



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3457]

MONDAY ,THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

CRIMINAL PETITION NO: 8132/2024

Between:

Veladi Suguna Shekara Rao

...PETITIONER/ACCUSED

AND

The State Of Andhra Pradesh
and Others

...RESPONDENT/COMPLAINANT(S)

Counsel for the Petitioner/accused:

1.P NAGENDRA REDDY

Counsel for the Respondent/complainant(S):

1.PUBLIC PROSECUTOR

The Court made the following:

THE HON'BLE SRI JUSTICE HARINATH. N**CRIMINAL PETITION No.8132 of 2024****ORDER:**

The criminal petition is filed seeking quash of Crime No.410 of 2024 registered for alleged offences under Section 353(2) of BNS.

2. The petitioner is the Editor of Sakshi Daily News Paper. A complaint was filed alleging that an article was published in the News Paper on 04.11.2024 titling Ummadi Krishnajillalo Arachakam.
3. It is alleged in the complaint a fake news was published to instigate violent riots with an intention to spread false information and to mislead the public in the state. It is alleged in the complaint that the news article is contrary to the facts and far from truth.
4. The learned counsel appearing for the petitioner submits that the article was published by a Senior Journalist and Editor of the News Paper after extensive research and after receiving credible information. It is also submitted that wild allegations on a news article cannot be made and equally cannot be made basis for registering a case under Section 353(2) of BNS. It is submitted that the complaint is silent on as to which of the classes or groups were impacted resulting in occurrence of riots. It is submitted that

the article would not promote any feeling of enmity, hatred or ill will between religious or racial or linguistic or regional groups or castes and communities.

5. The learned counsel places reliance on **S.Kushboo Vs. Kanniammal**¹, the Hon'ble Supreme Court held that when the article was not published on behalf of one group and the content of the article was not directed against any particular group.
6. Further reliance is placed on **Bilal Ahmad Kaloo Vs. State of Andhra Pradesh**², the Hon'ble Supreme Court held that Section 153-A and Section 505 of IPC have a common feature of promotion of feeling of enmity, hatred or ill will between different religious or racial or linguistic or regional groups or castes and communities. It is necessary that atleast two such groups or communities should be involved. May be inciting the feeling of one community or group without reference to any other group cannot attract either of the two sections.
7. The learned counsel for the petitioner places reliance on **Patricia Mukhim Vs. State of Meghalaya**³, the Hon'ble Supreme Court quashed the FIR which was registered for offences under Section

¹ 2010 (5) SCC 600

² 1997 (7) SCC 431

³ 2021 (15) SCC 35

153-A and 505 (1)(c) of IPC. It was held that only where the written or spoken words have the tendency of creating public disorder or disturbance of Law and Order for affecting public tranquillity, the Law needs to step in to prevent such an activity. The intention to cause this order or incite people to violence is the *sine qua non* of the offence under Section 153-A IPC and prosecution has to prove the existing status of *mensrea* in order to succeed.

8. The learned counsel also places reliance on the judgment of this Court in the matter of **Kantamaneni Ravi Shankar Vs. State of Andhra Pradesh**⁴, the learned Judge of this Court has quashed Crime No.20 of 2020 which was registered for alleged offences under Section 188, 505(2) and 506 of IPC and Section 54 of the Disaster Management Act. This Court held at paras 59 to 62, 69, 70, 71 is as follows ;

59. Further, a bare look at the contents of Section 505 (2) of I.P.C., to constitute an offence punishable under Section 505 (2) of I.P.C., there must be publication or circulation of any statement or report containing rumour or alarming news 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

⁴ 2021 (1) ALD (Cri) 306

groups or castes or communities. Therefore, to constitute an offence punishable under Section 505 (2) of I.P.C. there must be two groups or classes belong to two different castes, religions or communities etc.

60. Here, there are no two groups or classes and even Sri Y.S.Jaganmohan Reddy and the Government by itself cannot be construed as one group. In the absence of two groups, the question of commission of offence punishable under Section 505 (2) of I.P.C. does not arise.

61. In "Bilal Ahmed Kaloo Vs. State of Andhra Pradesh¹⁸" the Apex Court drawn the distinction between Section 153-A of I.P.C. and Section 505 (2) of I.P.C., held that the common ingredient in both the offences is promoting feeling of enmity, hatred or ill-will 1997 (7) SCC 431 between different religious or racial or linguistic or regional groups or castes or communities. Section 153A covers a case where a person by "words, either spoken or written, or by signs or by visible representations" promotes or attempts to promote such feeling. Under Section 505(2), promotion of such feeling should have been done by making and publishing or circulating any statement or report containing rumour or alarming news.

62. The Apex Court further observed that 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, anyone 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.

69. In view of the law declared by the Courts (referred above), the allegations made in the complaint must necessarily disclose such publication, statement or circulation of such statement containing rumour or alarming news among the public based on religion, race, place of birth, residence, language, caste or community. But in the absence of feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, the very registration of crime for the offence punishable under Section 505 (2) of I.P.C. is illegal.

70. On close examination of contents of the complaint dated 29.04.2020 lodged by respondent No.4 with respondent No.3, I find no such two groups and such statement creates or likely to create any ill-will or hatred between two groups or classes on the basis of race, religion etc., but the allegation in the complaint is that the postings in Youtube is only to insult the government and the present Chief Minister. The Government and the Chief Minister cannot constitute as one group or two groups since the Government is manned by Chief Minister being a people representative. In the absence of any other group, creation of such enmity, ill-will etc. on the basis of religion etc., does not constitute an offence punishable under Section 505 (2) of I.P.C.

71. In view of the law declared by the Apex Court including the High Court of Andhra Pradesh and persuaded by the judgments of other High Courts, I have no hesitation to hold that the allegations made in the complaint do not constitute an offence punishable under Section 505 (2) of I.P.C., prima facie, but respondent No.3 being the instrumentality of the State working under the thumb of the State, for the reasons best known to him by abuse of process of law, registered crime against the petitioner for the offence punishable under Section 505 (2) of I.P.C. The prime duty of police is narrated above, before commencing

investigation, the police officer has to satisfy that the allegation made in the complaint prima facie constitute cognizable offence to proceed further with the investigation. Registration of a crime without any material allegation to constitute cognizable offence, harassing the public in the guise of investigation may lead to anarchy, exhibits the lack of minimum knowledge about law, given an impression that the department is manned by an officer without any administrative control and such acts of the department creates an impression that the people are living in a kakistocracy, though the petitioner is living in a democracy. Unless such acts of the officers are controlled, it may lead to serious consequences causing damage to life, liberty and reputation of an individual which is violative of fundamental rights guaranteed under Article 21 of the Constitution of India. Hence, registration of crime against the petitioner for the offence punishable under Section 505 (2) of I.P.C. is liable to be quashed since the crime was registered by abuse of process of law.

9. The learned counsel for the petitioner submits that it is a settled preposition of law that the news paper article cannot give cause of action for filing complaint for the sole reason that the article is not in good taste for the people at the helm of affairs in the State.
10. The learned Assistant Public Prosecutor appearing for the State submits that the investigation is in the preliminary stage and the Police are yet to complete the investigation and prays for dismissing the petition.
11. Notice to the 2nd respondent was served and proof of service is also filed. There is no representation for the 2nd respondent.

12. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State. Perused the material available on record.
13. The basis for filing of the complaint is a news paper article which according to the 2nd respondent would result in promoting enmity, inciting riots, commotion between two religious groups or castes.
14. Article 19(1)(a) of the Constitution not only guarantee freedom of speech and expression, but also protects the right of an individual to listen, read and receive the speech or article. The Hon'ble Supreme Court in the matter of **Romesh Thappar Vs. The State of Madras**⁵, the Government of Madras, in exercise of their powers under section 9 (1-A) of the Madras Maintenance of Public Order Act, 1949 (hereinafter referred to as the impugned Act) purportedly issued an order No.MS.1333, dated 1st March, 1950, whereby they imposed a ban upon the entry and circulation of the journal in that State. The order was published in the Fort St.George Gazette and the notification reads as follows :--

"In exercise of the powers conferred by section 9 (1-A) of the Madras Maintenance of Public Order, Act, 1949 (Madras Act XXIII of 1949) His Excellency the

⁵ 1950 AIR 124, delivered on 26.05.1950

Governor of Madras, being satisfied that for the purpose of securing the public safety and the maintenance of public order, it is necessary so to do, hereby prohibits, with effect on and from the date of publication of this order in the Fort St. George Gazette the entry into or the circulation, sale or distribution in the State of Madras or any part thereof of the newspaper entitled Cross Roads an English weekly published at Bombay."

15. The Hon'ble Supreme Court held that right of circulation of newspaper cannot be curtailed and interfere. The ground of public safety under Article 19(2) is not a reasonable restriction and held that the notification was set aside as it violated Article 19(2) of the Constitution of India.
16. Registration of Crime on receipt of a complaint regarding publication of article which neither resulted in promoting enmity between groups nor did it incite any commotion or rights. This Court is of the considered view that the Law is well settled on the Freedom of Speech and Expression and the Freedom of Press has to be protected for ensuring that information from all angles would reach the masses. For every issue there can be a 360° degree dimensional view and as such views from different angles cannot become subjects of criminal complaints. In the event the article is defamatory it is always open for the person so defamed proceed damages

by during the extent of defamation which the article allegedly caused.

17. On these grounds, the criminal petition is allowed.

Pending miscellaneous petitions, if any, shall stands closed.

JUSTICE HARINATH.N

Dated 24.03.2025
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THE HON'BLE SRI JUSTICE HARINATH. N

CRIMINAL PETITION No.8132 of 2024
Dated 24.03.2025

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