

130 CRM-M-9035 of 2021 (O&M)
Yuvraj Singh v. State of Haryana and another

Present:- Mr. Puneet Bali, Sr. Advocate, with
Mr. Paramdeep Saini, Advocate, for the petitioner.
Mr. Surender Singh, AAG, Haryana
Mr. Arjun Sheoran, Advocate, for the complainant.

Case heard by video conferencing.

This petition has been filed seeking quashing of FIR no.0115 dated 14.02.2021, registered at Police Station Hansi, District Hansi, for the alleged commission of offences punishable under the provisions of Sections 153A and 153B of the IPC, read with Section 3 (1) (u) of the Scheduled Castes and the Scheduled Tribes (Prevention and Atrocities) Act, 1989.

Mr. Bali, learned senior counsel appearing for the petitioner, submits that, firstly, the person in reference to whom the allegedly casteist remarks are stated to have been made (though denied), does not belong to a Scheduled Caste and hence, they could not be said to be casteist remarks.

He next submits that the remarks were made in the context of the person concerned (Yuzvendra Chahal) "having made" his father dance at a marriage ceremony (as contended), and therefore the remarks were in the context of somebody being in an inebriated condition, with him thereafter submitting that *bhang* is also an intoxicant and the word '*bhangi*' had been used by the petitioner in that context.

He points to paragraph 5 of the petition, in which it is stated that term used, '*bhangi*', was not intended to hurt the sentiments of any community or any person, but was a friendly comment made by the petitioner to his friends and colleagues who are not part of the "respected dalit community".

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Mr. Bali next points to the provision in respect of which the petitioner is stated to have committed an offence, i.e. Section 3 (1) (u) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, which reads as follows:-

“3. Punishments for offences of atrocities.—

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

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(u) by word either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”

Mr. Bali submits that even the context of the word used in the “Instagram chat” by the petitioner with his friend, would not impute any kind of ill-will, enmity or hatred, or any attempt to promote such feelings, it having been used in the context of one persons’ father dancing in a marriage ceremony, with that person not belonging to any scheduled caste.

Mr. Bali also submits that the complainant in the FIR in question, is a person who has made many complaints against many celebrities and important people etc. and that he would be filing the details of such complaints in due course, he having received that information only today.

Learned senior counsel also refers to paragraph 6 of the petition, wherein it has been stated that a person called Rajat had approached the petitioner through the petitioners’ manager, in the month of June, 2020,

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to find 'means to close the issue', in which context he points to Annexure P-4, which is stated to be a photograph of the said person, whom learned senior counsel submits, as per the instructions of the petitioner, is a person known to the complainant.

Notice of motion, with Mr. Surender Singh, learned AAG, Haryana, accepting notice on behalf of the respondent State at the asking of the court and with Mr. Arjun Sheoran, Advocate, appearing for the complainant and also accepting notice on his behalf, copies of the petition already having been received by both the counsel.

Learned State counsel submits that as per his instructions, the matter is still under investigation.

Mr. Sheoran, learned counsel for the complainant, submits that, firstly, as regards the person referred to as Rajat in paragraph 6 of the petition, the complainant makes a categorical statement that he does not know him and so the question of that person ringing up the petitioner to demand money on behalf of the complainant, would not arise in the first place.

He next submits that admittedly the word "*bhangi*" having been used, it refers to a caste listed in the Scheduled Castes notified by the Government of Haryana and further, therefore the phrase used being "*ye bhangi log ko koi kaam nahi hain*", it would be encompassing the whole community, and therefore it cannot be said that there is no violation of the aforesaid provision of the Act of 1989.

He also relies upon a judgment of the Supreme Court in **Amish**

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Devgan v. Union of India (2021) 1 SCC 1, from which he refers to paragraph 76, which reads as follows:-

“52. Persons of influence, keeping in view their reach, impact and authority they yield on general public or the specific class to which they belong, owe a duty and have to be more responsible. They are expected to know and perceive the meaning conveyed by the words spoken or written, including the possible meaning that is likely to be conveyed. With experience and knowledge, they are expected to have a higher level of communication skills. It is reasonable to hold that they would be careful in using the words that convey their intent. The reasonable-mans test would always take into consideration the maker. In other words, the expression reasonable man would take into account the impact a particular person would have and accordingly apply the standard, just like we substitute the reasonable mans test to that of the reasonable professional when we apply the test of professional negligence. 98 This is not to say that persons of influence like journalists do not enjoy the same freedom of speech and expression as other citizens, as this would be grossly incorrect understanding of what has been stated above. This is not to dilute satisfaction of the three elements, albeit to accept importance of who when we examine harm or impact element and in a given case even intent and/or content element.”

Learned counsel further submits that the judgment relied upon in the petition, in the case of **Subhash Kashinath Mahajan v. State of Maharashtra** (2018) 6 SCC 454, has been ‘reviewed’ by the Supreme Court in the judgment in **Union of India v. State of Maharashtra** (2020) 4 SCC 761 and consequently is no longer good law. He refers to paragraphs 52 and 54 of the latter judgment, which read as follows:-

“52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper Castes or the members of the elite class. For lodging a false report, it cannot be said that

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the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care in proceeding under section 482 of the Cr.PC.

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54. As a matter of fact, members of the Scheduled Castes and Scheduled Tribes have suffered for long, hence, if we cannot provide them protective discrimination beneficial to them, we cannot place them at all at a disadvantageous position that may be causing injury to them by widening inequality and against the very spirit of our Constitution. It would be against the basic human dignity to treat all of them as a liar or as a crook person and cannot look at every complaint by such complainant with a doubt. Eyewitnesses do not come up to speak in their favour. They hardly muster the courage to speak against upper caste, that is why provisions have been made by way of amendment for the protection of witnesses and rehabilitation of victims. All humans are equal including in their frailings. To treat SCs. and STs. as persons who are prone to lodge false reports under the provisions of the Scheduled Castes and [Scheduled Tribes Act](#) for taking revenge or otherwise as monetary benefits made available to them in the case of their being subjected to such offence, would be against fundamental human equality. It cannot be presumed that a person of such class would inflict injury upon himself and would lodge a false report only to secure monetary benefits or to take revenge. If presumed so, it would mean adding insult to injury, merely by the fact that person may misuse provisions cannot be a ground to treat class with doubt. It is due to human failings, not due to the caste factor. The monetary benefits are provided in the cases of an acid attack, sexual harassment of SC/ST women, rape, murder, etc. In such cases, FIR is required to be registered promptly.”

Thus, the contention raised is that simply because the

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complainant is a social activist, he is not precluded from raising an issue which affects the society at large and with the petitioner being a celebrity who has crores of followers on the instagram app (as contended), the chat in question would have been followed by all such 'followers', as also by the followers of his other celebrity friends with whom he was in conversation.

Last, Mr. Sheoran submits today that the video clipping and the utterances therein having been admitted by the petitioner, the present petition does not deserve to be entertained as it is still to be investigated, and consequently should be dismissed; and this not being a petition seeking "anticipatory bail" for the petitioner, no order in that regard should be passed by this court.

In part rebuttal to the aforesaid argument, as regards the judgment cited by counsel for respondent no.2, Mr. Bali cites a judgment of the Supreme Court in the case of Hitesh Verma v. The State of Uttarakhand and another (Criminal Appeal no.3585 of 2020, decided on 05.11.2020), to submit that the judgment of the Constitution Bench in Union of India v. State of Maharashtra was duly considered in Hitesh Verma's case and it was held that in an appropriate case, even qua an FIR registered under the provisions of the Act of 1989, a Constitutional Court would not be precluded from invoking jurisdiction under the provisions of Section 482 of the Cr.P.C., to quash such FIR.

However, to that contention, learned counsel for respondent no.2 submits that the said judgment is not at all relevant to the present case because it was wholly in a different context as was the judgment referred to

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in Hitesh Verma's case, i.e. **Ishwar Pratap Singh & Others v. State of Uttar Pradesh and another**, (2018) 3 SCC 612.

Having considered the matter at this stage with investigation still underway, this court would not exercise jurisdiction to stop investigation, but in view of the fact that at least prima facie at this stage, the term in question being subject to two interpretations, i.e. as to whether it was used against any particular community (or in the context of any community) or was in reference to a person who was in an inebriated condition, with the person concerned (Yuzvendra Chahal) admittedly not belonging to any scheduled caste even as per learned counsel for the complainant, no coercive action shall be taken against the petitioner, subject of course to the reply to be filed by the respondents herein.

It is of course to be observed by this court that the Act of 1989 is a legislation enacted to safeguard the interests of a section of society that has been known to be oppressed since ages. Naturally any violation of the provisions of the said Act have to be dealt with strictly to try and ensure that a sense of well being is instilled in such sections of society, towards which every person, and 'celebrities' in particular, should be careful in the usage of any term which can be misinterpreted; yet, as already said hereinabove, since the specific contention of the learned senior counsel appearing for the petitioner is that the term sued by the petitioner was wholly in the context of persons in an inebriated condition, the interim direction hereinabove has been made, subject to the outcome of the investigation and the reply to be filed accordingly by a gazetted officer in that regard.

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Since learned State submits that he may be given four weeks time to file a reply as regards the investigation carried out, adjourned to 26.03.2021.

25.02.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

