

6<sup>th</sup> March,  
2020  
(AK)  
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**W.P. 4717(W) of 2020**

Subhadep Adhikari  
Vs.  
The State of West Bengal & Ors.

Mr. Chandrasekhar Bag  
Mr. Abhishek Biswas  
...For the Petitioner

Mr. Sirsanya Bandopadhyay  
Mr. Subhendu Sengupta  
...For the State

The present writ petition has been filed challenging the release of a Bengali movie by the name of “Brahma Janen Gopon Kommoti”.

Learned counsel for the petitioner vociferously argues that the petitioner, being a Hindu by religion, his sentiment has been hurt due to the usage of the expression ‘Brahma’, who is an important part of the Hindu pantheon, with the expression ‘Gopon Kommoti’, which, roughly translated, means ‘secret act’.

Learned counsel for the petitioner submits that the significance of the said expression in the Bengali language indicates something prohibited and which is violative of morality.

As such, learned counsel for the petitioner argues that the release of the movie shall hurt the Hindu religious sentiment, bringing the said

movie within the fold of Sections 295A and 298 of the Indian Penal Code, which are quoted below:

**“295-A. Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.-** *Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

**298. Uttering words, etc., with deliberate intent to wound religious feelings of any person.-** *Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.”*

Learned counsel for the State respondent, in reply, submits that in the event there is a violation of any of the Sections of the Indian Penal

Code, a penalty will follow and neither the police nor the authorities in question have any power to restrain a person from screening a movie.

Moreover, it is submitted that nowhere in the writ petition has it been explained as to how the expression 'Gopon Kommoti', used with the term 'Brahma', is malicious or hints at anything filthy.

It is also submitted that the expression used as the name of the movie is already a cult phrase in the world of Bengali music, since the same was and is being sung and heard for many years, being originally sung by a Bengali Band, by the general public.

As such, if the petitioner, it is argued, was not aggrieved by such expression in the song, there is no reason as to why, all on a sudden, the petitioner was motivated to move this writ petition.

Learned counsel for the State respondent is right on at least two scores. First, in the event any violation of Section 298 of the Indian Penal Code is proved by the petitioner, there are penal provisions under the statute, which can be resorted to. Injunction is not a sanction which follows the commission of such an offence, if at all.

Moreover, in the writ petition, although the expression in question has been termed to be filthy and shocking, it has not been explained what is the filthy connotation of the word.

Learned counsel for the petitioner, while answering, submits that the connotation of the expression 'Gopon Kommoti' is obviously

something furtive, filthy and immoral and as such should not have been associated with Brahma, a deity very much respected by the Hindus.

After hearing the petitioner as well as the State respondent, it is evident that the connotation of the expression 'Gopon Kommoti' as filthy or obnoxious has not been elaborated in the writ petition.

Moreover, we cannot attribute deliberate intent to wound religious feelings of persons at the drop of a hat, merely by usage of an expression, which is already an adage in the Bengali language.

The concept of Lord Brahma need not be elaborated here. However, it is well-known that the said deity is the first of the Hindu pantheon/trinity and is supposed, according to Hindu lore, to be the creator of the universe.

This court fails to understand what could be so filthy about name of the said deity being associated any act which is prohibited or secret.

As taken on face value, the name of the movie in question does not hurt the religious sentiment, merely because an expression has been used, apparently in a hilarious way, with the name of the said Hindu deity.

As it is, Hinduism is a way of life and is wide enough even to accommodate atheists, agnostics as well as all shades of religious and spiritual beliefs.

Therefore, merely the use of the name of Brahma with an expression in a hilarious manner cannot lead to such a result that the religious sentiment of anybody can be hurt.

In the event, the Hindu religion was so fragile and wounded so easily, it would not have survived over the ages through various onslaughts, as borne out by history.

As such, it appears that the petitioner has approached this court on a completely mistaken notion of the concept of Hinduism while stating that the name of the movie, used apparently in a hilarious way, would hurt his sentiment as a Hindu.

If such sentiment is hurt, the petitioner ought to mend his own sentiments and have proper lessons regarding his religion instead of moving courts to harass film-makers unnecessarily.

Moreover, although there is freedom to practice, preach and profess any religion guaranteed under the Constitution, the right to free speech and expression is also enshrined in the Constitution itself.

As such, there has to be a balance between the said fundamental rights. Gag orders of the sort as prayed for would be a complete antithesis of the liberal principles of a democracy and a democratic religion like Hinduism.

In such view of the matter, this court finds no irregularity or even ingredients of any offence under Section 298 of the Indian Penal Code in the nomenclature of the movie in question.

Rather, such attempts to move the court at the drop of a hat, just to ventilate one's vengeance on frivolous issues, ought to be deprecated.

Accordingly, W.P. 4717(W) of 2020 is dismissed with a token cost of Rs.1/- to be paid by the petitioner to the private respondents.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**

