

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2025
(Arising out of SLP(Crl.) No.7550/2019)

TEHSEEN POONAWALLA

APPELLANT(S)

VERSUS

THE STATE OF HARYANA & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel appearing for the parties.

The appellant was one of the petitioners before the High Court. The appellant along with another person (Vishal Dadlani) filed a petition before the High Court for quashing a First Information Report registered under Sections 295A, 153A and 509 of the Indian Penal Code as well as Section 66E of the Information Technology Act, 2000 at Police Station Ambala Contonment in Haryana. The allegations made in the First Information Report were in connection with a session of Vidhan Sabha which commenced on 26th August, 2016 with the sermons of a Jain Saint Shri Tarun Sagarji. The appellant along with the co-petitioner, made a broadcast on their twitter account on 27th August, 2016 which according to the police expressed disrespect towards the Jain saint. The allegation is that the broadcast spread religious discontentment/enmity towards the Jain community and the saint. By the impugned judgment, High Court proceeded to quash the First Information Report. There is a detailed consideration made by the High Court in the

impugned judgment on the issue whether any offence was made out. Ultimately, the High Court held that no offence was made out against the appellant and the co-accused. This part of the judgment has not been challenged by the respondents.

In this case, we are concerned with later part of impugned judgment which reads thus:-

“ However, the question now arises that in view of above, the petitions be simply allowed or in exercise of power under Section 482 Cr.P.C., justice can also be done to the followers of Jain religion. If the contribution made by the petitioners towards poor people is compared to the contribution made by Jain Muni Tarun Sagar, it is apparent that the petitioners have played a mischief to gain publicity without having much to their credit.

In recent years, the country has witnessed large scale violent protest on incitement made by using social media platform, thereby, causing extensive damage to public property.

However, the preachings of Jain Muni Tarun Sagar about non-violence, sacrifices and forgiveness, has avoided repetition of such like protest.

Therefore, it would be appropriate to impose the costs of Rs.10 lacs each on the petitioner - Vishal Dadlani and the petitioner - Tehseen Poonawala, so that in future they may not mock at any head of a religious sect, just to gain publicity on social media like Twitter.

Both the petitioners will deposit the costs within a period of 04 months from today.

The petitioner - Tehseen Poonawala will deposit the costs of Rs.5 lacs with the Tarun Kranti Manch Trust (Regd.), Defence Colony, Delhi (a Trust created

by late Jain Muni Tarun Sagar) and will also deposit a costs of Rs.5 lacs with the Poor Patient's Fund (Prabh Aasra) in Post Graduate Institute of Medical Education and Research (P.G.I.M.E.R.) at Chandigarh.

The petitioner - Vishal Dadlani will deposit the costs of Rs.5 lacs with the Shri Digamber Jain Mandir Trust, Sector 27, Chandigarh and Rs.5 lacs with the Punjab and Haryana High Court Advocates Welfare Fund.

Accordingly, the present petitions are allowed; the FIR No.0310 dated 28.08.2016 registered under Sections 295-A, 153-A and 509 IPC (Section 66E of the I.T. Act, added later on) at Police station Ambala Cantt. Haryana, and all other proceedings arising therefrom are ordered to be quashed subject to payment of costs on or before 01.09.2019, failing which these petitions will be deemed to be dismissed."

Perusal of the impugned judgment shows that the High Court upheld the fundamental right of the appellant of freedom of speech and expression guaranteed under Article 19 (1)(a) of the Constitution of India. After holding that no offence was made out against the appellant, there was no question of imposing costs upon the appellant and the other petitioner. In fact, the High Court ought to have followed to well settled rule of *cost to follow event*. The respondents ought to have been directed to pay costs to the appellant.

Perhaps, the High Court was swayed by the fact that the appellant and the other person arraigned as accused, made criticism of a *priest* of a particular religion.

We are of the view that, after finding that absolutely no

offence was made out, the High Court ought not to have exercised non existing jurisdiction by observing that the contribution made by the priest towards poor people was much more than what the appellant and the other co-accused have contributed. While deciding a petition for quashing of an offence, the High Court ought not to have observed that the appellant and the co-accused have played a mischief to gain publicity without having much to their credit. The High court has no reason to go into the issue of the contribution made by the Jain saint. Moreover, the function of the Court is not to do the moral policing.

Therefore, we set aside the direction issued under the impugned judgment directing the appellant and the other petitioner before the High Court to pay costs. The rest of the impugned order remains undisturbed.

The appeal is, accordingly, allowed to the above extent.

Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S. OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
APRIL 08, 2025

ITEM NO.3

COURT NO.4

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No. 7550/2019

[Arising out of impugned judgment and order dated 29-04-2019 in CRM-M No. 32226/2016 passed by the High Court of Punjab & Haryana at Chandigarh]

TEHSEEN POONAWALLA

Petitioner(s)

VERSUS

THE STATE OF HARYANA & ANR.

Respondent(s)

IA No. 126879/2019 - EXEMPTION FROM FILING O.T.

IA No. 122188/2020 - SUBSTITUTED SERVICE

Date : 08-04-2025 This matter was called on for hearing today.

CORAM HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Ms. Akanksha Rai, Adv.
Mr. Ibad Mushtaq, Adv.
Ms. Gurneet Kaur, Adv.
Mr. Hasan Raza Khan, Adv.
Mr. Fuzail Ahmad Ayyubi, AOR

For Respondent(s) Mr. Deepak Thukral, A.A.G.
Mr. Akshay Amritanshu, AOR
Mr. Nikhil Goyal, Adv.
Ms. Pragya Upadhyay, Adv.
Ms. Drishti Saraf, Adv.
Mr. Ravi Vashisht, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(GEETA JOSHI)
SENIOR PERSONAL ASSISTANT
(The signed order is placed on the file)

(AVGV RAMU)
COURT MASTER (NSH)