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MCRC-14833-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 30th OF APRIL, 2026MISC. CRIMINAL CASE No. 14833 of 2026*FAIZAN ANSARI**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Chinmay Kalgaonkar - Advocate for the petitioner.

Shri A.S. Baghel - Government Advocate for the respondents/State.

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ORDER

The present petition has been instituted by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the extraordinary jurisdiction of this Court for quashment of FIR bearing Crime No.0427/2025 dated 22.07.2025 registered at Police Station Chicholi, District Betul, for the alleged offence punishable under Section 353(2) of Bharatiya Nyaya Sanhita, 2023, along with consequential reliefs including protection of life and liberty and initiation of action against persons responsible for threats and harassment.

2. The factual matrix reveals that the petitioner is a government school teacher, and possessing an unblemished service record with no criminal antecedents or adverse entries in police records, as is evident from the character certificate placed on record. On 22.07.2025, at approximately



10:15 AM, the petitioner posted a video on his WhatsApp status, which contained a recitation of an Urdu nazm titled '*Be-haya*', authored by a recognized poet and the said act was purely an expression of literary appreciation without any accompanying commentary, modification or additional message attributable to the petitioner himself. It is not in dispute that the said video, at the time of posting, did not generate any immediate disturbance or report of disorder on the platform itself; however, later in the day, at around 4:30 PM, the petitioner was contacted by the local police authorities and was directed to appear at the police station, whereafter his mobile phone was seized and he was subjected to inquiry. On the same date, FIR bearing Crime No.0427/2025 came to be registered at Police Station Chicholi under Section 353(2) of Bharatiya Nyaya Sanhita, 2023, alleging that the content of the video was objectionable, allegedly misogynistic, unbecoming of a teacher and hurt the sentiments of persons belonging to a particular religion. The complaint was lodged by certain individuals along with others, asserting that the video had the potential to disturb communal harmony and was offensive in nature.

3. Following the registration of the FIR, the petitioner was subjected to a series of adverse consequences, including seizure of his personal device, circulation of his personal details on social media platforms, publication of defamatory content in local media and organized campaigns inciting hostility and threats of violence against him, thereby placing him under a continuous and credible apprehension of harm to his life and liberty. The petitioner addressed a written representation to the Superintendent of



Police seeking protection and requesting investigation into the threats being extended to him; however, no effective remedial measures were taken by the authorities, compelling the petitioner to approach this Court as no efficacious alternative remedy was available.

4. Learned counsel appearing for the petitioner has advanced elaborate submissions contending that the impugned FIR is wholly unsustainable in law and amounts to a gross abuse of the criminal process, as the allegations contained therein, even if accepted in their entirety without demur, do not disclose the commission of any offence under Section 353(2) of Bharatiya Nyaya Sanhita, 2023. It is submitted that the petitioner has merely shared a literary work in the form of a poem, without adding any personal commentary or exhortation, and therefore, the element of *mens rea*, which is an indispensable ingredient for offences relating to promotion of enmity or public mischief, is conspicuously absent in the present case. It is further argued that the FIR proceeds on vague, omnibus and subjective allegations such as the content being “unbecoming” or “hurting sentiments,” which, in the absence of any tangible material demonstrating incitement to violence or disturbance of public order, cannot form the basis of criminal prosecution.

5. The learned counsel has placed strong reliance on the judgment of the Hon’ble Supreme Court in *Imran Pratapgarhi Vs. State of Gujarat and Another, Criminal Appeal No. 1545 of 2025*, wherein the Apex Court categorically held that a poem or artistic expression cannot be construed as promoting enmity or hatred unless its contents, on a plain and reasonable



reading, directly incite violence or create disharmony between communities and that mere apprehension or subjective interpretation of the complainant cannot justify criminal prosecution. It is emphasized that Hon'ble the Supreme Court in the said judgment undertook a detailed analysis of the contents of the poem and concluded that expression advocating non-violence or resistance to injustice cannot be criminalized merely because it is perceived differently by certain individuals.

6. Further, reliance has been placed on the decision in *Patricia Mukhim Vs. State of Meghalaya and Others, (2021) 15 SCC 35*, wherein it has been held that for offences relating to hate speech or promotion of enmity, the prosecution must establish a clear intention to incite violence or disrupt public order and that criticism of governmental action or expression of opinion, even if strongly worded, is protected under Article 19(1)(a) unless it crosses the threshold laid down under Article 19(2). It is argued that the present case falls squarely within the ratio of the aforesaid judgments, as there is neither any incitement nor any intention attributable to the petitioner to disturb public tranquillity.

7. The petitioner's counsel has further submitted that the case is fully covered by the principles laid down in *State of Haryana and others vs. Bhajan Lal and others 1992 Supp (1) SCC 335*, wherein Hon'ble the Supreme Court enumerated categories of cases where quashing of FIR is warranted, particularly where the allegations do not disclose any offence or are manifestly attended with mala fide. It is contended that the FIR in the present case is a product of malicious intent and extraneous considerations,



as evidenced by the subsequent harassment and threats faced by the petitioner, and therefore, deserves to be quashed in exercise of the inherent powers of this Court.

8. *Per contra*, learned counsel appearing for the respondents has opposed the petition by contending that the petition is premature and not maintainable at this stage, as the investigation is still at a nascent stage and the police authorities must be allowed to complete the investigation in accordance with law without interference from this Court. It is submitted that the FIR discloses cognizable offences and the allegations regarding the objectionable nature of the video and its impact on societal harmony warrant a thorough investigation, which cannot be stifled at the threshold. The respondents have further contended, in their reply, that the petitioner has failed to demonstrate any exceptional circumstance justifying interference and the Court should exercise restraint in quashing FIRs at the initial stage.

9. It is also argued that the content shared by the petitioner was inappropriate in the context of his position as a teacher and had the potential to hurt sentiments and disturb social harmony, and therefore, the registration of FIR cannot be said to be arbitrary or illegal. The respondents have denied all allegations of harassment and mala fide, asserting that the police have acted strictly in accordance with law and any grievance regarding subsequent events can be addressed through appropriate legal remedies.

10. Upon a comprehensive consideration of the pleadings, documents placed on record and the rival submissions advanced by learned counsel for the parties, this Court is called upon to determine whether the



allegations contained in the impugned FIR, when tested on the touchstone of established legal principles, disclose the commission of any cognizable offence warranting continuation of criminal proceedings against the petitioner. The central issue that arises for determination is whether the act of posting a video containing a poetic recitation, without any additional commentary or incitement, can be construed as falling within the ambit of Section 353(2) of Bharatiya Nyaya Sanhita, 2023, which penalizes statements conducing to public mischief.

11. The nazm '*Be-haya*' is available in the public domain on the website *Rekhta*, an India-based platform dedicated to Urdu poetry and literature (*Annexure P/5*). The entire text of the nazm '*Be-haya*' is reproduced hereinbelow, as it constitutes the sole subject matter of the video posted/uploaded by the petitioner on his WhatsApp status (DP).

“Nazm - '*Be-haya*'

hamīñ to haiñ vo

jo tai kareñge

ki in ke jismoñ pe kis kā haq hai

hamīñ to haiñ vo

jo tai kareñge

ki kis se in ke nikāh hoñge

ye kis ke bistar kī zīnateñ haiñ

vo kaun hogā jo apne hoñToñ ko

in ke jismoñ kī aab degā

bhale mohabbat kisī ke kahne pe

aaj tak ho sakī na hogī

magar ye ham tai kareñge

in ko kise basānā hai apne dil meñ

ham in ke mālik haiñ



*jab bhī chāheñ
inheñ lihāfoñ meñ khīñch laa.eñ*

*aur in kī rūhoñ meñ daañt gāDeñ
ye maañ baneñgī*

*to ham batā.eñge
in ke jismoñ ne kitne bachchoñ ko Dhālnā hai*

*hamāre bachchoñ ke peT bharne
agar ye koThe pe jā ke apnā badan bhī becheñ*

*to ham batā.eñge
kis ko kitne meñ kitnā becheñ*

*hamīñ ko haq hai
ki in ke gāhak jo k̤hud hamīñ haiñ se*

*saarī qīmat vasūl kar leñ
hamīñ ko haq hai ki in kī āñkheñ*

*hasīn chehre shaffāf paañv
safed rāneñ darāz zulfēñ*

*aur ātishīñ-lab dikhā dikhā kar
cream sābun safed kapDe aur aam becheñ*

*dukāñ chalā.eñ naʼ kamā.eñ
hamīñ to haiñ jo ye tai kareñge*

*ye kis sahīfe kī kaun sī āyateñ paDeñheñgī
ye kaun hotī haiñ*

*apnī marzī kā rang pahneñ
schōl jaa.eñ hameñ paDehā.eñ*

*hameñ batā.eñ
ki in kā rab bhī vahī hai jis ne hameñ banāyā*

*barābarī ke sabaq sikhā.eñ
ye lauñDiyāñ haiñ ye jūtiyāñ haiñ*

*ye kaun hotī haiñ apnī marzī se jīine vaalī
batāne vaale hameñ yahī to batā ga.e haiñ*



*jo hukmrānoñ kī baat Tāleñ
jo apne bhaa.ī se hissa māñgeñ*

*jo shauharoñ ko kḥudā na samjheñ
jo qadre mushkil savāl pūchheñ*

*jo apnī mehnat kā badla māñgeñ
jo ājiroñ se zabāñ laḌā.eñ*

*jo apne jismoñ pe haq jatā.eñ
vo be-hayā haiñ”*

12. This Court finds that the factual foundation of the FIR rests solely on the allegation that the video posted by the petitioner is objectionable, misogynistic and hurtful to religious sentiments; however, a bare reading of the FIR does not disclose any specific material indicating that the content of the video had the effect of promoting enmity between different groups or inciting violence or public disorder. The allegations are couched in general and subjective terms, devoid of any particulars as to how the essential ingredients of the alleged offence are satisfied. In this regard, the law is well settled that criminal liability for speech-related offences cannot be imposed merely on the basis of subjective perceptions or speculative apprehensions, but must be founded on clear and proximate evidence of incitement or tendency to disrupt public order.

13. The judgment of the Hon’ble Supreme Court in *Imran Pratapgarhi (supra)* assumes significant relevance in the present context, as it deals with a substantially similar situation where a poem was alleged to have incited enmity between communities. The Apex Court, after undertaking a detailed analysis of the contents of the poem, held that the expression in question did not promote violence or hatred and was, in fact, a message advocating non-violence and resistance to injustice. The Court emphasized



that the interpretation of artistic or literary expression must be reasonable and contextual and criminal law cannot be invoked on the basis of strained or exaggerated interpretations.

14. Applying the ratio of the said judgment to the facts of the present case, it is evident that the act of the petitioner in sharing a poetic recitation, without any additional commentary or intent to incite, cannot be construed as promoting enmity or public mischief because, the urdu poem written by Shoaib Kaini which was uploaded on the WhatsApp status (DP) by the petitioner and poem relates to the condition and sarcastic take on human rights, abuse of the women in Pakistan or any other country. The aforesaid *nazm* has been circulated on various forms of social media by thousands of people and has been lauded by literary doyens at various national and international events.

15. Similarly, the decision in *Patricia Mukhim (supra)* lays down the principle that intention to incite violence or create public disorder is the *sine qua non* for offences relating to hate speech and that mere expression of opinion or criticism, however strongly worded, is protected under Article 19(1)(a) unless it falls within the narrowly tailored restrictions under Article 19(2). The Supreme Court in the said case categorically held that absence of *mens rea* and lack of any incitement to violence renders the continuation of criminal proceedings unsustainable. In the present case, there is no material whatsoever to indicate that the petitioner intended to promote hatred or incite violence, nor is there any evidence of actual disturbance of public order attributable to the act of the petitioner.



16. The facts of the case further correctly draw attention to the nature and scope of Section 353(2) of Bharatiya Nyaya Sanhita, 2023 which is in *pari materia* with Section 505(2) of Indian Penal Code, dealing with statements conducing to public mischief and requiring, as a *sine qua non*, the existence of *mens rea* in the form of intent to create or promote enmity, hatred or ill-will between different groups or communities. This Court finds that the FIR is conspicuously silent on any such intent attributable to the petitioner. The act alleged against the petitioner is confined to posting a video of a poetic recitation, without any additional commentary or exhortation and there is no material to suggest that the petitioner intended to incite hostility between communities or the content was directed against any identifiable group. The settled legal position, as reiterated in *Bilal Ahmed Kaloo vs. State of Andhra Pradesh, (1997) 7 SCC 431* and reaffirmed in *Patricia Mukhim (supra)*, is that mere expression, even if it evokes strong reactions, cannot attract penal provisions unless it is accompanied by intent to promote enmity between different groups. The requirement of *mens rea* is not a mere technicality but a substantive safeguard against arbitrary prosecution and its absence is fatal to the continuation of criminal proceedings in cases of alleged speech offences.

17. In the present case, the material placed on record clearly establishes that the video shared by the petitioner on his WhatsApp status (DP) was nothing but a recitation of the well-known Urdu nazm '*Behaya*' authored by the renowned poet Shoaib Kiani, which was performed at an international Urdu literary festival. The said nazm, when examined in its



entirety and in its proper literary context, is a satirical and thought-provoking commentary on the issue of human rights violations against women, particularly highlighting the systemic injustices and societal hypocrisy surrounding their treatment. It is not in dispute that the nazm has enjoyed wide circulation across multiple social media platforms and has been appreciated by a large audience, including eminent literary personalities, who have acknowledged and discussed the work at national as well as international literary forums, as reflected from the material annexed with the petition. Further, the nazm finds place on Rekhta, a widely recognized and authoritative digital repository of Urdu literature, which itself lends credence to its literary authenticity and acceptance within the broader cultural and intellectual discourse.

18. This Court is of the considered view that a holistic reading of the nazm leaves no scope for construing it as offensive in the manner alleged in the FIR, inasmuch as it does not contain any reference, direct or indirect to any religion, community or sect so as to attract allegations of hurting religious sentiments or promoting disharmony. The expression woven/used in the nazm, though at places strong and evocative, must be understood as a legitimate literary device intended to provoke introspection and to draw attention to the plight of women in a patriarchal societal framework. Such use of stark and sometimes unsettling imagery is a well-recognized feature of literary expression, historically employed by writers and thinkers, including celebrated authors, to challenge prevailing norms and expose uncomfortable truths.



19. In view of the foregoing analysis, this Court is of the considered opinion that the impugned FIR bearing Crime No.0427/2025 dated 22.07.2025 registered at Police Station Chicholi, District Betul, does not disclose the commission of any cognizable offence under Section 353(2) of Bharatiya Nyaya Sanhita, 2023 and the continuation of criminal proceedings against the petitioner would amount to an abuse of the process of law and an unwarranted infringement of his fundamental rights under Article 19(1)(a) of the Constitution. The petition, therefore, deserves to be allowed.

20. Accordingly, the petition is *allowed* and FIR bearing Crime No.0427/2025 registered at Police Station-Chicholi, District-Betul, along with all consequential proceedings arising therefrom, is hereby quashed. The respondents are directed to ensure that no coercive action is taken against the petitioner in relation to the aforesaid incident and to take appropriate steps to safeguard the life and liberty of the petitioner in accordance with law. It is further directed to the Superintendent of Police, Betul to provide adequate security to the petitioner, as and when required. The Station House Officer of Police Station Chicholi, District Betul, is also directed to return the seized mobile phone to the petitioner forthwith.

Certified copy as per rules.

(B. P. SHARMA)
JUDGE