance and issued summons to the accused.

6.In support of his contentions, the learned senior counsel relied upon several judgments of the Hon'ble Supreme Court and this Court. In particular, he relied on the Judgment in the case of *Bilal Ahmed Kaloo Vs. State of A.P.* reported in (1997) 7 *Supreme Court Cases* 431, and the relevant paragraph is extracted hereunder:

“11.This Court has held in [Balwant Singh and another vs. State of Punjab](#) (1995 3 SCC 214) that mens rea is a necessary



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ingredient for the offence under Section 153A. Mens rea is an equally necessary postulate for the offence under Section 505(2) also as could be discerned from the words "with intent to create or promote or which is likely to create or promote" as used in that sub-section.

12.The main distinction between the two offences is that publication of the word or representation is not necessary under the former, such publication is sine qua non under Section 505. The words "whoever makes, publishes or circulates" used in the setting of Section 505(2) cannot be interpreted disjunctively but only as supplementary to each other. If it is construed disjunctively, any one who makes a statement falling within the meaning of Section 505 would, without publication or circulation, be liable to conviction. But the same is the effect with Section 153A also and then that Section would have been bad for redundancy. The intention of the legislature in providing two different sections on the same subject would have been to cover two different fields of similar colour. The fact that both sections were included as a package in the same amending enactment lends further support to the said construction.

13.Yet another support to the above interpretation can be



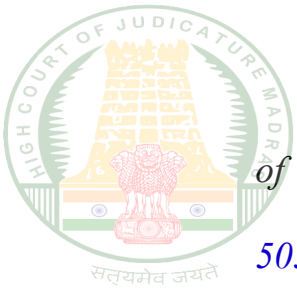
gathered from almost similar words used in Section 199 of the Penal Code as "whoever by words.....makes or publishes any imputation....."

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14. In *Sunilakhya Chowdhury vs. H.M. Jadwet and another* (AIR 1968 Calcutta 266) it has been held that the words "makes or publishes any imputation" should be interpreted as words supplementing to each other. A maker of imputation without publication is not liable to be punished under that section. We are of the view that the same interpretation is warranted in respect of the words "makes, publishes or circulates" in *Section 505 IPC* also.

15. The common feature in both sections being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or language or regional groups or castes and communities it is necessary that at least two such groups or communities should be involved. Merely inciting the felling of one community or group without any reference to any other community or group cannot attract either of the two sections.

16. The result of the said discussion is that appellant who has not done anything as against any religious, racial or linguistic or regional group or community cannot be held guilty

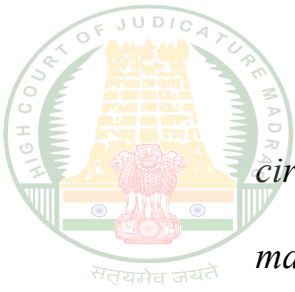


of either the offence under Section 153A or under [Section 505\(2\)](#) of IPC.”

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7.The learned Senior Counsel appearing for the petitioner further relied on the Judgment of the Hon’ble Supreme Court of India in the case of ***Manzar Sayeed Khan Vs. State of Maharashtra and Another*** reported in (2007) 5 ***Supreme Court Cases 1***, and the relevant portion is extracted hereunder:

“16.[Section 153-A](#) of 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 tranquility. 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 153A](#) of 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



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circumstances in which the book 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 reasoning.”

8. Per contra, the learned counsel for the respondent submitted that, although the petitioner delivered the speech in a closed hall, it was subsequently circulated through social media, and people belonging to all religions viewed and heard the speech. The accused was a Minister and therefore owed a greater responsibility towards the general public. Despite holding such office, he delivered a hate speech targeting persons professing the Hindu religion. Although the function was intended only for a particular audience, the speech was widely circulated on social media and was heard by all sections of society.

9. Insofar as the requirement of sanction is concerned, the learned counsel submitted that this Court, in a *suo motu* writ petition under Article 226 of the Constitution of India, had itself taken *suo motu* cognizance of the alleged hate speech delivered by the accused and directed the Director General of Police and the Commissioner of Police to entrust the investigation against the accused to an independent agency, Special Investigation Team, or the CBI for a free and fair



investigation in W.P.Crl. No.610 of 2025. However, the police concluded that no offence was made out and filed a closure report. Consequently, this Court directed the complainant to challenge the closure report by filing a private complaint. Therefore, according to the respondent, since this Court had already taken *suo motu* cognizance of the matter, there was no necessity to obtain any further sanction from the competent authority to prosecute the accused.

10.The learned counsel for the respondent further submitted that, when the police had closed the complaint by filing a closure report, no authority would have been willing to hear the grievance of the respondent or accord sanction to prosecute the accused, who was then a sitting Minister. Nevertheless, the respondent had submitted an application seeking sanction to prosecute the accused, and the same was pending consideration and was likely to be granted within four weeks. He further contended that the speech delivered by the accused clearly attracts the offences punishable under Sections 196(i)(a), 299, and 302 of the BNS.

11.Heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondent. I have also perused the materials available on record.



12. The petitioner is the sole accused. On the complaint lodged by the respondent, the trial Court took cognizance of the offences punishable under Sections 196(i)(a), 299, and 302 of the BNS and issued summons to the accused. On a perusal of the complaint, it is evident that it was filed alleging that the accused had intentionally outraged, insulted, and wounded the Hindu religion, its religious feelings, and beliefs. It is further alleged that the accused promoted hatred and ill will towards the Hindu religion by impliedly instigating atheists and members of a particular regional group to act against persons professing the Hindu religion.

13. It is relevant to extract Section 196(i)(a) of the BNS, which reads as follows:

“Section 196(i)(a) of the Bharatiya Nyaya Sanhita (BNS) penalizes promoting or attempting to promote disharmony, enmity, hatred, or ill-will between different groups based on religion, race, language, caste, or community. This offense can be committed via spoken or written words, signs, visual representations, or digital communication.”

14. Thus, it is clear that, for a speech to amount to hate speech against a religion, the words spoken should have no purpose other than exposing an intention to attack another religion by instigating a group of persons to act



against that religion. On a perusal of the speech delivered by the accused, it is seen that he promoted hatred and ill will between atheists professing atheist ideology and persons belonging to the Hindu religion. By his intentional, malicious speech, signs, and visible representations, the accused clearly attracted the offence under Section 196(i)(a) of the BNS. Further, his speech promoted hatred and ill will by degrading and attacking Hindu religious practices, customs, and culture in the presence of a gathering of persons professing atheist ideology. He also delivered an offensive speech implying an intention to strengthen and embolden followers of atheist ideology to make verbal attacks against the Hindu religion in a demeaning and obscene manner, without fear, by expressing hatred and ill will towards the Hindu religion. The accused was fully aware of the consequences of his speech, particularly since he was a Member of the Legislative Assembly and a Minister in the Government.

15. It is relevant to extract Section 299 of the BNS, which reads as follows:

“Section 299 of the Bharatiya Nyaya Sanhita (BNS) penalizes deliberate and malicious acts intended to outrage the religious feelings of any class of citizens. It is the equivalent of Section 295A of the repealed Indian Penal Code (IPC).”

16. The speech delivered by the accused clearly satisfies the essential ingredients of Section 299 of the BNS. By his speech, he committed acts

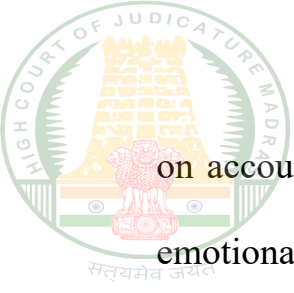


amounting to outraging religious feelings, insulting the Hindu religion by making disrespectful references to its customs, practices, and religious beliefs with deliberate and malicious intention, thereby causing emotional harm arising from his inability to propagate atheist ideology among persons professing the Hindu religion. The accused was fully aware that his speech would reach all sections of society through social and electronic media. Therefore, he deliberately and maliciously outraged religious feelings and insulted the religion and religious beliefs of Hindus with the intention of tarnishing and degrading a class of people, who did not subscribe to his ideology or beliefs. Accordingly, the offence under Section 299 of the BNS is clearly attracted.

17. It is also relevant to extract Section 302 of the BNS, which reads as follows:

“Section 302 of the Bharatiya Nyaya Sanhita (BNS) deals with uttering words or making gestures with the deliberate intent to wound the religious feelings of any person. It penalizes anyone who intentionally hurts religious sentiments through speech, sounds, gestures, or placed objects with up to 1 year of imprisonment, a fine, or both.”

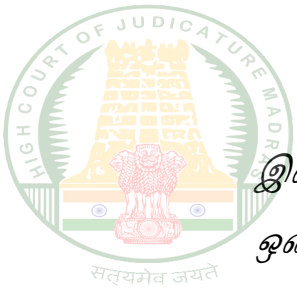
18. The speech of the accused reveals a deliberate intention to wound the religious beliefs of Hindus by using demeaning words and gestures depicting the customary practices of the Hindu religion in an obscene manner, allegedly



on account of his inability to propagate atheist ideology. Such speech caused emotional hurt and wounded the religious feelings of persons belonging to the Hindu religion.

19.It is also relevant to extract the relevant portion of the speech of the accused hereunder:

"இந்த அடல்ஸ் ஒன்லி பட்டிமன்றம் என தலைப்பு தெரியுங்களாக கடவுள் கொள்கையை பரப்புவதில் காமச்சுவையை அதிகம் கையாண்டது சைவமே வைணவமே இதான் தலைப்பு சைவமே வைணவமே காமச்சுவை பரப்புவதில் இந்த மகளிருக்கே கொஞ்சம் பேர் இருக்காங்க இல்லா ஆனா அதுக்கு மகளிருக்கே நிறைய டிக்கெட்கொடுத்து வரவழிச்சிருந்தார் ராமகிருஷ்ணன் அதுல ஒரு இடத்துல சொல்லுவோம். சொல்லலாமா ராமகிருஷ்ணன் அதுல சொல்லுவோம் ஒருத்தன் தப்பா நினைச்சுக்காதீங்க மகளிர் ஒரு விலைமாது வீட்டுக்கு ஒருத்தன் போறான் போகும்போது அங்க அந்த அம்மா கேக்குது. நிப்பாட்டு நீங்க சைவமா வைணவமா அப்படின்னு கேக்குது. அவனுக்கு ஒன்னும் புரியல. அவன் பணம் எவ்வளவு அஞ்சுக்கு 10 குருன்னு கேட்டான்னா ரைட். என்னடா இங்க வந்துருக்கறோம் நாம ஒரு விலைமாது வீட்டுக்கு நம்மள வந்து வைசமா வைணவமான்னு கேக்குறாங்க அப்படின்னு கேட்டான். அந்த அம்மா சொல்லிச்சான் என்ன ஒன்னும் புரியலையா அப்படின்னுசான். ஒன்னும்



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இல்லசைவம்னா இப்படி வைணவமனா இப்படின்னுச்சான்.
ஒன்னும் புரியல. சைவம்னா இப்படி வைணவம்னா இப்படி
ஒன்னும் புரியல என்ன சொல்ற இது விபுதி இதுதான்
அதுல என்ன இருக்கு அப்படின்னா இல்ல
சைவம்னாபடுத்துகிறது வைணவம்னா நின்னுகிறது
நின்னுங்கனா அஞ்சுபடுத்தாபத்தான் இதெல்லாம் இப்ப
இந்த அடல்ஸ்ஒன்லிபட்டி மன்றத்தில் நாங்க பேசி
பேசி இந்த திராவிட இயக்கத்தினுடைய கொள்கைகளை
பரப்புவதற்காக எடுத்துக்கொண்ட நடவடிக்கை."

20.In this regard, the learned counsel for the respondent relied upon the Judgment of the Hon'ble Supreme Court of India in the case of **Amish Devgan Vs. Union of India** reported in (2021) 1 SCC 1, the relevant portion reads as follows:

"There are three distinct elements that legislatures and courts can use to define and identify "hate speech" namely – content-based element, intent-based element and harm-based element (or impact-based element).

Marwick, Alice E. and Miller, Ross W.: "Online Harassment, Defamation, and Hateful Speech: A Primer of the Legal Landscape" (10-6-2014) (Fordham Center on Law and Information Policy Report), relied on

"Content" has relation with the subject-matter, but is not synonymous with the subject-matter. "Content" has more to do with the expression, language and message which should be to



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vilify, demean and incite psychosocial hatred or physical violence against the targeted group. The content-based element involves open use of words and phrases generally considered to be offensive to a particular community and objectively offensive to the society. It can include use of certain symbols and iconography. By applying objective standards, one knows or has reasonable grounds to know that the content would allow anger, alarm or resentment in others on the basis of race, colour, creed, religion or gender.

Richard Delgado, “Words that Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling”, 17 Harv CR-CLL Rev 133 (1982); Mari J.Matsuda: “Public Response to Racist Speech: Considering the Victim’s Story”, 87 Mich L Rev 2320 (1989); Kenneth D.Ward: “Free Speech and the Development of Liberal Virtues: An Examination of the Controversies Involving Flag Burning and Hate Speech”, 52 U Miami K Rev 733 (1998), referred to

The intent-based element of “hate speech” requires the speaker’s message to intend only to promote hatred, violence or resentment against a particular class or group without communicating any legitimate message. This requires subjective intent on the part of the speaker to target the group or person associated with the class/group.

The harm or impact-based element refers to the consequences of the “hate speech”, that is harm to the victim which can be violent or such as loss of self-esteem, economic or social subordination, physical and mental stress, silencing of the victim and effective exclusion from the political arena.”



21. Insofar as the requirement of sanction under Section 217 of BNSS is concerned, previous sanction from the Central Government or the State Government is required in respect of offences under Chapter VII, including Sections 196(i)(a), 299, and Section 302 of BNS. As rightly pointed out by the learned counsel for the respondent, this Court, in W.P.Crl. No.1 of 2025 and W.P.Crl. No.610 of 2025 filed by one G.S. Mani, by order dated 16.09.2025, took *suo motu* cognizance, upon noticing the alleged hate speech made by the accused. The complaint lodged by the petitioner in W.P.Crl. No.610 of 2025 regarding the alleged hate speech was also enquired into and closed. Likewise, several other complaints were enquired into, closure reports were filed, and copies thereof were served upon the respective complainants. Thereafter, this Court directed the complainants to challenge the closure reports and to file private complaints before the jurisdictional Magistrates. Pursuant thereto, the respondent filed the present private complaint. The trial Court, after recording the sworn statements of the respondent and the supporting witnesses, took cognizance and issued summons to the accused. Once this Court had taken *suo motu* cognizance of the alleged hate speech, the trial Court was not required to await sanction under Section 217 of BNSS, before proceeding with the complaint.

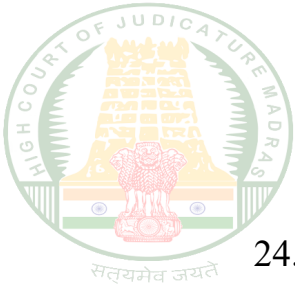
22. In fact, prior sanction is required only for the offences under Sections 196(i)(a) and 299 of the BNS. Insofar as the offence under Section 302 of the



BNS is concerned, no prior sanction is required. Even otherwise, the respondent had submitted an application seeking sanction to prosecute the accused, and the same is pending consideration. Until April 2026, the accused continued to be a sitting Member of the Legislative Assembly belonging to the ruling party, and therefore the respondent's request remained pending without any decision either granting or refusing sanction.

23. In this regard, the learned counsel for the respondent relied upon the order dated 22.07.2024 passed by the Hon'ble Supreme Court in ***Criminal Appeal No.3019 of 2024*** in the case of ***Shivendra Nath Verma v. Union of India***, the relevant portion reads as follows:

“During the course of hearing, it was argued on behalf of the appellant, Shivendra Nath Verma, that as the sanction dated 27.07.2022 was obtained after the order of cognizance dated 12.10.2020, the said sanction should be treated as void in view of the decision of this Court in Nanjappa V. State of Karnataka. We are not inclined to accept the said submission. The ratio of the said decision is to the effect that the trial Court could not have taken cognizance in view of the bar contained in Section 19(1) of the 1988 Act. We do not think that the ratio of the aforesaid decision extends to invalidating the sanction granted, after the order taking cognizance was passed.”



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24. Although the said judgment arose under the Prevention of Corruption Act, the dictum laid down by the Hon'ble Supreme Court is that grant of sanction even after taking cognizance would not invalidate the proceedings.

25. In view of the above, the offences under Sections 196(i)(a), 299, and 302 of the BNS are clearly made out against the accused. Accordingly, the trial Court rightly took cognizance and issued summons to the accused. This Court finds no illegality or infirmity in the order passed by the trial Court.

26. Accordingly, this Criminal Revision Case stands dismissed. The trial Court is directed to complete the trial, within a period of six months, from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

02-07-2026

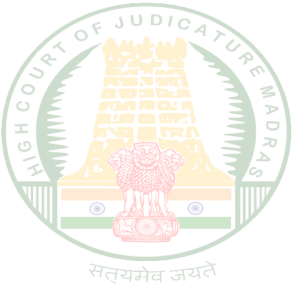
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

AH

To

1. The III Metropolitan Magistrate,
George Town, Chennai.

2. The Public Prosecutor, High Court, Madras.



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CRL RC No. 645 of 2



G.K.ILANTHIRAIYAN J.

AH

**PRE-DELIVERY ORDER IN
CRL RC No. 645 of 2026
AND
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