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HC-KAR

NC: 2026:KHC:60067
CRL.P No. 13589 of 2025

CNR: KAHC010637752025

®

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 13589 OF 2025

(482(Cr.PC) / 528(BNSS)-)

BETWEEN

JYOTHI R
W/O RAVIKUMAR,
AGED ABOUT 30 YEARS,
KASABA HOBLI, MADDUR TALUK,
CHAMANAHALLI, MANDYA,
KARNATAKA - 571 429

...PETITIONER

(BY SRI.AIYAPPA K.G., ADVOCATE FOR
SRI.VASANTHA KUMARA., ADVOCATE)

AND

1. STATE OF KARNATAKA
   BY MADDUR POLICE STATION, MANDYA
   REPRESENTED BY THE STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   HIGH COURT BUILDING,
   BENGALURU 560 001.

2. SHIVAKUMAR M.
   POLICE INSPECTOR,
   AGED ABOUT 45 YEARS,
   MADDUR POLICE STATION, MADDUR,
   MANDYA - 571 428

...RESPONDENTS

(BY SRI. RANJITH KUMAR N., HCGP FOR R1 & R2)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO CALL FOR RELEVANT RECORDS AND QUASH THE FIR IN CR.NO.201/2025 AGAINST THE PETITIONER HEREIN FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 196(1)(a) AND 299 OF BNS, 2023 ON THE

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FILE OF MADDUR PS (ALSO PENDING ON THE FILE OF THE COURT OF THE 2ND ADDL.JMFC COURT MADDUR, MANDYA)

THIS CRIMINAL PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 11.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before this Court seeking for the following reliefs:

   a. *Call for the relevant records;*

   b. *Quash the FIR in Crime No.201/2025 against the Petitioner herein for the offence punishable u/s 196(1)(a) & 299 of BNS, 2023 on the file of Maddur PS (also pending on the file of the Court of the 2nd Addl. JMFC Court Maddur, Mandya)*

   c. *Issue any other order or directions as this Hon'ble Court may deem fit in the light of the facts and circumstances of the case, in the interest of justice and equity.*

2. Respondent No.2-Police Inspector lodged a complaint on 11.09.2025, alleging that on 07.09.2025, at around 07:00 p.m. when a peaceful Ganapati procession was taking place, certain rioters pelted stones from Sunni Circle, disturbing the celebration and hurting the deep religious beliefs and faith. Thereafter, a procession was taken to protest against

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the police inaction in relation to the stone-pelting incident. The police resorted to Lathi Charge. The complaint describes the Petitioner as belonging to the Vokkaliga community, working at a petrol bunk and residing at Shivapura, Maddur Town. It alleges that she made statements with the intention of hurting religious and caste sentiments. In pursuance thereof, on 11.09.2025, Respondent No. 2 lodged the following complaint:

> *ರವರಿಗೆ*
> *ಠಾಣಾಧಿಕಾರಿ,*
> *ಮದ್ದೂರು ಪೊಲೀಸ್ ಠಾಣೆ.*
> *ಮದ್ದೂರು.*
>
> *ಯಿಂದ.*
> *ಶಿವಕುಮಾರ್.ಎಂ.*
> *ಪೊಲೀಸ್ ಇನ್ಸ್ ಪೆಕ್ಟರ್ ಮದ್ದೂರು ಪೊಲೀಸ್ ಠಾಣೆ*
> *ಮದ್ದೂರು, ಮಂಡ್ಯ ಜಿಲ್ಲೆ.*
>
> *ಮದ್ದೂರು ಪೊಲೀಸ್ ಠಾಣಾ ವ್ಯಾಪ್ತಿಯ ಮದ್ದೂರು ಟೌನಿನಲ್ಲಿ ದಿನಾಂಕ: 07/09/2025ರಂದು ಗಣೇಶ ವಿಸರ್ಜನಾ ಸಮಯದಲ್ಲಿ ಜರುಗಿದ ಕಲ್ಲು ತೂರಾಟದ ಗಲಾಟೆಗೆ ಸಂಧಿಸಿದಂತೆ ದಿನಾಂಕ: 08/09/2025 ರಂದು ಮದ್ದೂರು ಟೌನಿನಲ್ಲಿ ವಿವಿಧ ಸಂಘಟನೆಗಳು ಮದ್ದೂರು ಟೌನಿನ ನರಸಿಂಹಸ್ವಾಮಿ, ದೇವಸ್ಥಾನದಿಂದ ಪೇಟೆ ಬೀದಿ ಮಾರ್ಗವಾಗಿ ಮೆರವಣಿಗೆ ಹಮ್ಮಿಕೊಂಡಿದ್ದು, ದಿನಾಂಕ:09-09-2025 ರಂದು ವಿವಿಧ ಸಂಘಟನೆಗಳು ಮದ್ದೂರು ಟೌನ್ ಬಂದ್ ಮಾಡಿರುತ್ತಾರೆ. ದಿನಾಂಕ:10-09-2025 ರಂದು ಸಾಮೂಹಿಕ ಗಣೇಶ ಮೂರ್ತಿಗಳ ವಿಸರ್ಜನೆ, ಕಾರ್ಯಕ್ರಮ ಇಟ್ಟುಕೊಂಡಿದ್ದು,*

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ಮದ್ದೂರು ಟೌನಿನಲ್ಲಿ ಕಾನೂನು ಸುವ್ಯವಸ್ಥೆ ಕಾಪಾಡುವ ಸಲುವಾಗಿ ಅಗತ್ಯ ಪೊಲೀಸ್ ಸಿಬ್ಬಂದಿಗಳನ್ನು ನಿಯೋಜನೆ ಮಾಡಿಕೊಂಡಿರುತ್ತದೆ.

ಜ್ಯೋತಿ @ ಜ್ಯೋತಿಗೌಡ @ ಸಾನ್ಯ, ಒಕ್ಕಲಿಗರು, ಸುಮಾರು, 35ವರ್ಷ, ಪೆಟ್ರೋಲ್ ಬಂಕಿನಲ್ಲಿ ಕೆಲಸ. ಹಾಲಿವಾಸ: ಶಿವಪುರ, ಮದ್ದೂರು ಟೌನ್ ಎಂಬುವರು ಅನ್ಯ ಕೋಮಿನ ಧಾರ್ಮಿಕ ಭಾವನೆಗೆ ನೋವುಂಟು ಮಾಡುವ ಸಲುವಾಗಿ ಬುದ್ಧಿ ಪೂರ್ವಕವಾಗಿ "ನಾನು ಕೇಳದು ಇಷ್ಟೇ ಸಿದ್ದರಾಮಯ್ಯ ಏನಿದ್ದಾರೆ. ಅವರಿಗೆ ಹೇಳಿತ್ತಿನಿ ಒಂದು ಮಾತು. ನೀವು ಮುಸಲ್ಮಾನವರಿಗೆ ಸಪೋರ್ಟ್ ಮಾಡೋದಾದ್ರೆ ನೀವು, ಯಾಕೆ ಬಂದು ಎಲೆಕ್ಷನ್ ಬಂದು ನಿಂತ್ಕೋತಿರಾ ಸಾರ್. ಸಾಬ್ರುಗೆ ಹುಟ್ಟಿದ್ದಿರಾ ಆಗದ್ರೆ ನೀವು" ಎಂಬಿತ್ಯಾದಿಯಾಗಿ ಮಾತನಾಡಿದ್ದು. ಕೆಲವರು ಈ ವಿಡಿಯೋ ಮಾಡಿಕೊಂಡು ಅನ್ಯ ಕೋಮಿನವರು ಸಕ್ರಿಯರಾಗಿರುವ ವಿವಿಧ ಸಾಮಾಜಿಕ ಮಾಧ್ಯಮಗಳಲ್ಲಿ ಸಾರ್ವಜನಿಕವಾಗಿ ಹರಿಬಿಟ್ಟಿರುತ್ತಾರೆ. ಇದ್ದರಿಂದ ಅನ್ಯ ಧರ್ಮದ ಕೋಮು ಭಾವನೆಗಳಿಗೆ ಧಕ್ಕೆಯಾಗುವ ರೀತಿಯಲ್ಲಿ ಅವಹೇಳನ ಕಾರಿ ಪದಗಳನ್ನು ಉಪಯೋಗಿಸಿ ವಿವಿಧ ಕೋಮುಗಳ ನಡುವೆ ಪರಸ್ಪರ ವೈರತ್ವ ವೈಮನಸ್ಸು ಉಂಟಾಗುವುದಕ್ಕೆ ಉತ್ತೇಜನ ನೀಡಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಮೇಲ್ಕಂಡ ಜ್ಯೋತಿ @ ಜ್ಯೋತಿಗೌಡ @ ಸಾನ್ನ ರವರ ವಿರುದ್ಧ ಕ್ರಮ ಜರುಗಿಸಲು ಕೋರಿಕೆ.

ದಿನಾಂಕ: 11/09/2025

3. The said complaint came to be registered as Crime No.201 of 2025 at Maddur Police Station for offences under Sections 196(1)(a) and 299 of the Bharatiya Nyaya Sanhita, 2023 ("BNS"). It is alleged that the Petitioner had made numerous provocative statements on various TV channels. It is further alleged that the Petitioner, described as an influencer, made videos that were subsequently published on various online platforms. Respondent No. 2 alleges

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that the conduct attracts the aforesaid provisions. The Petitioner has filed this petition challenging the registration of the said crime and seeking the following reliefs.

4. Sri.Aiyappa.K.G., learned counsel for the Petitioner, would submit that:

4.1. The Petitioner is innocent of the offences alleged against her. Even if all the allegations in the complaint are considered in their entirety, they do not make out any offence insofar as the Petitioner is concerned. He submits that in terms of Sub-section (3) of Section 173 of the BNSS, where the offences alleged are based on spoken or written words and are punishable with imprisonment of up to seven years, it is mandatory for a preliminary enquiry to be conducted. He submits that no such enquiry was conducted and that, therefore, the complaint could not have been registered.

4.2. His submission is that the safeguard under Sub-section (3) of Section 173 of the BNSS is to protect the fundamental right under Article 19(1)(a) of the Constitution and it is for that reason that for the purpose of conducting a

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preliminary enquiry, the officer in-charge of the police station ought to seek the prior permission of an officer not below the rank of Deputy Superintendent of Police.

4.3. Section 173 of the BNSS is reproduced hereunder for ease of reference:

> ***173. Information in cognizable cases;***
>
> *(1)Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station, and if given-*
>
> *(i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;*
>
> *(ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf:*
>
> *Provided that if the information is given by the woman against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:*

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Provided further that-

(a) in the event that the person against whom an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible.

(2)A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.

(3)Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,-

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

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> *(ii) proceed with investigation when there exists a prima facie case.*
>
> *(4)Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence failing which such aggrieved person may make an application to the Magistrate.*

4.4. He relies on ***Imran Pratapgadhi v. State of Gujarat*** [(2026) 1 SCC 721], more particularly paragraphs 15, 28-31, 33-37, 42, 48-49, and 53.1-53.7 thereof, which are reproduced hereunder for ease of reference.

> ***15.*** *The offence under Section 196 is attracted when the words, either spoken or written, or by signs or visible representations, promote enmity between different groups, on the grounds of religion, race, place of birth, residence, language, caste or, community or any other ground. The offence will be attracted when the words either spoken or written, or signs or visible representation, promote or attempt to promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities. On a plain reading of the poem, we find that the same has nothing to do with any religion, caste,*

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community or any particular group. The poem's words do not bring about or promote disharmony or feelings of hatred or ill-will. It only seeks to challenge the injustice made by the ruler. It is impossible to say that the words used by the appellant disturb or are likely to disturb public tranquility. Therefore, neither clause (a) nor clause (b) of Section 196(1) are attracted. There is no allegation against the appellant of organising any exercise, movement, drill or similar activity. There is no allegation against the appellant that he uttered the words in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies. Hence, clause (c) will have no application. The appellant has put a video of a mass marriage function, and in the background, the words are uttered. Therefore, Section 196 can have no application.

28. *Section 154 CrPC does not provide for making any preliminary inquiry. However, as held in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , a preliminary inquiry is permissible if the information received does not disclose a cognizable offence and indicates the necessity for an inquiry. A preliminary inquiry must be conducted only to ascertain whether a cognizable offence is disclosed. However, sub-section (3) of Section 173 BNSS makes a significant departure from Section 154CrPC. It provides that when information relating to the commission of a cognizable offence which is made punishable for 3 years or more but less than 7 years is received by an officer in charge of a police station, with the prior permission of a superior officer as mentioned therein, the police officer is empowered to conduct a preliminary inquiry to ascertain whether there exists a prima facie case for proceeding in the matter. However, under Section 154CrPC, as held in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] ,* ***only a limited preliminary***

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inquiry is permissible to ascertain whether the information received discloses a cognizable offence*. Moreover, a preliminary inquiry can be made under CrPC only if the information does not disclose the commission of a cognizable offence but indicates the necessity for an inquiry.* ***Sub-section (3) of Section 173 BNSS is an exception to sub-section (1) of Section 173. In the category of cases covered by sub-section (3), a police officer is empowered to make a preliminary inquiry to ascertain whether a prima facie case is made out for proceeding in the matter even if the information received discloses commission of any cognizable offence.*** *That is very apparent as sub-section (3) of Section 173 refers explicitly to receiving information relating to the commission of a cognizable offence. Therefore, in a case where sub-section (3) of Section 173 is applicable, even if the information pertaining to the commission of any cognizable offence is received, an inquiry can be conducted to ascertain whether a prima facie case exists for proceeding in the matter.* ***The intention appears to be to prevent the registration of FIRs in frivolous cases where punishment is up to 7 years, even if the information discloses the commission of the cognizable offence.*** *However, under Section 154CrPC, the inquiry permitted by para 120.2 of the decision in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] is limited only to ascertain whether the cognizable offence is disclosed.*

29. Under sub-section (3) of Section 173 BNSS, after holding a preliminary inquiry, if the officer comes to a conclusion that a prima facie case exists to proceed, he should immediately register an FIR and proceed to investigate. But, if he is of the view that a prima facie case is not made out to proceed, he should immediately inform the first informant/complainant so that he

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can avail a remedy under sub-section (4) of Section 173.

30. *Before we go into the applicability of sub-Section (3) of Section 173 of the BNSS to the facts of the case, we must deal with sub-Section (1) of Section 173. Take a case where a person approaches an officer-in-charge of a police station*
either personally or by electronic communication and alleges that he has seen 'A' assaulting 'X' with a stick. If the injury caused is simple, it will be an offence punishable under Section 115 (2) of the BNS. As per the first Schedule of the BNSS, it is a non-cognizable offence. Therefore, based on such information, FIR cannot be registered. If grievous hurt is caused, it will be an offence punishable under Section 117 (2) of the BNS, which is a cognizable offence. Therefore, the allegations made in the information furnished to an officer-in-charge of a police station must be examined by the officer only with a view to ascertain whether a cognizable offence is made out. Taking the information as correct, the officer has to determine whether it makes out a case of the commission of a cognizable offence. If the allegation makes out a case of a cognizable offence, unless the offence falls in sub-Section (3) of Section 173, it is mandatory to register FIR.

31. *Coming back to the offence punishable under Section 196 of the BNS to decide whether the words, either spoken or written or by sign or by visible representations or through electronic communication or otherwise, lead to the consequences provided in the Section. The police officer to whom information is furnished will have to read or hear the words written or spoken, and by taking the same as correct, decide whether an offence under Section 196 is made out. Reading of written words, or hearing spoken words will be*

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necessary to determine whether the contents make out a case of the commission of a cognizable offence. The same is the case with offences punishable under Sections 197, 299 and 302 of the BNS. Therefore, to ascertain whether the information received by an officer-in-charge of the police station makes out a cognizable offence, the officer must consider the meaning of the spoken or written words. This act on the part of the police officer will not amount to making a preliminary inquiry which is not permissible under sub-Section (1) of Section 173.

33. *Sub-Section (3) of Section 173 of the BNSS confers a discretion on the officer receiving information relating to the commission of a cognizable offence to conduct a preliminary inquiry to ascertain whether a prima facie case exists to proceed. This option is available when the offence alleged is made punishable for 3 years or more but less than 7 years. In the facts of the case, all the offences except the offence under Section 57 of the BNS are punishable by imprisonment for less than 7 years. Section 57, on the face of it, is not applicable. Therefore, this option was also available to the police officer in the present case. The officer did not exercise the said option.*

34. *At this stage, we may refer to clause (a) of Article 51-A of the Constitution, which reads thus: "51-A. Fundamental duties.—It shall be the duty of every citizen of India—to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;*

35. *The police officers must abide by the Constitution and respect its ideals. The philosophy of the Constitution and its ideals can be found in the preamble itself. The preamble lays down that the people of India have solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic and to*

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secure all its citizens liberty of thought, expression, belief, faith and worship. Therefore, liberty of thoughts and expression is one of the ideals of our Constitution. Article 19(1)(a) confers a fundamental right on all citizens to freedom of speech and expression. The police machinery is a part of the State within the meaning of Article 12 of the Constitution. Moreover, the police officers being citizens, are bound to abide by the Constitution. They are bound to honour and uphold freedom of speech and expression conferred on all citizens.

36. *Clause (2) of Article 19 of the Constitution carves out an exception to the fundamental right guaranteed under sub-clause (a) of clause (1) of Article 19. If there is a law covered by clause (2), its operation remains unaffected by sub-clause (a) of clause (1). We must remember that laws covered by the clause (2) are protected by way of an exception provided they impose a reasonable restriction. Article 19(2) is an exception to the freedom enumerated under Article 19(1)(a).*

37. *The reasonable restrictions provided for in Article 19(2) must remain reasonable and not fanciful and oppressive. Article 19(2) cannot be allowed to overshadow the substantive rights under Article 19(1), including the right to freedom of speech and expression. Therefore, when an allegation is of the commission of an offence covered by the law referred to in clause (2) of Article 19, if sub-Section (3) of Section 173 is applicable, it is always appropriate to conduct a preliminary inquiry to ascertain whether a prima facie case is made out to proceed against the accused. This will ensure that the fundamental rights guaranteed under sub-clause (a) of clause (1) of Article 19 remain protected. Therefore, in such cases, the higher police officer referred to in sub-Section (3) of Section 173 must normally grant permission to the police officer to conduct a preliminary*

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inquiry. ***Therefore, when the commission of cognizable offences is alleged, where punishment is for imprisonment up to 7 years, which is based on spoken or written words, it will always be appropriate to exercise the option under sub-Section (3)of Section 173 and conduct a preliminary inquiry to ascertain whether there exists a prima facie case to proceed. If an option under sub-Section (3) is not exercised by the police officer in such a case, he may end up registering an FIR against a person who has exercised his fundamental right under Article 19 (1)(a) even though clause (2) of Article 19 is not attracted. If, in such cases, the option under sub-Section (3) of Section 173 is not exercised, it will defeat the very object of incorporating sub-Section (3) of Section 173 of the BNSS and will also defeat the obligation of the police under Article 51-A (a).***

42. *This Court in Javed Ahmad Hajam [Javed Ahmad Hajam v. State of Maharashtra, (2024) 4 SCC 156 : (2024) 2 SCC (Cri) 383] , was dealing with an offence punishable under Section 153-AIPC.* ***Section 153-A IPC is in pari materia with Section 196 BNS.*** *The only difference is that the words "or through electric communication" have been added in clause (a) of Section 196 BNS, which were not in clause (a) of Section 153-AIPC.* ***When an offence punishable under Section 196 BNS is alleged, the effect of the spoken or written words will have to be considered based on standards of reasonable, strong-minded, firm and courageous individuals and not based on the standards of people with weak and oscillating minds. The effect of the spoken or written words cannot be judged on the basis of the standards of people who always have a sense of insecurity or of***

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<u>those who always perceive criticism as a threat to their power or position.</u>

IMPORTANCE OF THE FREEDOM OF EXPRESSION AND THE DUTY OF THE COURTS

48. *Free expression of thoughts and views by individuals or groups of individuals is an integral part of a healthy, civilised society. Without freedom of expression of thoughts and views, it is impossible to lead a dignified life guaranteed by Article 21 of the Constitution. In a healthy democracy, the views, opinions or thoughts expressed by an individual or group of individuals must be countered by expressing another point of view. Even if a large number of persons dislike the views expressed by another, the right of the person to express the views must be respected and protected. Literature including poetry, dramas, films, stage shows, satire and art, make the life of human beings more meaningful.*

49. *The Courts are duty-bound to uphold and enforce fundamental rights guaranteed under the Constitution of India. Sometimes, we, the Judges, may not like spoken or written words. But, still, it is our duty to uphold the fundamental right under Article 19 (1)(a). We Judges are also under an obligation to uphold the Constitution and respect its ideals. If the police or executive fail to honour and protect the fundamental rights guaranteed under Article 19 (1)(a) of the Constitution, it is the duty of the Courts to step in and protect the fundamental rights. There is no other institution which can uphold the fundamental rights of the citizens.*

53. *Following is the summary of our conclusions:*

53.1. *Sub-Section (3) of Section 173 of the BNSS makes a significant departure from Section*

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154 of CrPC. It provides that when information relating to the commission of a cognizable offence which is made punishable for 3 years or more but less than 7 years is received by an officer-in-charge of a police station, with the prior permission of a superior officer as mentioned therein, the police officer is empowered to conduct a preliminary inquiry to ascertain whether there exists a prima facie case for proceeding in the matter. However, under Section 154 of the CrPC, as held in the case of ***Lalita Kumari,*** *only a limited preliminary inquiry is permissible to ascertain whether the information received discloses a cognizable offence. Moreover, a preliminary inquiry can be made under the CrPC only if the information does not disclose the commission of a cognizable offence but indicates the necessity for an inquiry. Sub-Section (3) of Section 173 of the BNSS is an exception to sub-Section (1) of Section 173. In the category of cases covered by sub-Section (3), a police officer is empowered to make a preliminary inquiry to ascertain whether a prima facie case is made out for proceeding in the matter even if the information received discloses commission of any cognizable offence.*

53.2. *Under sub-Section (3) of Section 173 of the BNSS, after holding a preliminary inquiry, if the officer comes to a conclusion that a prima facie case exists to proceed, he should immediately register an FIR and proceed to investigate. But, if he is of the view that a prima facie case is not made out to proceed, he should immediately inform the first informant/complainant so that he can avail a remedy under sub-Section (4) of Section 173.*

53.3*. In case of the offence punishable under Section 196 of the BNS to decide whether the words, either spoken or written or by sign or by visible representations or through electronic communication or otherwise, lead to the consequences provided in the Section, the police*

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officer to whom information is furnished will have to read or hear the words written or spoken, and by taking the same as correct, decide whether an offence under Section 196 is made out. Reading of written words, or hearing spoken words will be necessary to determine whether the contents make out a case of the commission of a cognizable offence. The same is the case with offences punishable under Sections 197, 299 and 302 of BNS. Therefore, to ascertain whether the information received by an officer-in-charge of the police station makes out a cognizable offence, the officer must consider the meaning of the spoken or written words. This act on the part of the police officer will not amount to making a preliminary inquiry which is not permissible under sub-Section (1) of Section 173

53.4. *The police officers must abide by the Constitution and respect its ideals. The philosophy of the Constitution and its ideals can be found in the preamble itself. The preamble lays down that the people of India have solemnly resolved to constitute India into a sovereign,socialist, secular democratic republic and to secure all its citizens liberty of thought, expression, belief, faith and worship. Therefore, liberty of thought and expression is one of the ideals of our Constitution. Article 19(1)(a) confers a fundamental right on all citizens to freedom of speech and expression. The police machinery is a part of the State within the meaning of Article 12 of the Constitution. Moreover, the police officers being citizens, are bound to abide by the Constitution. They are bound to honour and uphold freedom of speech and expression conferred on all citizens.*

53.5. *Clause (2) of Article 19 of the Constitution carves out an exception to the fundamental right guaranteed under sub-clause (a) of clause (1) of Article 19. If there is a law covered by clause (2), its operation remains unaffected by sub-clause (a) of clause (1). We must remember that laws*

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covered by the clause (2) are protected by way of an exception provided they impose a reasonable restriction. Therefore, when an allegation is of the commission of an offence covered by the law referred to in clause (2) of Article 19, if sub-Section (3) of Section 173 is applicable, it is always appropriate to conduct a preliminary inquiry to ascertain whether a prima facie case is made out to proceed against the accused. This will ensure that the fundamental rights guaranteed under sub-clause (a) of clause (1) of Article 19 remain protected. Therefore, in such cases, the higher police officer referred to in sub-Section (3) of Section 173 must normally grant permission to the police officer to conduct a preliminary inquiry.

53.6 *When an offence punishable under Section 196 of BNS is alleged, the effect of the spoken or written words will have to be considered based on standards of reasonable, strong-minded, firm and courageous individuals and not based on the standards of people with weak and oscillating minds. The effect of the spoken or written words cannot be judged on the basis of the standards of people who always have a sense of insecurity or of those who always perceive criticism as a threat to their power or position.*

53.7 *There is no absolute rule that when the investigation is at a nascent stage, the High Court cannot exercise its jurisdiction to quash an offence by exercising its jurisdiction under Article 226 of the Constitution of India or under Section 482 of the CrPC equivalent to Section 528 of the BNSS. When the High Court, in the given case, finds that no offence was made out on the face of it, to prevent abuse of the process of law, it can always interfere even though the investigation is at the nascent stage. It all depends on the facts and circumstances of each case as well as the nature of the offence. There is no such blanket rule putting an embargo on the powers of the High Court to quash FIR only*

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on the ground that the investigation was at a nascent stage.

4.5. By relying on ***Imran Pratapgadhi's*** case, learned counsel submits that the allegations, even if accepted in their entirety, do not attract Section 196 of the Bharatiya Nyaya Sanhita, 2023 (BNS). It is submitted that every objectionable or offensive expression does not constitute an offence under the said provision; the words, read as a whole and in their proper context, must promote or attempt to promote disharmony or feelings of enmity, hatred or ill-will between the groups or communities specified therein.

4.6. Learned counsel submits that the effect of the words must be assessed from the standpoint of reasonable, strong-minded and firm individuals, and not on the basis of hypersensitive reactions or subjective perceptions. Freedom of speech and expression under Article 19(1)(a) of the Constitution must inform the application of penal provisions, and unpopular or disliked expression cannot, by itself, justify criminal prosecution.

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4.7. Learned counsel further submits that, under Section 173(3) BNSS, where the statutory conditions are satisfied, a preliminary inquiry is ordinarily appropriate in cases involving alleged offences arising from spoken or written expression, to ascertain whether a prima facie case exists and to safeguard the fundamental right to freedom of speech and expression. The police must examine the meaning and context of the words to determine whether the essential ingredients of the alleged offence are disclosed.

4.8. Learned counsel submits that even at the nascent stage of investigation there is no bar on the High Court from exercising its jurisdiction under Article 226 of the Constitution or Section 528 BNSS. Where the allegations, on their face, do not disclose an offence, the Court may intervene to prevent abuse of the process of law. Accordingly, it is submitted that, in the absence of the essential ingredients of Section 196 BNS, the impugned criminal proceedings are liable to be quashed.

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4.9. In the present case, the allegation against the Petitioner is founded upon the following words allegedly spoken by her:

> *"ನಾನು ಕೇಳದು ಇಷ್ಟೇ ಸಿದ್ದರಾಮಯ್ಯ. ಏನಿದ್ದಾರೆ. ಅವರಿಗೆ ಹೇಳಿತ್ತಿನಿ ಒಂದು ಮಾತು. ನೀವು ಮುಸಲ್ಮಾನವರಿಗೆ ಸಪೋರ್ಟ್ ಮಾಡೋದಾದ್ರೆ ನೀವು, ಯಾಕೆ ಬಂದು ಎಲೆಕ್ಷನ್ ಬಂದು ನಿಂತ್ಯೋತಿರಾ ಸಾರ್. ಸಾಬ್ರುಗೆ ಹುಟ್ಟಿದ್ದಿರಾ ಆಗದ್ರೆ ನೀವು"*

4.10. The allegation is essentially that the Petitioner made certain objectionable remarks referring to Muslims and that the said statement was subsequently recorded and circulated on social media. However, Section 196(1)(a) BNS requires the words or acts to promote or attempt to promote disharmony or feelings of enmity, hatred or ill-will between different communities. Mere use of an offensive or derogatory expression, even if capable of hurting the sentiments of a community, does not by itself satisfy this statutory requirement.

4.11. He further submits that in ***Imran Pratapgadhi***, the Hon'ble Supreme Court has emphasised that the effect of the alleged speech must be assessed objectively, from the standpoint of reasonable, strong-minded, firm and courageous persons, and not on the basis of the reaction of persons who are unduly sensitive to criticism. Applying that test, the alleged statement, read in its entirety and in its context, does not disclose any exhortation to commit violence, retaliate against another community, or create hostility between communities.

4.12. He submits that the police report itself states that the video was recorded and circulated by "some persons". There is no allegation that the Petitioner herself circulated the video or directed its dissemination. The subsequent conduct of third parties cannot, by itself, supply the missing ingredient of promotion or attempted promotion of communal enmity on the part of the Petitioner.

4.13. He submits that the report also refers to the earlier stone-pelting incident on 07.09.2025,

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the procession on 08.09.2025, the town bandh on 09.09.2025 and the proposed Ganesh immersion on 10.09.2025. These events explain the pre-existing law-and-order situation and the deployment of police personnel. There is, however, no specific allegation or material showing that the Petitioner's statement caused, contributed to, or was likely to cause a disturbance of public tranquillity so as to attract Section 196(1)(b) BNS.

4.14. The allegation that the Petitioner deliberately intended to hurt the religious sentiments of another community also does not, by itself, constitute an offence under Section 196 BNS. The statutory requirement is promotion or attempted promotion of disharmony, enmity, hatred or ill-will between the specified groups, and the two concepts cannot be treated as interchangeable.

4.15. ***Imran Pratapgadhi*** is also relevant with regard to Section 173(3) BNSS. Where the alleged cognizable offence falls within the punishment range contemplated by the provision, the statute permits, subject to the

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prescribed conditions and prior permission, a preliminary inquiry to ascertain whether a prima facie case exists. The police record must therefore disclose compliance with the statutory requirements, if the provision was invoked.

4.16. Thus, the allegations, even taken at their highest, disclose at most an allegation of an objectionable statement. They do not disclose the essential statutory nexus between the alleged words and the promotion or attempted promotion of communal disharmony, enmity, hatred or ill-will, nor do they disclose the ingredients concerning disturbance or likelihood of disturbance of public tranquillity.

4.17. It is therefore submitted that the FIR does not disclose the commission of an offence under Section 196 BNS and that continuation of the proceedings would amount to permitting the criminal process to operate in the absence of the foundational ingredients of the offence. The FIR and all consequential proceedings are accordingly liable to be quashed.

4.18. Section 196 of the BNS is reproduced hereunder for ease of reference:

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Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony

196. (1) Whoever—

a) by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity; or

c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any

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> *assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.*

4.19. Placing reliance on Section 196 of the BNS, he submits that Section 196 requires a clear and deliberate act of promoting enmity between different groups. In the present case, according to him, there is no such enmity which is promoted between different groups. His submission is that mere use of intemperate or objectionable language would not be an offence under Section 196(1)(a) of BNS. In that regard, he again relies on Imran Pratapgadhi, more particularly para 15 thereof, which has been reproduced hereinabove.

4.20. He relies on a decision of the Co-ordinate Bench of this Court in ***Sri Basanagouda R Patil vs. State of Karnataka*** [Crl.P.No.13650 of 2024 dated 30.01.2025], more particularly para 10 thereof, which is reproduced hereunder for ease of reference;

> ***10.*** *The issue in the case at hand as what should be the ingredients of the afore-quoted offences need not detail this Court for long or delve deep into the matter as the Apex Court in the case of* ***PATRICIA MUKHIM v. STATE OF***

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MEGHALAYA1 *interpreting both Sections 153A and 505(1) of the IPC, has held as follows:*

> ***"8.*** *It is of utmost importance to keep all speech free in order for the truth to emerge and have a civil society."—Thomas Jefferson.* ***Freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution is a very valuable fundamental right. However, the right is not absolute. Reasonable restrictions can be placed on the right of free speech and expression in the interest of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of Court, defamation or incitement to an offence. Speech crime is punishable under Section 153-AIPC.*** *Promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. and doing acts prejudicial to maintenance of harmony is punishable with imprisonment which may extend to three years or with fine or with both under Section 153-A. As we are called upon to decide whether a prima facie case is made out against the appellant for committing offences under Sections 153-A and 505(1)(c), it is relevant to reproduce the provisions which are as follows:*
>
> ***"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony****.—(1) Whoever—*
>
> *(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to*

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promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, or

(c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

***Offence committed in place of worship, etc.**— (2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with*

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*imprisonment which may extend to five years and shall also be liable to fine. ****

505. Statements conducing to public mischief.—(1) Whoever makes, publishes or circulates any statement, rumour or report— ***

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both."

9. Only where the written or spoken words have the tendency of creating public disorder or disturbance of law and order or affecting public tranquility, the law needs to step in to prevent such an activity. The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153-AIPC and the prosecution has to prove the existence of mens rea in order to succeed. [Balwant Singh v. State of Punjab, (1995) 3 SCC 214 : 1995 SCC (Cri) 432]

10. The gist of the offence under Section 153- AIPC is the intention to promote feelings of enmity or hatred between different classes of people. The intention has to be judged primarily by the language of the piece of writing and the circumstances in which it was written and published. The matter complained of within the ambit of Section 153-A must be read as a whole. One cannot rely on strongly worded and isolated passages for proving the charge nor indeed can one

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take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning *[Manzar Sayeed Khan v. State of Maharashtra, (2007) 5 SCC 1 : (2007) 2 SCC (Cri) 417] .*

11. In Bilal Ahmed Kaloo v. State of A.P. [Bilal Ahmed Kaloo v. State of A.P., (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] , this Court analysed the ingredients of Sections 153-A and 505(2)IPC. It was held that Section 153-A covers a case where a person by "words, either spoken or written, or by signs or by visible representations", promotes or attempts to promote feeling of enmity, hatred or ill will. Under Section 505(2) promotion of such feeling should have been done by making a publication or circulating any statement or report containing rumour or alarming news. Mens rea was held to be a necessary ingredient for the offence under Sections 153-A and 505(2). The common factor of both the sections being promotion of feelings of enmity, hatred or ill will between different religious or racial or linguistics or religious groups or castes or communities, it is necessary that at least two such groups or communities should be involved. It was further held in Bilal Ahmed Kaloo [Bilal Ahmed Kaloo v. State of A.P., (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] that merely inciting the feelings of one community or group without any reference to any other community or group cannot attract any of the two sections. The Court went on to highlight the distinction between the two offences, holding that publication of words or representation is sine qua non under

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Section 505. It is also relevant to refer to the judgment of this Court in Ramesh v. Union of India [Ramesh v. Union of India, (1988) 1 SCC 668 : 1988 SCC (Cri) 266] in which it was held that words used in the alleged criminal speech should be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. The standard of an ordinary reasonable man or as they say in English law "the man on the top of a Clapham omnibus" should be applied.

12. *This Court in Pravasi Bhalai Sangathan v. Union of India [Pravasi Bhalai Sangathan v. Union of India, (2014) 11 SCC 477 : (2014) 3 SCC (Cri) 400] had referred to the Canadian Supreme Court decision in Saskatchewan (Human Rights Commission) v. William Whatcott[Saskatchewan (Human Rights Commission) v. William Whatcott, 2013 SCC OnLine Can SC 6 : (2013) 1 SCR 467] . In that judgment, the Canadian Supreme Court set out what it considered to be a workable approach in interpreting "hatred" as is used in legislative provisions prohibiting hate speech. The first test was for the Courts to apply the hate speech prohibition objectively and in so doing, ask whether a reasonable person, aware of the context and circumstances, would view the expression as exposing the protected group to hatred. The second test was to restrict interpretation of the legislative term "hatred" to those extreme manifestations of the emotion described by the words "detestation" and "vilification". This would filter out and protect speech which might be repugnant and offensive, but does not incite the level of abhorrence, delegitimisation and*

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rejection that risks causing discrimination or injury. The third test was for the Courts to focus their analysis on the effect of the expression at issue, namely, whether it is likely to expose the targeted person or group to hatred by others. Mere repugnancy of the ideas expressed is insufficient to constitute the crime attracting penalty.

13. In the instant case, applying the principles laid down by this Court as mentioned above, the question that arises for our consideration is whether the Facebook post dated 4-7-2020 was intentionally made for promoting class/community hatred and has the tendency to provoke enmity between two communities. A close scrutiny of the Facebook post would indicate that the agony of the appellant was directed against the apathy shown by the Chief Minister of Meghalaya, the Director General of Police and the DorbarShnong of the area in not taking any action against the culprits who attacked the non-tribals youngsters. The appellant referred to the attacks on non-tribals in 1979. At the most, the Facebook post can be understood to highlight the discrimination against non-tribals in the State of Meghalaya. However, the appellant made it clear that criminal elements have no community and immediate action has to be taken against persons who had indulged in the brutal attack on nontribal youngsters playing basketball. The Facebook post read in its entirety pleads for equality of nontribals in the State of Meghalaya. In our understanding, there was no intention on the part of the appellant to promote class/community hatred. As there is no attempt made by the

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appellant to incite people belonging to a community to indulge in any violence, the basic ingredients of the offence under Sections 153-A and 505(1)(c) have not been made out. Where allegations made in the FIR or the complaint, even if they are taken on their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, the FIR is liable to be quashed [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] .

14. India is a plural and multicultural society. The promise of liberty, enunciated in the Preamble, manifests itself in various provisions which outline each citizen's rights; they include the right to free speech, to travel freely and settle (subject to such reasonable restrictions that may be validly enacted) throughout the length and breadth of India. At times, when in the legitimate exercise of such a right, individuals travel, settle down or carry on a vocation in a place where they find conditions conducive, there may be resentments, especially if such citizens prosper, leading to hostility or possibly violence. In such instances, if the victims voice their discontent, and speak out, especially if the State authorities turn a blind eye, or drag their feet, such voicing of discontent is really a cry for anguish, for justice denied — or delayed. This is exactly what appears to have happened in this case.

15. The attack upon six non-locals, carried out by masked individuals, is not denied by the State; its reporting

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> ***too is not denied. The State in fact issued a press release. There appears to be no headway in the investigations. The complaint made by the DorbarShnong, Lawsohtun that the statement of the appellant would incite communal tension and might instigate a communal conflict in the entire State is only a figment of imagination. The fervent plea made by the appellant for protection of non-tribals living in the State of Meghalaya and for their equality cannot, by any stretch of imagination, be categorised as hate speech. It was a call for justice — for action according to law, which every citizen has a right to expect and articulate. Disapprobation of governmental inaction cannot be branded as an attempt to promote hatred between different communities. Free speech of the citizens of this country cannot be stifled by implicating them in criminal cases, unless such speech has the tendency to affect public order. The sequitur of above analysis of the Facebook post made by the appellant is that no case is made out against the appellant for an offence under Sections 153-A and 505(1)(c)IPC."***
>
> *(Emphasis supplied).*

If the complaint as afore-quoted is considered on the touchstone of the principles elucidated by the Apex Court in the judgment afore-quoted, the inevitable inference would be obliteration of the crime.

4.21. By relying on ***Sri Basanagouda R Patil's*** case, his submission is that speech is required to be free. In order for the truth to emerge, there

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cannot be a restriction or imposition on the exercise of freedom of speech. His submission is that the manner in which the complaint has been filed is to restrict such excise of fundamental right of free speech, which is not permissible.

4.22. His submission is that the use of the word "promote" in Section 196 of BNS would not be a mere description or narrating a fact, giving the opinion or criticizing a particular action it requires that there is an active incitement in order to cause public disorder. According to him, the statement made by the Petitioner merely expressed displeasure and criticised the actions of the police personnel; it was not intended to incite violence.

4.23. In this regard he relies on the decision of the Hon'ble Apex Court in ***Amish Devgan v. Union of India*** [(2021) 1 SCC 1], more particularly paragraphs 70, 73, 102, and 103 thereof which are reproduced hereunder for ease of reference:

> ***70.****Manzar Sayeed Khan [Manzar Sayeed Khan v. State of Maharashtra, (2007) 5 SCC 1 : (2007) 2*

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SCC (Cri) 417] , taking note of the observations in Bilal Ahmed Kaloo [Bilal Ahmed Kaloo v. State of A.P., (1997) 7 SCC 431 : 1997 SCC (Cri) 1094] , records that common features of Sections 153-A and 505(2) being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes or communities, involvement of at least two groups or communities is necessary. ***Further, merely inciting the feeling of one community or group without any reference to any other community or group would not attract either provision.*** *Definition of "hate speech" as expounded by Andrew F. Sellars prescribes that hate speech should target a group or an individual as they relate to a group.*

73. *On the aspect of content, Ramesh [Ramesh v. Union of India, (1988) 1 SCC 668 : 1988 SCC (Cri) 266] states that the effect of the words must be judged from the standard of reasonable, strong-minded, firm and courageous men and not by those who are weak and ones with vacillating minds, nor of those who scent danger in every hostile point of view. The test is, as they say in English Law, — "the man on the top of a Clapham omnibus". Therefore, to ensure maximisation of free speech and not create "free speaker's burden",* ***the assessment should be from the perspective of the top of the reasonable member of the public, excluding and disregarding sensitive, emotional and atypical.*** *It is almost akin or marginally lower than the prudent man's test. The test of reasonableness involves recognition of boundaries within which reasonable responses will fall, and not identification of a finite number of acceptable reasonable responses. Further, this does not mean exclusion of particular circumstances as frequently different persons acting reasonably will respond in different ways in the context and circumstances.* ***This means taking into account peculiarities of the situation and occasion and whether the group is likely to get offended.*** ***At the same***

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time, a tolerant society is entitled to expect tolerance as they are bound to extend to others.

102. *Clauses (a) and (b) to sub-section (1) of Section 153-A of the Penal Code use the words "promotes" and "likely" respectively. Similarly, Section 295-A uses the word "attempts" and sub-section (2) to Section 505 uses the words "create or promote".* ***The word "likely" as explained above, in our opinion, convey the meaning, that the chance of the event occurring should be real and not fanciful or remote*** *[Tillmanns Butcheries (Pty) Ltd. v. Australasian Meat Industry Employees' Union [Tillmanns Butcheries (Pty) Ltd. v. Australasian Meat Industry Employees' Union, (1979) 27 ALR 380 (Aust)]].* ***The standard of "not improbable" is too weak and cannot be applied as it would infringe upon and fall foul of reasonable restriction and the test of proportionality. This is the mandate flowing from the catena of judgments of the Constitution Benches which we have referred to earlier and also the decision in Shreya Singhal [Shreya Singhal v. Union of India, (2015) 5 SCC 1 : (2015) 2 SCC (Cri) 449] drawing distinction between advocacy, discussion and incitement and that only the latter i.e. the incitement, is punishable whereas the former two would fall within the domain of freedom to express and convey one's thoughts and ideas.***

103. *"Incitement" is a restricted term under the American Speech Law which has been adopted by us and as per Brandenburg [Brandenburg v. Ohio, 1969 SCC OnLine US SC 144 : 23 L Ed 2d 430 : 395 US 444 (1969)] applies when the incitement is imminent or almost inevitable. There has been some criticism that the said test is too strong, nevertheless, it conveys that the standard has to be strict. Instigation must necessarily and specifically be suggestive of the consequences. Sufficient certainty to incite the consequences*

> *must be capable of being spelt out to be incitement.* ***Further, it is for the prosecution to show and establish that the standard has been breached by leading evidence, which can be both oral and documentary. "Promote" does not imply mere describing and narrating a fact, or giving opinion criticising the point of view or actions of another person — it requires that the speaker should actively incite the audience to cause public disorder. This active incitement can be gauged by the content of the speech, the context and surrounding circumstances, and the intent of the speaker.*** *However, in case the speaker does not actively incite the descent into public disorder, and is merely pointing out why a certain person or group is behaving in a particular manner, what are their demands and their point of view, or when the speaker interviews such person or group, it would be a passive delivery of facts and opinions which may not amount to promotion.*

4.24. By relying on ***Amish Devgan's*** case, his submission is that an essential requirement for attracting the offence of promoting enmity between communities is the involvement of at least two groups or communities. Mere incitement of feelings against one community, without reference to or promotion of hostility between two or more communities, would not by itself attract the penal provision.

4.25. He further submits that the effect of the alleged words has to be assessed from the standpoint of a reasonable, strong-minded, firm and

courageous person, and not from the perspective of persons who are unduly sensitive or perceive danger in every contrary or hostile point of view. The assessment must necessarily take into account the context and surrounding circumstances in which the words were spoken.

4.26. It is further submitted that the expression "likely" requires a real and not fanciful or remote possibility of the consequence contemplated by the statute. The mere possibility that the words may offend or may be perceived adversely by some persons is insufficient to satisfy the statutory threshold.

4.27. Further, as explained by the Hon'ble Supreme Court, "promote" does not mean merely describing, narrating or expressing an opinion or criticism. There must be active incitement to cause public disorder, which has to be assessed from the content of the speech, its context, the surrounding circumstances and the intention of the speaker. In the absence of such active incitement, the alleged speech would not amount to "promotion" merely because it may be objectionable or critical.

4.28. Applying the aforesaid principles to the present case, he submits that the alleged statement, even if taken at its face value, does not contain any exhortation or incitement to one community to act against another community, nor does it call upon any person to cause public disorder. The allegation that the statement was capable of hurting the sentiments of another community cannot, by itself, satisfy the requirement of promotion or incitement contemplated under Section 196 BNS.

4.29. Thus, applying the test laid down in ***Amish Devgan***, the alleged statement, read in its proper context and from the standpoint of a reasonable and strong-minded person, does not disclose the essential ingredients of the offence alleged.

4.30. He relies on the decision of the Hon'ble Apex Court in ***Ramesh v. Union of India*** [(1988) 1 SCC 668], more particularly para 13 thereof, which is reproduced hereunder for ease of reference;

> ***13.*** *Vivian Bose, J. as he then was in the Nagpur High Court in the case of Bhagwati Charan Shukla*

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> *v. Provincial Government [AIR 1947 Nag 1 : 226 1C 590 : 47 Cri LJ 994 : ILR 1946 Nag 865] has indicated the yardstick by which this question has to be judged. There at page 18 of the report the court observed that* ***the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view.*** *This in our opinion, is the correct approach in judging the effect of exhibition of a film or of reading a book. It is the standard of ordinary reasonable man or as they say in English law "the man on the top of a Clapham omnibus".*

4.31. By relying on ***Ramesh's*** case, his submission is that even strongly worded statements would be covered under Article 19 of the Constitution. The impact must be assessed by reference to the standards of a reasonable, strong-minded, firm and courageous person, and not those of persons with weak and vacillating minds.

4.32. His submits that the FIR, taken at face value, does not satisfy the essential ingredients of an offence under Section 299 of the BNS. Section 299 BNS is reproduced hereunder for ease of reference:

> ***Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.***
>
> ***299****.Whoever, with deliberate and malicious intention of outraging the religious feelings of*

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> *any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or through electronic means 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.*

4.33. His submission is that for Section 299 to be attracted, there must be a deliberate and malicious intention of outraging the religious feelings of a class of citizens by words, signs or visible representations. There is required to be a specific *mens rea*, including *malice*, on the part of the person making any such statement. He submits that intemperate, critical or politically charged language would not, in the absence of material indicating a conscious design to insult or outrage a religion or religious belief, constitute an offence under Section 299.

4.34. He relies on the decision of a Co-ordinate Bench of this Court in ***Sri Keerthan Kumar & Anr v. State of Karnataka*** [WP No.25591 of 2023 dated 13.09.2026], more particularly para 6 thereof, which is reproduced hereunder for ease of reference;

"ಅರ್ಜಿ,

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ಮಾನ್ಯ ಪೊಲೀಸ್ ಉಪನಿರೀಕ್ಷಕರು,
ಕಡಬ ಪೊಲೀಸ್ ಠಾಣೆ, ಕಡಬ
ದ.ಕ. ಜಿಲ್ಲೆ.

ರಿಂದ,

ಹೈದರ್ ಅಲಿ ಸಿ ಎಮ್ (33)
ತಂದೆ ಉಮ್ಮರ್, ವಾಸ: ಮರುವಂತಿಲ ಮನೆ,
ಬಂಟ್ರ ಗ್ರಾಮ, ಕಡಬ ತಾಲೂಕು,
ಫೋನ್: 9008140759.

ಮಾನ್ಯರೇ

ವಿಷಯ: ಯಾರೋ ಅಪರಿಚಿತರು ನಮ್ಮ ಮಸೀದಿಯ ಆವರಣಕ್ಕೆ ಅಕ್ರಮವಾಗಿ ಪ್ರವೇಶಿಸಿ ಜೈ ಶ್ರೀ ರಾಮ್ ಎಂದು ಕೂಗಿ ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿದ್ದ ಬಗ್ಗೆ.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ತಮ್ಮಲ್ಲಿ ಕೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಕಡಬ ತಾಲೂಕು ಐತೂರು ಗ್ರಾಮದ ಮರ್ಧಾಳ ಎಂಬಲ್ಲಿರುವ ಬದ್ರಿಯಾ ಜುಮಾ ಮಸೀದಿಯು ಕಡಬ-ಮರ್ಧಾಳ ರಸ್ತೆಯ ಮರ್ಧಾಳ ಜಂಕ್ಷನ್‌ನಲ್ಲಿರುತ್ತದೆ. ನಮ್ಮ ಮಸೀದಿಗೆ ಆವರಣ ಗೋಡೆ ಮತ್ತು ಗೇಟು ಇರುತ್ತದೆ. ಹೀಗಿರುವಾಗ ಈ ದಿನ ದಿನಾಂಕ:24.09.2023 ರಂದು ರಾತ್ರಿ ಸುಮಾರು 10.50 ರ ಸಮಯಕ್ಕೆ, ನಮ್ಮ ಮಸೀದಿಯ ಕಂಪೌಂಡಿನೊಳಗೆ ಯಾರೋ ಅಪರಿಚಿತರು ಬಂದು ಅಕ್ರಮವಾಗಿ ಪ್ರವೇಶಿಸಿ ಜೈ ಶ್ರೀ ರಾಮ್ ಎಂಬ ಘೋಷಣೆಯನ್ನು ಕೂಗಿ ಬಾಂಗಿಗಳನ್ನು ಬಡಿಸಲು ಬಿಡುವುದಿಲ್ಲವೆಂದು ಬೆದರಿಕೆ ಇಟ್ಟರು. ಇವರ ಬೆದರಿಕೆಯನ್ನು ಕೇಳಿ ಆ ಸಮಯ ಕಚೇರಿಯ ಒಳಗಿದ್ದ ನಾನು ಮತ್ತು ನಮ್ಮ ಮಸೀದಿಯ ಧಾರ್ಮಿಕ ಗುರುಗಳಾದ ನವಾಥ್ ಸಾಬಿ ಉಸ್ತಾದರು ಹೊರ ಬಂದು ನೋಡಿದಾಗ ನಮ್ಮನ್ನು ನೋಡಿ

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ವಿಚಲಿತರಾಗಿ ವಾಹನದಲ್ಲಿದ್ದ ಇಬ್ಬರು ಅಪರಿಚಿತರು ನಮ್ಮ ಮಸೀದಿಯ ಆವರಣದಿಂದ ಹೊರ ಹೋದರು. ನಂತರ ನಾನು ನಮ್ಮ ಮಸೀದಿಯ ಸಿ.ಸಿ.ಟಿ.ವಿ.ಯನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ನಮ್ಮ ಮಸೀದಿಯ ಎದುರುಗಡೆ ಒಂದು ಡಸ್ಟರ್ ಕಾರೊಂದು ಅನುಮಾನಾಸ್ಪದವಾಗಿ ಸಂಚರಿಸುತ್ತಾ ನಮ್ಮ ಮಸೀದಿ ಮುಂಭಾಗದ ರಸ್ತೆಯಲ್ಲಿ ತಿರುಗಾಡುತ್ತಿತ್ತು. ಅದೇ ಸಮಯ ನಮ್ಮ ಮಸೀದಿಯ ಆವರಣಕ್ಕೆ ಯಾರೋ ಅಪರಿಚಿತರು ವಿಚಲಕ ವಾಹನದಲ್ಲಿ ಬಂದು ಹೋಗುವುದು ಕಂಡು ಬರುತ್ತಿತ್ತು. ಆದುದರಿಂದ ತಮ್ಮಲ್ಲಿ ಕೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ ನಮ್ಮ ಊರಿನಲ್ಲಿ ಹಿಂದೂ-ಮುಸಲ್ಮಾನರು ಬಹಳ ಸೌಹಾರ್ದತೆಯಿಂದ ವಾಸಿಸುತ್ತಿದ್ದು ಇದನ್ನು ಸಹಿಸದ ಯಾರೋ ಕಿಡಿಗೇಡಿಗಳು ಅಕ್ರಮ ಕೂಟ ಸೇರಿ ತೀವ್ರವಾದ ಸಂಚು ರೂಪಿಸುವ ರೀತಿಯ ಕೃತ್ಯವನ್ನು ಎಸಗಿ ನಾಡಿನಲ್ಲಿ ಕೋಮು ದ್ವೇಷವನ್ನು ಉಂಟುಮಾಡಲು ಹಾಗೂ ಕೋಮು ಗಲಭೆಯನ್ನು ಸೃಷ್ಟಿಸಲು ಈ ರೀತಿಯ ಕೃತ್ಯವನ್ನು ನಡೆಸಿರುತ್ತಾರೆ. ಆದುದರಿಂದ ಮಸೀದಿಯ ಒಳಗೆ ಪ್ರವೇಶಿಸಿ ಜೈ ಶ್ರೀ ರಾಮ್ ಎಂದು ಕೂಗಿದ ಅಪರಿಚಿತರನ್ನು ಪತ್ತೆ ಹಚ್ಚಿ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ.

ಸ್ಥಳ: ಮರ್ಧಾಳ
ದಿನಾಂಕ: 24.09.2023

ಇತಿ ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-

ಈ ದೂರಾದಿಯನ್ನು ಈ ದಿನ ದಿನಾಂಕ:25/09/2023 ರಂದು ರಾತ್ರಿ 1-00 ಗಂಟೆಗೆ ಠಾಣೆಯಲ್ಲಿ ಸ್ವೀಕರಿಸಿಕೊಂಡು ದೂರಿನ ಆಧಾರದ ಮೇಲೆ ಕಡಬ ಠಾಣಾ ಅ.ಕ್ರ.:86/2023 ಕಲಂ:447, 295(A), 505. R/w 34 IPC ಯಂತೆ ಪ್ರಕರಣ ದಾಖಲಿಸಿಕೊಂಡೆನು."

The complaint is that on the night of 24-09-2023 some unknown persons entered the mosque and

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shouted the slogan 'Jai Sriram' and said to have threatened that they will not leave the community and thereafter are said to have ran away from the spot. The complaint also narrates that Hindus and Muslims in the jurisdiction of Kadaba Police Station are living in great harmony and these persons who have shouted 'Jai Sriram' are creating a rift between the communities. Therefore, the crime is registered. It becomes germane to notice the offences so laid against the Petitioners. The offence punishable under Section 295A of the IPC reads as follows:

*"**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.**"*

*Section 295A deals with deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs. **It is ununderstandable as to how if someone shouts 'Jai Sriram' it would outrage the religious feeling of any class. When the complainant himself states that Hindu – Muslims are living in harmony in the area the incident by no stretch of imagination can result in antimony.** Here it becomes apposite to refer to the judgment of the Apex Court in the case of **MAHENDRA SINGH DHONI v. YERRAGUNTLA SHYAMSUNDAR [**(2017) 7 SCC 760**]** wherein it is held as follows:*

"…. …. ….

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6. *On a perusal of the aforesaid passages, it is clear as crystal that* ***Section 295-A does not stipulate everything to be penalised and any and every act would tantamount to insult or attempt to insult the religion or the religious beliefs of a class of citizens. It penalises only those acts of insults to or those varieties of attempts to insult the religion or religious belief of a class of citizens which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class of citizens. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. The Constitution Bench has further clarified that the said provision only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Emphasis has been laid on the calculated tendency of the said aggravated form of insult and also to disrupt the public order to invite the penalty.***

.....

9. To satisfy ourselves, we have bestowed our anxious consideration and scrutinised the allegations made in the complaint petition and we have no hesitation in holding that the allegations remotely do not satisfy the essential ingredients of the offence and, therefore, applying the principle stated in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , we quash the complaint proceedings initiated against the Petitioner.

.....

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> ***12. In the case at hand, as the complaint is quashed, needless to say, for the reasons for which the complaint is quashed shall squarely apply to the co-accused, who is the Editor of the magazine.*** *Therefore, we apply the same principle and quash the complaint even against the co-accused. We may hasten to clarify that we have passed the order of quashment keeping in view the criminal miscellaneous petition filed in this case for quashing and also not to allow more space for abuse of the process of the Court."*
>
> ***The Apex Court holds that any and every act will not become an offence under Section 295A of the IPC. The acts that have no effect on bringing out peace or destruction of public order will not lead to an offence under Section 295A of the IPC.***

4.35. By referring to ***Sri Keerthan Kumar's*** case, his submission is that Section 295-A does not stipulate everything to be penalised. It penalises only those acts or insults to, or to those varieties or attempts to insult, the religion or religious belief of a class of citizens which are perpetrated with a deliberate and malicious intention of outraging the religious feelings of that class of citizens. He submits that the complaint has been filed unjustifiably and infringes on the Petitioner's fundamental

right of free speech and Article 19A of the Constitution.

4.36. In this regard, his submission, by relying on ***Imran Pratapgadhi's*** case, more particularly paras 48-49 thereof, is that if the police or executive fail to honour and protect the fundamental rights and Article 19(1)(a) of the Constitution of India, it is the duty of the Court to step in and protect the fundamental rights. The right to free speech of the Petitioner is sought to be stifled by the filing of a false complaint and in that regard he submits that this Court ought to come to the rescue of the Petitioner and quash the proceedings.

4.37. His submission by relying on ***Amish Devgan's*** case, more particularly paragraphs 70, 73, 102, 103 thereof, is that the effect of the words must be judged from the standard of a reasonable, strong-minded, firm and courageous man and not those who are weak or ones with vacillating minds. The word "likely" which has been used in Section 295-A of IPC would have to convey the meaning that the chance of the event occurring should be real and not fanciful or

remote. None of these tests, according to him, have been satisfied.

4.38. He relies on the decision of the Hon'ble Apex Court in ***State of A.P. v. Golconda Linga Swamy*** [(2004) 6 SCC 522], more particularly para 12 thereof, which is reproduced hereunder for ease of reference;

> ***12.*** *So far as Criminal Appeals Nos. 1183, 1193-96 of 2003 and criminal appeals arising out of SLPs (Crl.) Nos. 2191, 2632-33 and 3463 of 2003 are concerned,* ***we find that the FIR did not disclose commission of an offence without anything being added or subtracted from the recitals therein. Though the FIR is not intended to be an encyclopaedia of the background scenario, yet even skeletal features must disclose the commission of an offence.*** *The position is not so in these cases.* ***Therefore, the High Court's interference does not suffer from any legal infirmity, though the reasonings indicated by the High Court do not have our approval.***

4.39. By relying on ***Golconda Linga Swamy's*** case, his submission is that when FIR does not disclose the commission of an offence, without anything being added or subtracted from the recitals, this Court is required to quash such proceedings.

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4.40. He relies on the decision of the Hon'ble Apex Court in ***Pradeep Kumar Kesarwani vs. State of Uttar Pradesh and Another*** [2025 SCC Online SC 1947], more particularly para 20 thereof, which is reproduced hereinunder for ease of reference:

> ***20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—***
>
> *(i)* ***Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?***
>
> *(ii)* ***Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.***
>
> *(iii)* ***Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?***
>
> *(iv)* ***Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?***

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> ***<u>If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused.</u>***
> *[(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]*

4.41. His submission by relying on ***Pradeep Kumar Kesarwani***'s case is that if the material relied upon by the accused is sound, reasonable and indubitable and would rule out the assertions contained in the charges levelled against the accused, such material not having been refuted by the prosecution and the continuance of the criminal proceedings would be an abuse of the process of Court, this Court is required to intercede and quash the proceedings filed.

4.42. On the basis of all the above, his submission is that a reading of the entire complaint does not disclose any offence committed by the Petitioner and this Court ought to quash the

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frivolous, vexatious proceedings which amount to harassment of the Petitioner.

5. Sri.Ranjith Kumar.N, learned HCGP appearing for Respondents No.1 and 2, would submit that:

5.1. The material circumstances leading to registration of the criminal proceedings are not in dispute. On 07.09.2025, an incident of stone-pelting occurred during the Ganesh Visarjana at Maddur Town. The incident was followed by a protest on 08.09.2025 and a complete bandh in the town on 09.09.2025. In view of the prevailing communal tension and the apprehension of further breach of peace, substantial police deployment was made to maintain law and order.

5.2. It is in the backdrop of the aforesaid highly charged and sensitive situation that the Petitioner is alleged to have made the statement in question referring to members of the Muslim community. The statement, therefore, cannot be examined in isolation or divorced from the prevailing circumstances. When a community is already agitated and

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there is an apprehension of further confrontation between two communities, a statement capable of aggravating such sentiments has to be assessed with reference to its content, context and likely consequences.

5.3. The State's case is that the Petitioner's statement was not a mere expression of an abstract opinion. It contained words directed towards a particular religious community and was made at a time when communal tensions had already resulted in violence, protests and a town-wide bandh. The subsequent circulation of the statement through social-media platforms further enlarged its reach and exposed the same to members of the concerned communities. In such circumstances, the statement had the potential to aggravate existing hostility and to further disturb communal harmony.

5.4. The requirement under Section 196 BNS is not confined to an actual outbreak of violence. The provision also takes within its ambit conduct which promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-

will between different communities and acts which are prejudicial to the maintenance of harmony and disturb or are likely to disturb public tranquillity. The statutory expression "likely" necessarily recognises that the law need not await the actual occurrence of violence before preventive criminal action can be taken.

5.5. He submits that the expression "likely" must be assessed in the factual setting in which the statement was made. In a situation where communal violence had already occurred, followed by protests and a town-wide bandh, the possibility that a communally charged statement would further aggravate the situation cannot be characterised as fanciful or remote. Whether the statement, in its context and having regard to its dissemination, was capable of producing such an effect is a matter requiring investigation and cannot be conclusively determined in proceedings for quashing at the threshold.

5.6. As regards the Petitioner's reliance upon the right to freedom of speech under Article 19(1)(a), the State does not dispute that

freedom of speech is a constitutionally protected right. However, the right is expressly subject to the reasonable restrictions contemplated under Article 19(2), including restrictions in the interests of public order and in relation to the matters specifically recognised therein. The protection of speech therefore does not extend to conduct which, on the facts alleged, falls within a validly enacted penal restriction.

5.7. Sections 196, 298 and 299 BNS constitute statutory restrictions operating within the constitutional framework. The question at this stage is not whether the Petitioner will ultimately be found guilty, but whether the allegations and material collected disclose the commission of cognizable offences warranting investigation. The existence of a constitutional right to free speech cannot, by itself, furnish immunity from investigation where the allegations prima facie attract the ingredients of the penal provisions invoked.

5.8. The Petitioner’s contention regarding preliminary inquiry under Section 173(3) BNSS

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is also misconceived. The alleged statement is not an occurrence incapable of verification. The statement is available in recorded and electronically disseminated form on social-media platforms. Its existence and authorship are therefore capable of verification from the available material. The question requiring investigation is not merely whether the words were spoken, but the circumstances in which they were spoken, the context, the manner of dissemination, the persons to whom they were directed, their effect and the likelihood of their aggravating the existing communal situation.

5.9. The availability of the recorded statement, therefore, does not render the investigation unnecessary. On the contrary, the electronic material provides the starting point for investigating the surrounding circumstances and the consequences flowing from the statement. Whether the material ultimately establishes the ingredients of the offences is a matter to be determined upon investigation and cannot be prejudged at the threshold.

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5.10. The reliance placed by the Petitioner upon decisions concerning the objective assessment of speech does not alter the position. The principles laid down therein require the Court to consider the content, context and surrounding circumstances of the speech. Those very circumstances, in the present case, include a recent incident of stone-pelting, communal tension, a protest, a complete town bandh and heightened police deployment. These circumstances cannot be disregarded while assessing the potential impact of the alleged statement.

5.11. He accordingly submits that the alleged statement cannot be isolated from the circumstances in which it was made and subsequently disseminated. The prosecution is entitled to investigate whether the statement, viewed in its proper context, had the tendency to promote or aggravate feelings of enmity or ill-will between communities or was likely to disturb public tranquillity.

5.12. At the stage of considering a petition for quashing, this Hon'ble Court is not required to

conduct a mini-trial or undertake a detailed appreciation of the evidence. Where the allegations disclose the essential ingredients of the offences and the surrounding circumstances give rise to a prima facie case, the investigation ought not to be interdicted merely because the accused has a possible defence or because the ultimate effect of the statement is capable of more than one interpretation.

5.13. The State therefore submits that the allegations, read with the surrounding circumstances and the material relating to the dissemination of the statement, disclose a prima facie case requiring investigation. The question whether the Petitioner's statement ultimately amounts to promotion of communal enmity, disturbance of public tranquillity, or an offence under Sections 196, 298 and 299 BNS is a matter to be determined on the basis of the evidence collected during investigation and, if necessary, at trial.

5.14. Consequently, the proceedings cannot be characterised as an abuse of process at this stage. The allegations are not so inherently

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improbable or legally incapable of constituting the offences alleged as to warrant exercise of the extraordinary jurisdiction of this Hon'ble Court for quashing the FIR. The petition is therefore liable to be dismissed and the investigating agency ought to be permitted to complete the investigation in accordance with law.

6. Heard Sri.Aiyappa.K.G., learned counsel for the Petitioner and Sri.Ranjith Kumar.N., learned HCGP for Respondents No.1 and 2. Perused papers.

7. The points that would arise for determination are:

(i) Whether the allegations contained in Crime No.201/2025, taken at their face value and without adding or subtracting anything from the complaint, disclose the essential ingredients of the offence punishable under Section 196(1)(a) of the Bharatiya Nyaya Sanhita, 2023, so as to warrant continuation of the criminal proceedings against the Petitioner?

(ii) Whether the allegations in the complaint, with regard to the alleged utterances of the Petitioner and the circumstances in which they were made, disclose the essential ingredients of the offence alleged

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under Section 299 of the Bharatiya Nyaya Sanhita, 2023?

(iii) Whether the registration of the FIR without conducting a preliminary enquiry under Section 173(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, in the facts and circumstances of the present case, vitiates the registration of the crime?

(iv) Whether, having regard to the protection guaranteed under Article 19(1)(a) of the Constitution of India, and the principles governing restrictions upon freedom of speech and expression, the alleged statement, considered in its entirety and in its proper context, attracts the penal provisions invoked against the Petitioner?

(v) Whether the Petitioner has made out a case for exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS for quashing Crime No.201/2025 and all consequential proceedings pending before the Court of the II Additional JMFC, Maddur?

(vi) What order?

8. This Court answers the above points as follows:

9. **<u>Answer to Point No (i):</u> Whether the allegations contained in Crime No.201/2025, taken at their face value and without adding or subtracting anything from the complaint, disclose the essential ingredients of the offence punishable**

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under Section 196(1)(a) of the Bharatiya Nyaya Sanhita, 2023, so as to warrant continuation of the criminal proceedings against the Petitioner?

9.1. Sri.Aiyappa.K.G, learned counsel for the Petitioner, submitted that even if the allegations in the complaint are accepted in their entirety, they do not disclose the commission of an offence under Section 196(1)(a) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

9.2. Learned counsel contended that an objectionable, insulting or offensive statement does not, by itself, constitute an offence under Section 196 BNS. The provision requires the words to promote, or attempt to promote, disharmony or feelings of enmity, hatred or ill-will between different groups. An intention to hurt the religious sentiments of a community is not the same as an intention to promote enmity between communities. According to him, the complaint alleges no more than an objectionable remark referring to Muslims, which was subsequently recorded and circulated on social media. The essential ingredients of the offence are therefore absent.

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9.3. In support of this submission, learned counsel relied on ***Imran Pratapgadhi v. State of Gujarat***, particularly paragraphs 15, 28–31, 33–37, 42, 48-49 and 53. He submitted that the effect of spoken words must be assessed from the standpoint of reasonable, strong-minded and firm persons, and not by reference to the reaction of persons who are unduly sensitive. He further argued that the alleged statement contains no call for violence or hostility against any community.

9.4. Learned counsel also pointed out that the complaint attributes the recording and circulation of the video to "some persons". According to him, the actions of third parties cannot, by themselves, establish that the Petitioner promoted or attempted to promote enmity between communities.

9.5. As regards the surrounding events, learned counsel acknowledged that the complaint refers to the stone-pelting incident of 07.09.2025, the procession or protest of 08.09.2025, the bandh of 09.09.2025 and the proposed immersion on 10.09.2025. He submitted, however, that these

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events are referred to as the background for police deployment and are not linked to the alleged statement. They do not establish that the statement caused, or was likely to cause, a disturbance of public tranquillity.

9.6. Learned counsel relied on ***Sri Basanagouda R. Patil v. State of Karnataka***, particularly paragraph 10, which refers to ***Patricia Mukhim v. State of Meghalaya*** (Paragraphs 8-15). He submitted that freedom of speech must be protected and that describing an event, expressing an opinion or criticising another person's actions does not, without more, amount to promoting enmity. The expression "promote", he argued, requires active incitement, assessed in the light of the words used, the surrounding circumstances and the speaker's intention.

9.7. Reliance was also placed on ***Amish Devgan v. Union of India***, particularly paragraphs 70, 73, 102 and 103. Learned counsel submitted that the offence requires the involvement of at least two groups; that the effect of the words must be judged objectively and in context; that

the likelihood of a disturbance must be real rather than remote or fanciful; and that promotion requires active incitement, assessed in the light of the content, context and intention of the speaker.

9.8. Learned counsel further relied on ***Ramesh v. Union of India***, particularly paragraph 13, regarding the standard for assessing the effect of words, and ***State of A.P. v. Golconda Linga Swamy***, particularly paragraph 12, for the principle that where an FIR does not disclose an offence even when its allegations are taken at face value, the proceedings may be quashed.

9.9. Sri Ranjith Kumar N., learned High Court Government Pleader, opposed the Petition. He submitted that the alleged statement must not be examined in isolation from the circumstances in which the complaint was registered. The relevant background includes the stone-pelting incident during Ganesh Visarjana on 07.09.2025, the protest on 08.09.2025, the bandh on 09.09.2025 and the

deployment of a large police force owing to communal tension.

9.10. Learned HCGP contended that the statement referred to a particular religious community and was circulated on social media at a time when tensions already existed. Its circulation could have widened its reach and aggravated hostility between communities. He submitted that the effect of the statement must therefore be assessed in the light of the prevailing circumstances, rather than by considering its words alone.

9.11. He further argued that Section 196 BNS does not require actual violence or a completed disturbance of public tranquillity in every case. The provision also covers an attempt to promote enmity and acts that are likely to disturb public tranquillity. In his submission, the possibility that a communally charged statement might aggravate an already tense situation was not remote or fanciful. Whether the statement had that effect required investigation and could not be decided at the threshold.

9.12. The question is whether the allegations in the complaint, accepted as they stand, disclose the essential ingredients of Section 196(1)(a) BNS. At this stage, the Court is not required to decide whether the Petitioner made the statement, whether the complaint is false or whether the Petitioner is ultimately guilty. Nor is the Court called upon to approve or disapprove the language used. The enquiry is confined to whether the facts alleged constitute the offence invoked.

9.13. **ALLEGATIONS IN THE COMPLAINT**

9.14. The complaint was lodged on 11.09.2025 by the Police Inspector, Respondent No.2. It alleges that the Petitioner deliberately made statements intended to hurt the religious feelings of another community, that some persons recorded the statement and circulated it on social media, and that the statement encouraged ill-will between communities.

9.15. The complaint quotes the following words, translated into English for the purpose of this discussion:

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> *"All I ask is this, about Siddaramaiah. I will tell him one thing. If you support Muslims, sir, why do you come and stand for election? Were you born to Muslims, then?"*

9.16. The complaint treats the word "*Sabru*" as a colloquial reference to Muslims. This Court has considered the Kannada original and proceeds on the basis of the meaning attributed to the expression in the complaint.

9.17. The complaint does not specify when or where the statement was made, to whom it was addressed, or the occasion on which it was made. Although it refers to the events between 07.09.2025 and 10.09.2025, those events are mentioned as the background to police deployment.

9.18. The complaint also refers to "numerous provocative statements on various TV channels". However, it does not reproduce those statements or identify their relevant contents. Since the present Point concerns the ingredients of the offence on the allegations actually pleaded, the Court proceeds on the basis of the words quoted in the complaint. A general reference to other statements made by

others, without setting out their contents, cannot supply the missing ingredients of the particular allegation under consideration.

9.19. **APPLICABLE LEGAL TEST**

9.20. In ***State of A.P. v. Golconda Linga Swamy***, paragraph 12, the Hon'ble Supreme Court explained the approach to be adopted while examining whether an FIR discloses an offence. The relevant passage reads:

> *"We find that the FIR did not disclose commission of an offence without anything being added or subtracted from the recitals therein. Though the FIR is not intended to be an encyclopaedia of the background scenario, yet even skeletal features must disclose the commission of an offence."*

9.21. The principle is that an FIR need not contain every detail of the case. It must, however, disclose the basic facts that constitute the alleged offence. The Court cannot add facts that are absent from the complaint to make out an offence, nor can it disregard allegations that are actually present.

9.22. The learned HCGP is correct that the Court should not conduct a mini-trial or assess the reliability of evidence at this stage. The Court

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has therefore proceeded on the assumption that the allegations in the complaint are true and has taken into account the surrounding events relied upon by Learned HCGP. The issue is whether those allegations, as pleaded, satisfy the requirements of the law.

9.23. **INGREDIENTS OF SECTION 196 BNS**

9.24. Relevant portion of Section 196 BNS is reproduced as follows:

> *(a) Whoever, by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or*
>
> *(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity; or …*

9.25. Clause (a) concerns the promotion or attempted promotion of disharmony or feelings of enmity, hatred or ill-will between different groups. The use of words, signs or electronic communication is not sufficient by itself. The

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communication must have the character and effect required by the provision, and the enmity or ill-will must be between different groups.

9.26. Clause (b), in turn, concerns an act prejudicial to the maintenance of harmony between groups that disturbs or is likely to disturb public tranquillity. Although the FIR is registered under Section 196(1)(a), both sides have addressed the question of public tranquillity. Clause (b) is therefore considered to that limited extent.

9.27. **WHETHER THE STATEMENT PROMOTES OR ATTEMPTS TO PROMOTE ENMITY**

9.28. In ***Amish Devgan v. Union of India***, paragraph 103, the Hon'ble Supreme Court explained the meaning of "promote" in the context of offences concerning enmity between groups:

> *"'Promote' does not imply mere describing and narrating a fact, or giving opinion criticising the point of view or actions of another person — it requires that the speaker should actively incite the audience to cause public disorder. This active incitement can be gauged by the content of the speech, the context and surrounding circumstances, and the intent of the speaker."*

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9.29. Thus, the nature of the words, their context and the speaker's intention must be considered together. Mere criticism or an offensive expression does not automatically amount to the promotion of enmity. The question is whether the words, read in their proper context, promote or attempt to promote the kind of disharmony or ill-will that the provision prohibits.

9.30. The words quoted in the complaint are directed at then Chief Minister Siddaramaiah and questions his decision to contest an election while supporting Muslims. The final sentence is an insulting taunt that uses a reference to Muslims as a term of abuse. The expression may reasonably be regarded as crude, offensive and hurtful. That, however, does not by itself establish that the speaker was inciting the audience to develop hatred or hostility towards Muslims or another community.

9.31. The quoted words do not call upon the audience to hate Muslims, avoid them, act against them or engage in violence. Nor do they call upon one community to act against another. On the

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words pleaded, the immediate target is a political figure and his alleged political position. The complaint does not set out any further words or conduct that would establish the required promotion or attempted promotion of enmity between groups.

9.32. Learned HCGP submit that the words were directed towards a religious community. A reference to a community in an insulting statement may cause offence to members of that community. However, the statutory question is not merely whether the statement is offensive or hurts religious sentiments. It is whether the statement promotes or attempts to promote enmity, hatred or ill-will between different groups. These are distinct questions, and the former does not, without more, establish the latter.

9.33. **REQUIREMENT OF DIFFERENT GROUPS**

9.34. In ***Amish Devgan***, paragraph 70, the Hon'ble Supreme Court observed:

> *"Further, merely inciting the feeling of one community or group without any reference to*

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any other community or group would not attract either provision."

9.35. The decision in ***Patricia Mukhim v. State of Meghalaya*** [(2021)15 SCC 35] more particularly Paragraphs 8-15, as quoted in paragraph 10 of ***Sri Basanagouda R. Patil v. State of Karnataka***, similarly emphasises that at least two groups or communities must be involved for the offence to arise.

9.36. The complaint alleges that the Petitioner hurt the feelings of another community, but it does not identify a second group against which hostility was promoted. The quoted words refer to Muslims and are addressed to a political figure. They do not call upon one group to act against another or otherwise disclose the promotion of enmity between different groups.

9.37. The absence of an express reference to a second group may not, in every case, be conclusive, since the meaning of a statement must be assessed in context. In the present case, however, neither the quoted words nor the pleaded circumstances supply the missing link. This is an additional reason why the

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essential ingredient of enmity between different groups is not disclosed.

9.38. **INTENTION AND THE STATEMENT READ AS A WHOLE**

9.39. In ***Sri Basanagouda R. Patil***, paragraph 10, the Court reproduced observations from ***Patricia Mukhim***, Paragraphs 8-15, concerning the need to establish the intention to promote enmity. The relevant principles are that intention must be assessed from the language used and the circumstances in which the statement was made, that the material must be read as a whole, and that isolated passages should not be connected through strained inferences to establish the offence.

9.40. In ***Imran Pratapgadhi***, paragraph 42, the Hon'ble Supreme Court observed that Section 153-A of the Indian Penal Code, which was considered in several of the cited decisions, is in pari materia with Section 196 BNS. The principles laid down in those decisions are therefore relevant to the present provision.

9.41. When the words quoted in the complaint are read as a whole, they amount to a taunt directed at a person said to support Muslims. They do not, on their face, call upon listeners to develop enmity towards Muslims or any other group. The complaint asserts that the Petitioner acted deliberately to hurt the religious feelings of another community. That assertion, without supporting facts showing an intention to promote enmity between groups, is not sufficient to establish the required ingredient.

9.42. **THE STANDARD FOR ASSESSING THE EFFECT OF THE WORDS**

9.43. In ***Ramesh v. Union of India***, paragraph 13, the Hon'ble Supreme Court held that the effect of words must be judged by the standards of reasonable, strong-minded, firm and courageous persons, rather than by the reactions of persons who are unduly sensitive or perceive danger in every opposing view.

9.44. The same approach was applied to Section 196 BNS in ***Imran Pratapgadhi***, paragraph 42. In ***Amish Devgan***, paragraph 73, the Hon'ble Supreme Court further emphasised that the

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assessment must take account of the situation and occasion, while excluding reactions that are merely sensitive, emotional or atypical.

9.45. Applying that standard, a reasonable and strong-minded person may regard the alleged words as rude, insulting and offensive. The use of a community's name as an insult is objectionable. But the objective question remains whether the words are likely to promote enmity between groups. Read in their ordinary sense, the words taunt a political figure for supporting Muslims; they do not call upon the audience to hate Muslims or to act against another community.

9.46. The conclusion is not based on the view that the words are harmless or acceptable. It is based on the distinction between an offensive political taunt and speech that promotes or attempts to promote enmity between different groups within the meaning of Section 196(1)(a) BNS.

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9.47. **EFFECT OF THE SURROUNDING CIRCUMSTANCES**

9.48. Learned HCGP's principal submission is that the statement must be viewed against the background of communal tension. The Court has considered this argument. The stone-pelting incident of 07.09.2025, the protest or procession of 08.09.2025, the bandh of 09.09.2025 and the proposed immersion of 10.09.2025 form part of the background described in the complaint. The Petitioner's counsel also acknowledged those events. This Court therefore does not disregard them.

9.49. Context is relevant when assessing the meaning and likely effect of a statement. However, context cannot replace the essential ingredients of the offence. In the present case, four matters are material.

9.50. First, the complaint does not state when or where the Petitioner made the statement, or that it was made in response to the events referred to above. The connection between the statement and those events is advanced by Learned HCGP in argument, but is not

established by any specific allegation in the complaint.

9.51. Second, the quoted words do not refer to the stone-pelting, the procession, the bandh, the proposed immersion or the police. Their subject is the political position of a person who contests elections. The complaint does not explain how, in the circumstances alleged, those words were intended to incite hostility between communities.

9.52. Third, the complaint does not allege any reaction to the statement or its circulation, any subsequent disturbance attributable to it, or any other specific circumstance showing that it aggravated the existing tension. The absence of such an allegation does not mean that an offence can arise only after actual violence. It does, however, matter when the State relies on the likelihood of a disturbance as the basis for the offence.

9.53. Fourth, ***Amish Devgan***, paragraph 102, explains that the word "likely" requires a real chance of the event occurring, rather than a fanciful or remote possibility. The decision also

cautions that a mere standard of "not improbable" is too weak. Learned HCGP submit that the statement had the potential to aggravate hostility and was capable of hurting communal sentiments. Those assertions, without a factual link between the words and a real likelihood of disturbance, do not satisfy the standard explained by the Hon'ble Supreme Court.

9.54. This Court accepts Learned HCGP's submission that the law need not wait for violence to occur. Section 196(1)(a) expressly covers an attempt to promote enmity. But the absence of a requirement of completed violence does not dispense with the need to show promotion or attempted promotion of enmity. The requirement of active incitement, as explained in ***Amish Devgan*** (Paragraph 102), remains relevant.

9.55. **WHETHER CLAUSE (B) OF SECTION 196 IS ATTRACTED**

9.56. Clause (b) of Section 196(1) BNS concerns an act prejudicial to the maintenance of harmony between different groups that disturbs or is

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likely to disturb public tranquillity. The complaint does not allege that public tranquillity was disturbed following the statement or the circulation of the video.

9.57. As regards likelihood, the same deficiencies discussed above remain. The complaint does not connect the statement to the events of 07.09.2025 to 10.09.2025, does not identify any reaction to the statement and does not set out facts showing a real likelihood that the statement would disturb public tranquillity. The general assertion that the statement was capable of aggravating communal sentiments does not, without more, meet the test explained in ***Amish Devgan*** (Paragraph 102).

9.58. Further, the complaint does not disclose how the quoted words constituted an act prejudicial to harmony between different groups. For the reasons already stated, the words, taken at face value, do not disclose the necessary link between the alleged insult and the promotion of enmity between communities. Clause (b) therefore does not cure the deficiencies in the allegations. This finding is confined to the

allegations and the limited argument addressed under this Point.

9.59. **CIRCULATION OF THE VIDEO AND OTHER ALLEGED STATEMENTS**

9.60. The Petitioner contends that the video was recorded and circulated by "some persons". The record also describes the Petitioner as an influencer whose videos were published online. This Court need not decide who recorded or uploaded the particular video, since that is a matter of evidence.

9.61. Even if the Petitioner herself circulated the video, that circumstance would establish the mode and reach of the communication; it would not, by itself, establish that the words promoted or attempted to promote enmity between groups. The content of the communication must still satisfy the statutory requirements.

9.62. The complaint's general reference to other provocative statements on television cannot alter this conclusion because their contents are not set out in the complaint under consideration. The Court makes no finding

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about those other statements or the truth of the allegations concerning them.

9.63. The Petitioner's assertions that she is innocent, that the complaint is false and that she was merely criticising the police are also not decided under this Point. The quoted words do not refer to the police, and the Court has proceeded on the assumption that the allegations in the complaint are true. The conclusion is that, even on that assumption, the essential ingredients of Section 196(1)(a) BNS are not disclosed.

9.64. **CONCLUSION ON POINT (I)**

9.65. The principles in ***Golconda Linga Swamy*** (Paragraph 12), require the Court to examine the complaint as it stands, without adding or subtracting facts. Section 196(1)(a) BNS requires the promotion or attempted promotion of disharmony or feelings of enmity, hatred or ill-will between different groups. The decisions in ***Amish Devgan*** (Paragraphs 70, 73, 102 and 103), ***Ramesh*** (Paragraph 13), ***Imran Pratapgadhi*** (Paragraphs 15, 31, 42 and 53.7) and ***Patricia Mukhim*** (Paragraph 8-15), as referred to in ***Sri Basanagouda R. Patil***

(Paragraph 10), guide the Court in assessing the words, the need for different groups, the speaker's intention, the surrounding circumstances and the likelihood of the alleged effect.

9.66. Applying those principles, the complaint does not disclose active incitement to promote enmity between communities, facts from which the requisite intention can be inferred, or a sufficient basis to conclude that the words were directed towards promoting enmity between different groups. The surrounding events do not supply the missing ingredients because the complaint does not link the statement to those events. Nor does it plead facts showing a real likelihood of disturbance of public tranquillity.

9.67. This conclusion does not endorse the language attributed to the Petitioner. The words may be insulting and objectionable. The finding is narrower: the allegations, as pleaded, do not disclose the essential ingredients of the offence under Section 196(1)(a) BNS. The Court therefore finds that continuation of the proceedings cannot be justified under that

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provision on the basis of these allegations alone.

9.68. In the above circumstances, this Court answers Point No. (i) in the negative. The allegations in Crime No.201/2025, taken at their face value and without adding or subtracting anything from the complaint, do not disclose the essential ingredients of an offence punishable under Section 196(1)(a) of the Bharatiya Nyaya Sanhita, 2023. Accordingly, the criminal proceedings cannot be sustained under that provision on the basis of the allegations considered under this Point.

10. **<u>Answer to Point No (ii):</u> Whether the allegations in the complaint, with regard to the alleged utterances of the Petitioner and the circumstances in which they were made, disclose the essential ingredients of the offence alleged under Section 299 of the Bharatiya Nyaya Sanhita, 2023?**

10.1. Sri.Aiyappa.K.G., learned counsel for the Petitioner, submitted that the allegations in the complaint, even if accepted at face value, do not disclose an offence under Section 299 of the Bharatiya Nyaya Sanhita, 2023 (BNS). He contended that the provision applies only where

a person acts with the deliberate and malicious intention of outraging the religious feelings of a class of citizens by insulting, or attempting to insult, its religion or religious beliefs.

10.2. Learned counsel argued that intemperate, critical or politically charged language does not, by itself, constitute an offence under Section 299 BNS. The complaint must contain material showing that the words were used with the specific intention required by the provision. A statement being offensive or capable of hurting someone's feelings is not sufficient.

10.3. In support of this submission, learned counsel relied on ***Sri Keerthan Kumar & Anr. v. State of Karnataka***, particularly paragraph 6, which discusses Section 295-A of the Indian Penal Code and refers to ***Mahendra Singh Dhoni v. Yerraguntla Shyamsundar*** [(2017) 7 SCC 760], particularly paragraph 6. He submitted that Section 295-A IPC, which deals with the same subject, penalises only insults committed with a deliberate and malicious intention to outrage the religious feelings of a

class of citizens. According to him, the allegations do not satisfy this test.

10.4. Learned counsel also relied on ***Amish Devgan v. Union of India*** (Paragraphs 70, 73, 102, and 103) and ***State of A.P. v. Golconda Linga Swamy*** (Paragraph 12). The submissions based on ***Amish Devgan*** concerning the expression "likely" have been considered under Point (i). Learned counsel ultimately submitted that the complaint does not disclose the essential ingredients of the alleged offence and that the prosecution cannot be sustained on the allegations made.

10.5. Sri Ranjith Kumar N, learned High Court Government Pleader, contended that the words were directed towards a particular religious community. He also submitted that, at this stage, the Court need only examine whether the allegations disclose a cognizable offence warranting investigation. According to him, the effect of the statement and the question whether an offence has been committed should be examined during investigation and trial. He further relied on the surrounding

circumstances, including the tension and disturbances referred to in the complaint.

10.6. **THE SCOPE OF THIS POINT**

10.7. The question is whether the allegations concerning the Petitioner's words, read in the context in which they were allegedly spoken, disclose the essential ingredients of an offence under Section 299 BNS. The alleged words and the relevant background are already set out above. They need not be repeated here.

10.8. **THE APPLICABLE PROVISION**

10.9. Section 299 BNS is titled "Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs". It provides:

> *"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 through electronic means 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."*

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10.10. Section 299 BNS applies when a person uses words, signs, representations, electronic means or other means to insult, or attempt to insult, the religion or religious beliefs of a class of citizens, with the deliberate and malicious intention of outraging that class's religious feelings.

10.11. The essential requirements are therefore:

10.11.1. there must be an insult or an attempt to insult;

10.11.2. the insult must be directed at the religion or religious beliefs of a class of citizens;

10.11.3. the conduct must be through one or more of the means specified in the provision; and

10.11.4. the person must act with a deliberate and malicious intention to outrage the religious feelings of that class.

10.12. These requirements must be considered together. The mere use of offensive language, or the fact that a statement hurts religious

sentiments, does not by itself establish the offence.

10.13. **SECTION 295-A IPC AND THE CITED DECISIONS**

10.14. Section 295-A of the Indian Penal Code dealt with the same subject before the enactment of the BNS. It reads:

> *"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."*

10.15. The wording of Section 299 BNS is materially the same as that of Section 295-A IPC, with the express addition of the words "or through electronic means". Both provisions require an insult to religion or religious beliefs **and** a deliberate and malicious intention to outrage the religious feelings of a class of citizens. The principles laid down by the Hon'ble Supreme

Court on Section 295-A IPC are therefore relevant to the interpretation of Section 299 BNS.

10.16. In ***Keerthan Kumar*** (Paragraph 6), the Co-ordinate Bench of this Court considered a complaint alleging that certain persons had entered a mosque compound at night, shouted "Jai Sriram" and threatened the community. The complaint invoked Section 295-A IPC. As recorded in the extract relied upon, the Bench referred to ***Mahendra Singh Dhoni*** (Paragraphs 6, 9 and 12) and questioned whether the alleged conduct, in the circumstances stated in that complaint, could amount to an outrage of religious feelings, particularly when the complaint itself referred to harmony between the communities.

10.17. In ***Mahendra Singh Dhoni*** (Paragraphs 6, 9, and 12), the Hon'ble Supreme Court explained that Section 295-A IPC does not punish every act that may be regarded as an insult to religion or religious beliefs. It applies to the aggravated form of insult committed with a deliberate and malicious intention to outrage

the religious feelings of a class of citizens. An insult offered carelessly, unwittingly or without that intention does not fall within the provision.

10.18. The principle is that the provision requires more than an offensive statement or a hurt feeling. The nature of the alleged insult and the intention with which it was made must satisfy the statutory requirements.

10.19. This Court applies that principle to Section 299 BNS. It does not treat ***Keerthan Kumar*** as conclusive merely because that decision also concerned a complaint under Section 295-A IPC. The facts of that case, including the alleged slogan and the circumstances recorded in the complaint, differ from those in the present case. The decision is relevant for the legal principle it discusses, while its factual context is distinguishable.

10.20. The Petitioner also relied on ***Golconda Linga Swamy*** (Paragraph 12). The relevant principle, considered under Point (i), is that the Court must examine the allegations and the material relied upon rather than supply missing facts or assume that the necessary ingredients exist.

That principle is relevant here as well. The complaint must disclose facts which, if accepted, bring the alleged conduct within Section 299 BNS.

10.21. **APPLICATION OF SECTION 299 BNS TO THE ALLEGATIONS**

10.22. The first question is whether the alleged words insult, or attempt to insult, the religion or religious beliefs of a class of citizens.

10.23. The words, as translated above at paragraph 9.15, refer to Muslims as a community and use a colloquial term understood to mean "Muslim" as part of a taunt directed at a person because of his support for Muslims. The statement may reasonably be regarded as offensive or insulting. However, Section 299 BNS does not punish every insult directed at a person or a community. The insult must be directed at the religion or religious beliefs of that class.

10.24. The alleged words do not refer to Islam's religious beliefs, practices, sacred texts or other religious matters. On the allegations as

recorded, they criticise or mock a person for supporting Muslims and use a reference to that community to do so. The complaint does not identify any part of the statement that insults Islam or any religious belief.

10.25. Learned HCGP submitted that the words were directed towards a particular religious community. For the purpose of this Point, that submission may be accepted. But identifying the community at which a statement is directed does not, by itself, establish that the statement insults the religion or religious beliefs of that community. Those are distinct questions, and the statutory requirement concerns the latter.

10.26. The complaint's assertion that the words were intended to hurt religious feelings describes the complainant's view of their effect. It does not replace the need to identify the alleged insult to religion or religious beliefs. On the words quoted in the complaint, that essential element is not disclosed.

10.27. The second question is whether the complaint discloses a deliberate and malicious intention to outrage the religious feelings of the community.

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10.28. The complaint characterises the statement as deliberate and intended to hurt the religious feelings of another community. That characterisation must be assessed against the words actually alleged and the circumstances stated in the complaint.

10.29. As discussed above, the apparent target of the statement is a person's political position, namely, his support for Muslims. The reference to the community is used as a taunt. The complaint does not identify additional words or conduct showing that the Petitioner intended to insult Islam or religious beliefs, or to outrage the religious feelings of Muslims as a class.

10.30. Under the principle stated in ***Mahendra Singh Dhoni***, as discussed in ***Keerthan Kumar***, the intention required by the provision cannot be inferred merely from the fact that the words are offensive. The allegations must disclose the deliberate and malicious intention specified by the statute. On the facts pleaded, that requirement is not met.

10.31. The third matter is the surrounding circumstances. Learned HCGP rely on the

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stone-pelting, protests, bandh and tension referred to in the complaint. These circumstances have been considered above, including the absence of clear particulars in the complaint about when and where the alleged words were spoken. That discussion is relevant here and need not be repeated.

10.32. For the present Point, the important distinction is that the surrounding circumstances may assist in assessing the meaning or likely effect of a statement. They cannot, however, replace an essential ingredient of the offence. A tense situation does not convert a statement that does not insult religion or religious beliefs into such an insult. Nor does the existence of tension, without supporting facts, establish the deliberate and malicious intention required by Section 299 BNS.

10.33. The Petitioner also relied on ***Amish Devgan*** (Paragraphs 70, 73, 102 and 103) and ***Ramesh v. Union of India*** (Paragraph 13), principally in relation to Section 196 BNS. Those authorities were considered under Point (i). Since Section 299 BNS does not use the

expression "likely", the discussion under Point (i) concerning that expression and the reasonable-person test is not necessary to decide the present Point.

10.34. Learned HCGP submitted that whether the ingredients of the offence are established should be left to investigation and trial. It is correct that the Court is not deciding the Petitioner's guilt at this stage. The question, however, is whether the allegations, taken at face value, disclose the ingredients of the offence alleged.

10.35. The complaint alleges the use of an offensive taunt referring to Muslims. The Court does not approve of the language used, nor does it suggest that such language cannot cause hurt or offence. The question is narrower: whether the allegations disclose an offence under Section 299 BNS.

10.36. For the reasons stated above, the alleged words are directed at a person's political position and refer to Muslims as a community. The complaint does not disclose an insult to the religion or religious beliefs of that community. Nor does it

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set out facts showing that the Petitioner acted with the deliberate and malicious intention of outraging the community's religious feelings. The surrounding circumstances do not cure these omissions.

10.37. Accordingly, the allegations, even when considered alongside the circumstances stated in the complaint, do not disclose the essential ingredients of an offence under Section 299 BNS.

10.38. This Court answers Point No. (ii) in the negative. The allegations in the complaint concerning the Petitioner's alleged utterances and the circumstances in which they were made do not disclose the essential ingredients of an offence under Section 299 of the Bharatiya Nyaya Sanhita, 2023.

11. **<u>Answer to Point No (iii):</u> Whether the registration of the FIR without conducting a preliminary enquiry under Section 173(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, in the facts and circumstances of the present case, vitiates the registration of the crime?**

11.1. Sri.Aiyappa.K.G., learned counsel for the Petitioner, submitted that the police registered

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the FIR without conducting a preliminary enquiry under Section 173(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). He initially contended that such an enquiry was mandatory where the alleged offence was based on spoken or written words and fell within the punishment range specified in that provision.

11.2. Learned counsel submitted that Section 173(3) BNSS provides a safeguard against the unnecessary registration of criminal cases and is particularly important where the allegations concern speech protected by Article 19(1)(a) of the Constitution. He also contended that the provision requires prior permission from an officer not below the rank of Deputy Superintendent of Police before a preliminary enquiry is undertaken.

11.3. In support of his submissions, learned counsel relied on ***Imran Pratapgadhi v. State of Gujarat***, particularly paragraphs 28-31 and 33-37. He referred to the statutory scheme under Section 173 BNSS and its comparison with

Section 154 of the Code of Criminal Procedure, 1973.

11.4. His submission is also that Section 173(3) BNSS permits a preliminary enquiry in cases falling within the prescribed punishment range, subject to the conditions in the provision. If the police choose to invoke the concerned penal provisions, they must comply with its requirements, including obtaining prior permission. He submitted that the absence of an enquiry in the present case affected the validity of the FIR.

11.5. Sri Ranjith Kumar N, learned High Court Government Pleader, opposed the contention that a preliminary enquiry was necessary. He submitted that the alleged statement had been recorded and circulated on social media. Its existence and authorship could therefore be verified.

11.6. Learned HCGP argued that the investigation was required to examine more than the words appearing in the recording. It would also have to consider the circumstances in which the statement was made, its context, how it was

circulated, the persons to whom it was directed, its effect and whether it was likely to aggravate the communal situation.

11.7. He further submitted that the existence of a recording did not make an investigation unnecessary. The recording was only the starting point for examining the surrounding circumstances. Whether the statement satisfied the ingredients of the alleged offences, according to him, could not be finally decided at the threshold.

11.8. Learned HCGP did not contend that a preliminary enquiry had in fact been conducted or that prior permission had been obtained. His principal submission was that no preliminary enquiry was required in the circumstances of this case.

11.9. **SCOPE OF THE ISSUE**

11.10. The question under this Point is limited. It is whether registration of Crime No. 201/2025 is invalid because the police did not conduct a preliminary enquiry under Section 173(3) BNSS.

11.11. Whether the allegations disclose the ingredients of the offences alleged is a separate question. That issue has already been considered under Points (i) and (ii). The two questions must not be confused. An FIR may not be invalid merely because a preliminary enquiry was not conducted, yet the allegations in it may independently fail to disclose an offence.

11.12. **THE STATUTORY PROVISION**

11.13. Section 173 BNSS deals with information relating to the commission of cognizable offences. Sub-section (1) provides, among other things, for information about a cognizable offence to be given orally or by electronic communication to the officer in charge of a police station.

11.14. Sub-section (3) provides:

> *"Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy*

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Superintendent of Police, considering the nature and gravity of the offence,-

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case."

11.15. A reading of Section 173 BNSS indicates that where information concerns a cognizable offence punishable with three years or more but less than seven years, the officer in charge of the police station may, after obtaining the required prior permission and considering the nature and gravity of the offence, choose either to conduct a preliminary enquiry within fourteen days or to proceed with investigation where a prima facie case exists.

11.16. The provision does not state that a preliminary enquiry must be conducted in every case falling within this punishment range. It gives the police a choice between the two courses specified in the sub-section, subject to its conditions.

11.17. **THE LAW LAID DOWN IN IMRAN PRATAPGADHI**

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11.18. In ***Imran Pratapgadhi v. State of Gujarat*** [paragraphs 28-31 and 53.1-53.2], the Hon'ble Supreme Court clarified that although registration of an FIR is ordinarily mandatory where the information discloses the commission of a cognizable offence, that principle is expressly subject to the statutory safeguards contained in Section 173(3) of the BNSS. The statutory scheme must be applied in its entirety, and the general rule governing registration of an FIR cannot be invoked to render the safeguard under Section 173(3) nugatory.

11.19. Section 173(3) BNSS specifically contemplates a preliminary enquiry in cases involving cognizable offences punishable with imprisonment for a period of three years or more but less than seven years. Subject to the statutory conditions, including prior permission from an officer not below the rank of Deputy Superintendent of Police and consideration of the nature and gravity of the offence, the police may conduct a preliminary enquiry to ascertain whether a prima facie case exists. The provision is a substantive procedural safeguard and must

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be given meaningful effect, particularly where the allegations arise from speech or written expression.

11.20. The significance of the preliminary enquiry is especially pronounced where the alleged criminality is founded upon words spoken, written or published. In such cases, the mere registration of a complaint, or the complainant's characterisation of the expression as offensive, objectionable or inflammatory, cannot substitute for a reasoned assessment of whether the statutory ingredients of the alleged offence are disclosed. The words must be considered in their entirety and in their relevant context, and their alleged effect must be assessed against the ingredients of the offence actually invoked.

11.21. The Hon'ble Supreme Court emphasised that, even at the threshold, the police must read or hear the words complained of and determine whether, assuming the allegations to be correct, they disclose the commission of a cognizable offence. Such an assessment is not itself an impermissible preliminary enquiry under

Section 173(1) BNSS; it is a necessary examination of the legal sufficiency of the information received. The police cannot mechanically proceed on the basis of allegations without first considering whether the words, on their face, satisfy the essential ingredients of the offence alleged.

11.22. More importantly, the Hon'ble Supreme Court, while considering the special constitutional concerns arising from criminal proceedings founded upon speech, observed in paragraph 37 that it is always appropriate to exercise the option under Section 173(3) BNSS to conduct a preliminary enquiry in cases involving allegations of cognizable offences punishable up to seven years where the allegations are based on spoken or written words. The Hon'ble Supreme Court further observed that the superior officer would normally grant permission for such an enquiry. These observations must be given due weight: they articulate the manner in which the statutory discretion ought ordinarily to be exercised when the initiation of criminal proceedings may

impinge upon the freedom of speech and expression.

11.23. The use of the expressions "always appropriate" and "normally" is material. It demonstrates that, in speech-related cases falling within the statutory framework of Section 173(3) BNSS, a preliminary enquiry is not to be treated as an exceptional indulgence dependent merely upon the unfettered preference of the investigating officer. Rather, the judgment establishes a strong judicial presumption in favour of exercising the statutory option, subject to the facts of the case and the conditions prescribed by law. A departure from that course must be consistent with the statutory scheme and the constitutional considerations identified by the Hon'ble Supreme Court.

11.24. This approach follows from the Court's recognition that the right to freedom of speech and expression under Article 19(1)(a) of the Constitution cannot be rendered illusory by the mechanical initiation of criminal proceedings on the basis of speech alleged to be objectionable. The process of criminal law itself may have a

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chilling effect upon the exercise of constitutionally protected expression. Accordingly, where the statutory conditions for a preliminary enquiry are satisfied and the allegations arise from spoken or written words, the safeguard under Section 173(3) must be considered and ordinarily invoked before the matter proceeds further, so that the existence of a prima facie case may be objectively assessed.

11.25. The requirement of such scrutiny is reinforced by the Court's exposition of Section 196 of the BNS. The offence is not made out merely because words are offensive, distasteful, provocative or objectionable to some persons. The expression must satisfy the statutory ingredients, including the promotion or attempted promotion of disharmony, or feelings of enmity, hatred or ill-will between the groups or communities contemplated by the provision. The legal character of the words, rather than the subjective reaction of the complainant, is therefore decisive. A preliminary enquiry provides an appropriate procedural opportunity

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to assess whether the allegations disclose the ingredients required by law.

11.26. The Hon'ble Supreme Court's observations in paragraphs 48 and 49, read with its conclusions in paragraph 53, underscore the constitutional obligation to protect legitimate expression and to prevent the criminal process from being set in motion without due regard to the nature and effect of the words complained of. In paragraph 53.5, the Hon'ble Supreme Court reiterated the appropriateness of a preliminary enquiry in speech-related cases falling within Section 173(3) BNSS and the expectation that the competent superior officer would normally grant permission. Paragraph 53.6 further clarifies that the effect of the expression must be assessed by reference to reasonable, strong-minded, firm and courageous persons, and not persons who are hypersensitive or insecure.

11.27. The principles laid down in ***Imran Pratapgadhi*** [paragraphs 28-31, 33, 37 and 53.1-53.5]must therefore be read cumulatively.

11.28. First, the information must be examined to determine whether the ingredients of a cognizable offence are disclosed.

11.29. Secondly, where the allegations arise from speech or written expression and the offence falls within the punishment range contemplated by Section 173(3) BNSS, the investigating agency must give due and serious consideration to conducting a preliminary enquiry, subject to the statutory requirements.

11.30. Thirdly, the decision whether to exercise that option must be informed by the constitutional protection afforded to free speech and expression, rather than by a mechanical application of the general rule concerning FIR registration.

11.31. Consequently, in a case falling within Section 173(3) BNSS in which the alleged offence is founded upon spoken or written words, the course indicated by the Hon'ble Supreme Court is that a preliminary enquiry should ordinarily precede further action, upon obtaining the requisite prior permission and complying with the statutory conditions. The discretion

conferred by the provision cannot be exercised arbitrarily or treated as a mere formality. The judgment's express guidance that such an enquiry is "always appropriate" and that permission would "normally" be granted requires the authority to approach the question with a strong presumption in favour of an enquiry. The absence of such an enquiry, particularly where no consideration of this safeguard is apparent, calls for scrutiny in light of the statutory framework and the constitutional principles articulated by the Hon'ble Supreme Court.

11.32. In the present case, therefore, if the allegations arise from speech or written expression and the alleged offence falls within the punishment range specified in Section 173(3) BNSS, it is necessary to examine whether the competent superior officer's prior permission was obtained and whether the statutory option of conducting a preliminary enquiry was duly considered and exercised. If the police proceeded mechanically without addressing this safeguard, such action would be inconsistent with the approach mandated by the principles laid down in ***Imran***

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Pratapgadhi. This Court must further examine whether the words complained of, taken in their entirety and in context, disclose the essential ingredients of the alleged offence. Where they do not, the continuation of criminal proceedings cannot be justified merely by the fact that an investigation has commenced.

11.33. **WHETHER THE ABSENCE OF A PRELIMINARY ENQUIRY INVALIDATES THE FIR**

11.34. Learned Counsel for the Petitioner contended that a preliminary enquiry was mandatory before registration of the FIR. However, the correct formulation of the submission, having regard to the statutory language and the law laid down in ***Imran Pratapgadhi v. State of Gujarat***, is that, in cases falling within the ambit of Section 173(3) of the BNSS, a preliminary enquiry ought ordinarily to be conducted where the allegations arise from spoken or written words. Although the provision employs the expression "may", the Hon'ble Supreme Court has emphasised that, in such cases, it is "always appropriate" to exercise the

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option of conducting a preliminary enquiry and that permission from the competent superior officer would "normally" be granted.

11.35. The statutory discretion under Section 173(3) BNSS cannot, therefore, be construed as an unfettered choice to dispense with a preliminary enquiry without due consideration of the nature of the allegations and the constitutional implications of initiating criminal proceedings on the basis of speech or written expression. In Imran Pratapgadhi, the Hon'ble Supreme Court underscored the importance of this safeguard in preventing the criminal process from being set in motion mechanically in cases where the words complained of may implicate the freedom of speech and expression under Article 19(1)(a) of the Constitution. The discretion conferred by the provision must accordingly be exercised in the light of these principles, and a preliminary enquiry should ordinarily be the course adopted in qualifying speech-related cases.

11.36. The purpose of the preliminary enquiry, as explained in ***Imran Pratapgadhi*** [paragraphs 28-31, 33, 37 and 53.1-53.5], is to ascertain

whether a prima facie case exists before the matter proceeds further. This safeguard assumes particular significance where the alleged offence is founded upon spoken or written words, since the mere fact that an expression is alleged to be offensive, objectionable or inflammatory does not, by itself, establish the ingredients of a criminal offence. The words must be assessed in their entirety and context, and their effect must be evaluated by applying the legal standards identified by the Hon'ble Supreme Court. The preliminary enquiry thus serves not merely as a procedural formality, but as an important safeguard against the unwarranted invocation of criminal law in matters implicating constitutionally protected expression.

11.37. At the same time, the absence of a preliminary enquiry cannot, without more, be treated as automatically rendering every FIR invalid. The statutory language and the judgment in ***Imran Pratapgadhi*** do not establish an inflexible rule that an FIR registered without a preliminary enquiry is void in every case falling within Section 173(3) BNSS. The legal significance of

the omission must be assessed in the context of the statutory scheme, the nature of the allegations and the principles governing the exercise of the discretion conferred by the provision. The correct position is that, in qualifying speech-related cases, the failure to give due consideration to the preliminary-enquiry safeguard may warrant strict judicial scrutiny, particularly where the FIR appears to have been registered mechanically without an adequate assessment of whether the alleged words disclose the ingredients of the offence invoked.

11.38. Where an FIR is challenged on the ground that its allegations do not disclose the commission of an offence, the Court must independently examine the allegations and determine whether the essential ingredients of the offence are made out, irrespective of whether a preliminary enquiry preceded registration. In the present case, that examination has been undertaken under Points (i) and (ii). The absence of a preliminary enquiry must be considered in conjunction with the nature of the allegations and the applicable principles laid down in

Imran Pratapgadhi [paragraphs 37, 48, 49 and 53.5]; it cannot, by itself, substitute for the substantive assessment of whether the FIR discloses a cognizable offence.

11.39. The Petitioner further submitted that, where the police elect to exercise the power under Section 173(3) BNSS, compliance with the conditions prescribed therein is mandatory, including obtaining prior permission from an officer not below the rank of Deputy Superintendent of Police. This submission is supported by the express terms of the provision. However, the Petitioner's principal grievance in the present case is that no preliminary enquiry was conducted. Learned HCGP has not asserted that they invoked the procedure under Section 173(3), and the material before this Court does not establish whether prior permission was sought or obtained.

11.40. A distinction must accordingly be maintained between a failure to consider or exercise the statutory option of conducting a preliminary enquiry and a failure to comply with the conditions governing the exercise of that power.

The former raises the question whether the discretion was exercised consistently with the guidance in ***Imran Pratapgadhi*** [paragraphs 37 and 53.5], particularly the Court's observations that a preliminary enquiry is "always appropriate" in qualifying speech-related cases and that permission would "normally" be granted. The latter concerns compliance with the procedural requirements applicable where the power is exercised.

11.41. Accordingly, while the absence of a preliminary enquiry does not automatically invalidate the FIR in every case, it cannot be dismissed as legally immaterial where the allegations arise from speech or written expression and fall within the scope of Section 173(3) BNSS. In such circumstances, the Court must consider whether the statutory safeguard received due consideration in accordance with the principles laid down in ***Imran Pratapgadhi***. This issue remains distinct from, and does not displace, the Court's independent determination under Points (i) and (ii) as to whether the allegations, taken at face value, disclose the commission of the offence alleged.

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11.42. **THE RELATIONSHIP WITH ARTICLE 19(1)(A)**

11.43. Learned counsel for the Petitioner submitted that the safeguard contemplated under Section 173(3) of the BNSS must be given meaningful legal effect in light of the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. Reliance was placed *on* ***Imran Pratapgadhi*** particularly paragraphs 37, 48 and 49, to contend that where the initiation of criminal proceedings is founded upon spoken or written words, the statutory discretion to conduct a preliminary enquiry must be exercised consistently with the constitutional obligation to protect free expression.

11.44. In ***Imran Pratapgadhi***, the Hon'ble Supreme Court did not treat the preliminary-enquiry mechanism as a matter of procedural convenience alone. In paragraph 37, the Court observed that, in cases involving allegations of cognizable offences punishable up to seven years and founded upon spoken or written words, it is always appropriate to exercise the

option of conducting a preliminary enquiry under Section 173(3) BNSS. The Hon'ble Supreme Court further observed that the competent superior officer would normally grant permission for such an enquiry. These observations, read with the Hon'ble Supreme Court's discussion of the constitutional significance of free speech and expression in paragraphs 48 and 49, give the statutory safeguard particular force in cases where criminal allegations arise from written words or expression.

11.45. The use of the expressions "always appropriate" and "normally" cannot be reduced to an observation of merely aspirational value. They constitute authoritative judicial guidance on the exercise of the discretion conferred by Section 173(3) BNSS in the specific category of speech-related cases addressed by the Hon'ble Supreme Court. Although the provision employs the word "may", the discretion thereby conferred must be exercised in accordance with the principles laid down by the Hon'ble Supreme Court. It cannot be treated as an unstructured choice to dispense with a

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preliminary enquiry without due regard to the nature of the allegations and the constitutional interests implicated. In cases falling within the provision, the ordinary course should therefore be to undertake a preliminary enquiry, subject to compliance with the statutory conditions.

11.46. The constitutional significance of this safeguard lies in the fact that the initiation of criminal proceedings may itself burden the exercise of freedom of speech and expression. The prospect of investigation and prosecution may deter not only the person proceeded against but also others from engaging in legitimate expression. The protection afforded by Article 19(1)(a) would be materially weakened if allegations concerning spoken or written words could routinely trigger the criminal process without due scrutiny of whether the statutory ingredients of the alleged offence are disclosed. The preliminary-enquiry mechanism must therefore be given practical effect as a safeguard against the mechanical invocation of criminal law in speech-related cases.

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11.47. Accordingly, where the allegations arise from spoken or written words and the offence falls within the punishment range contemplated by Section 173(3) BNSS, the police must give genuine and reasoned consideration to the option of conducting a preliminary enquiry, in accordance with the guidance in ***Imran Pratapgadhi***. The statutory conditions, including prior permission from an officer not below the rank of Deputy Superintendent of Police, must be observed where that procedure is invoked. The requirement of prior permission is not a dispensable formality; it places the decision within the supervisory framework expressly prescribed by the legislature. The superior officer's role must be understood in light of the Court's observation that permission would normally be granted in the category of speech-related cases under consideration.

11.48. The legal effect of this safeguard is not that every FIR registered without a preliminary enquiry automatically becomes void. Rather, where the case falls within Section 173(3) BNSS, the failure to consider or exercise the option of conducting an enquiry must be

assessed against the statutory framework and the binding guidance in ***Imran Pratapgadhi***. A mechanical decision to proceed without addressing the safeguard, particularly in a case involving speech or written expression, may constitute a failure to exercise the statutory discretion in accordance with the governing legal principles. The Court must therefore examine whether the statutory option was duly considered and whether the circumstances disclose a departure from the ordinary course indicated by the Hon'ble Supreme Court.

11.49. This scrutiny is distinct from the Court's independent assessment of whether the FIR discloses the commission of an offence. Even where a preliminary enquiry has not been conducted, the Court must examine whether the words complained of, read in their entirety and in context, satisfy the essential ingredients of the offence alleged. Conversely, the existence of an FIR cannot, by itself, cure the failure of the allegations to disclose those ingredients. The procedural safeguard under Section 173(3) and the substantive requirements of the alleged offence operate

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together: the former governs the appropriate exercise of the statutory process in qualifying cases, while the latter determines whether the criminal law has been validly attracted on the allegations made.

11.50. The protection of Article 19(1)(a) must thus inform both the exercise of statutory discretion by the police and the Court's scrutiny of criminal proceedings founded upon speech. The principle emerging from ***Imran Pratapgadhi*** is that the statutory option of preliminary enquiry must not be rendered ineffective by a mechanical invocation of the general rule concerning FIR registration. In qualifying speech-related cases, the enquiry should ordinarily be undertaken, with the requisite supervisory permission, so that the existence of a prima facie case can be assessed before the matter proceeds further. Any departure from this course must be examined in the light of the statutory scheme and the constitutional concerns identified by the Hon'ble Supreme Court.

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11.51. Accordingly, the safeguard under Section 173(3) BNSS must be treated as a legally significant protection, rather than a procedural formality. While its omission does not automatically invalidate every FIR, a failure to give due consideration to the safeguard in a qualifying speech-related case is amenable to judicial scrutiny and must be evaluated against the principles laid down in ***Imran Pratapgadhi***. This approach gives effect to the statutory discretion, preserves the lawful authority of the police to investigate cognizable offences, and ensures that the fundamental right to freedom of speech and expression is not subordinated to the unexamined initiation of criminal proceedings.

11.52. **LEARNED HCGP'S ARGUMENT REGARDING THE RECORDING**

11.53. Learned HCGP submitted that no preliminary enquiry was necessary since the alleged statement had been recorded and its authorship could be verified. This submission cannot be accepted merely on the ground that a recording is available.

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11.54. In the present technological era, deepfake technology, audio/video morphing, voice cloning and other forms of digital manipulation may create, alter or misattribute audio-visual material. The existence of a recording does not, by itself, establish its authenticity, integrity or correct attribution. These are matters that may require appropriate verification, depending upon the nature of the material and the circumstances of the case.

11.55. More importantly, the authenticity of a recording and the legal sufficiency of the words contained in it are distinct questions. Even if the recording is genuine and the statement is correctly attributed to the Petitioner, it does not necessarily follow that the words disclose the commission of a criminal offence. The content, context and effect of the expression must be assessed against the essential ingredients of the offence alleged. The mere availability of a recording, therefore, cannot by itself establish that a prima facie case exists.

11.56. It is in this context that the preliminary enquiry under Section 173(3) of the BNSS assumes

significance. Where the alleged cognizable offence falls within the punishment range specified in that provision, and the statutory conditions are satisfied, the option of conducting a preliminary enquiry enables the competent authority to assess whether a prima facie case exists. In a speech-related case, that assessment should not be reduced to the mechanical identification of a recording or the attribution of a voice. It must also permit due consideration of the words used, their context and whether the material, taken at its face value, discloses the essential ingredients of the alleged offence.

11.57. In ***Imran Pratapgadhi***, the Hon'ble Supreme Court observed in paragraph 37, and reiterated in paragraph 53.5, that it is "always appropriate" to exercise the option of conducting a preliminary enquiry under Section 173(3) BNSS in qualifying cases involving spoken or written words, and that the competent superior officer would "normally" grant permission for such an enquiry. These observations must be read in conjunction with the constitutional protection of freedom of

speech and expression under Article 19(1)(a) of the Constitution. They underscore the importance of a considered assessment before criminal law is set in motion on the basis of alleged speech, particularly where the meaning, attribution or legal character of the expression requires examination.

11.58. Learned HCGP's contention that a preliminary enquiry was unnecessary because the statement had been recorded thus conflates the existence of material with its verification and legal evaluation.

11.59. A recording may constitute relevant material, but its mere availability does not conclusively establish its authenticity, attribution or criminal character. Nor does the existence of a recording, by itself, displace the need to consider the statutory safeguard where the allegations fall within Section 173(3) BNSS. In qualifying speech-related cases, ***Imran Pratapgadhi*** calls for the option of a preliminary enquiry to be ordinarily exercised, subject to the statutory conditions and the circumstances of the case.

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11.60. At the same time, Section 173(3) BNSS employs the expression "may". The absence of a preliminary enquiry does not, by that fact alone, automatically invalidate every FIR falling within the provision. The relevant question is whether the statutory safeguard received due consideration in the circumstances of the case, having regard to the nature of the allegations, the material relied upon, the ingredients of the alleged offence and the constitutional protection afforded to free expression.

11.61. Accordingly, Learned HCGP's submission is rejected to the extent that it treats the mere existence of a recording as sufficient reason to dispense with consideration of a preliminary enquiry. The recording may assist in establishing the alleged statement; it does not, without more, resolve every question concerning its attribution or whether the words disclose an offence. In a qualifying speech-related case, the guidance in ***Imran Pratapgadhi*** requires the statutory option to be considered in the manner indicated by the Hon'ble Supreme Court.

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11.62. This Court answers Point No. (iii) in the negative, in the limited sense that registration of Crime No. 201/2025 without a preliminary enquiry under Section 173(3) BNSS does not, by that fact alone, automatically vitiate the FIR. Learned HCGP's reliance upon the existence of a recording does not, however, constitute a sufficient reason in itself for dispensing with consideration of the statutory safeguard. In qualifying speech-related cases, the preliminary-enquiry option should ordinarily be exercised, subject to the statutory conditions and the guidance in ***Imran Pratapgadhi***.

12. **<u>Answer to Point No (iv):</u> Whether, having regard to the protection guaranteed under Article 19(1)(a) of the Constitution of India, and the principles governing restrictions upon freedom of speech and expression, the alleged statement, considered in its entirety and in its proper context, attracts the penal provisions invoked against the Petitioner?**

12.1. Sri.Aiyappa.K.G., learned counsel for the Petitioner, submitted that freedom of speech and expression is a fundamental right guaranteed under Article 19(1)(a) of the Constitution of India. He argued that the complaint seeks to restrict the Petitioner's right

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to express her views and criticise the conduct of public authorities. According to him, the Petitioner intended to express displeasure and criticise the police, not to incite violence or promote hostility between communities.

12.2. Learned counsel relied on ***Sri Basanagouda R. Patil v. State of Karnataka*** (paragraph 10), which refers to the principles stated by the Hon'ble Supreme Court in ***Patricia Mukhim v. State of Meghalaya*** (paragraphs 8-15). He submitted that freedom of speech is essential to democratic debate and that criticism, even when strongly worded, does not become a criminal offence merely because it is offensive or unpopular.

12.3. Relying on ***Ramesh v. Union of India***, particularly paragraph 13, learned counsel submitted that the effect of speech must be assessed objectively, from the standpoint of a reasonable, strong-minded and firm person, rather than that of an unusually sensitive listener. He also relied on ***Amish Devgan v. Union of India***, particularly paragraphs 70, 73, 102 and 103, to distinguish advocacy and

discussion from incitement, which may attract criminal liability.

12.4. Learned counsel further relied on ***Imran Pratapgadhi v. State of Gujarat***, particularly paragraphs 48-49, and submitted that a constitutional court must intervene where the executive fails to protect fundamental rights. He alleged that the complaint was false and had been initiated to stifle the Petitioner's freedom of speech.

12.5. Sri Ranjith Kumar N., learned High Court Government Pleader, submitted that the State does not dispute the protection afforded to freedom of speech and expression under Article 19(1)(a). However, that right is subject to the reasonable restrictions permitted by Article 19(2), including restrictions in the interests of public order.

12.6. Learned HCGP argued that freedom of speech does not confer immunity from criminal investigation where the allegations prima facie disclose an offence under a valid penal provision. He relied on Sections 196 and 299 of the BNS, and submitted that the constitutional

protection cannot be used to prevent the application of those provisions when their essential ingredients are satisfied.

12.7. Learned HCGP also relied on the surrounding circumstances in support of their opposition to the petition. Those circumstances have been considered under Point (i), and are not repeated here.

12.8. **SCOPE OF THE CONSTITUTIONAL ISSUE**

12.9. The dispute under this Point is not about the validity of Sections 196(1)(a) and 299 BNS. The Petitioner has not challenged either provision as unconstitutional or as exceeding the restrictions permitted by Article 19(2). Learned HCGP, for their part, rely on those provisions as lawful restrictions on speech. The validity of the provisions is therefore not in issue and is not decided.

12.10. The question is whether the alleged statement, considered in its entirety and in the context disclosed by the complaint, attracts the provisions invoked against the Petitioner. That question has already been examined under

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Points (i) and (ii). The Court relies on its findings under those Points and does not repeat the detailed analysis of the statutory ingredients.

12.11. **FREEDOM OF SPEECH AND ITS CONSTITUTIONAL LIMITS**

12.12. Article 19(1)(a) guarantees freedom of speech and expression. That freedom is fundamental to democratic debate and includes the right to express opinions, question public conduct and criticise those in authority. It is not, however, an absolute right. Article 19(2) permits reasonable restrictions on specified grounds, including public order and incitement to an offence.

12.13. The principles set out in ***Patricia Mukhim***, (paragraphs 8-15) as reproduced in ***Sri Basanagouda R. Patil***, (paragraph 10) recognise both the importance of free speech and the constitutional limits on its exercise. The mere fact that a statement is offensive, intemperate or unpopular does not, by itself, justify criminal prosecution. Equally, the protection of free speech does not place speech

that satisfies the ingredients of a valid penal provision beyond the reach of law.

12.14. In ***Amish Devgan***, paragraph 102, the Hon'ble Supreme Court referred to the distinction drawn in ***Shreya Singhal v. Union of India*** [(2015) 5 SCC 1] (Paragraphs 13, 20 and 21) between advocacy, discussion and incitement. Advocacy and discussion fall within the protection of freedom of expression; incitement may be punished in accordance with law. ***Amish Devgan***, in paragraphs 70, 73, and 103, emphasises the need to assess the content of the statement, its context and its likely effect rather than to treat every offensive expression as criminal.

12.15. These principles apply to the present case. They do not create a separate test detached from the statutory provisions. They require the Court to apply those provisions consistently with the constitutional protection of speech.

12.16. Learned HCGP is correct in submitting that a person cannot avoid investigation merely by asserting that the impugned words constitute an exercise of freedom of speech. The

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constitutional protection is not an automatic immunity from the operation of criminal law. The decisive question is whether the allegations disclose the ingredients of the offences invoked.

12.17. That question has been answered under Points (i) and (ii). For the reasons recorded there, the allegations, taken at face value, do not disclose the essential ingredients of the offences punishable under Sections 196(1)(a) and 299 BNS. Those findings are sufficient to resolve the present constitutional issue. There is no need to restate the meaning of the statutory ingredients or to repeat the analysis of the words and surrounding circumstances.

12.18. Learned HCGP's reliance on Article 19(2) does not alter that conclusion. Article 19(2) permits reasonable restrictions on freedom of speech; it does not dispense with the requirements of the penal provisions relied on to restrict that freedom. Where the allegations do not disclose the ingredients of the offences invoked, the State cannot justify continuation of the prosecution merely by referring to public order

or to the possibility that the statement may have caused offence.

12.19. This Court has also considered Learned HCGP's reliance on the surrounding circumstances. As explained under Point (i), those circumstances do not cure the deficiencies in the allegations. The Court therefore finds no basis to reach a different conclusion under Article 19(1)(a).

12.20. Freedom of speech and expression is protected by Article 19(1)(a), subject to the reasonable restrictions permitted by Article 19(2). That protection does not prevent prosecution where the allegations disclose a valid offence. At the same time, the State cannot sustain a prosecution under a penal provision when the allegations do not satisfy its essential ingredients.

12.21. In the present case, the findings under Points (i) and (ii) establish that the allegations do not disclose the offences punishable under Sections 196(1)(a) and 299 BNS. Learned HCGP's reliance on Article 19(2) and the surrounding circumstances does not overcome those findings. This Court accordingly concludes that

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the alleged statement, considered in its entirety and in the context disclosed by the complaint, does not attract the penal provisions invoked against the Petitioner.

12.22. This Court answers Point No. (iv) in the negative. Having regard to the protection guaranteed under Article 19(1)(a) of the Constitution of India and the principles governing restrictions on freedom of speech and expression, the alleged statement, considered in its entirety and in its proper context, does not attract the penal provisions invoked against the Petitioner, namely, Sections 196(1)(a) and 299 of the Bharatiya Nyaya Sanhita, 2023.

13. **<u>Answer to Point No (v):</u> Whether the Petitioner has made out a case for exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS for quashing Crime No.201/2025 and all consequential proceedings pending before the Court of the II Additional JMFC, Maddur?**

13.1. Sri.Aiyappa.K.G., learned counsel for the Petitioner, submitted that the allegations in the complaint, even if accepted in full, do not disclose the essential ingredients of the

offences invoked against the Petitioner. He argued that continuation of the criminal proceedings in the absence of those ingredients would amount to an abuse of the process of law and cause unnecessary harassment. He therefore sought quashing of Crime No. 201/2025 and all consequential proceedings.

13.2. Learned counsel relied on ***State of A.P. v. Golconda Linga Swamy***, particularly paragraph 12, for the principle that where an FIR, read as it stands and without adding or subtracting anything, does not disclose an offence, the High Court may quash the proceedings.

13.3. He also relied on ***Pradeep Kumar Kesarwani v. State of Uttar Pradesh and Another***, paragraph 20, which sets out four steps for considering a request to quash criminal proceedings. Those steps concern whether the material relied on by the accused is reliable and conclusive, whether it rules out the allegations, whether it remains unrefuted by the prosecution or complainant, and whether continuation of the proceedings would amount

to an abuse of process and would not serve the ends of justice.

13.4. Learned counsel further referred to ***Imran Pratapgadhi v. State of Gujarat***, paragraphs 48-49, in support of his submission that constitutional courts must protect fundamental rights when necessary. This aspect has already been addressed under Point (iv), and need not be examined again in detail.

13.5. Sri Ranjith Kumar N., learned High Court Government Pleader, opposed the petition. He submitted that the jurisdiction to quash criminal proceedings must be exercised with caution and that the Court should not conduct a mini-trial or assess the evidence in detail at this stage.

13.6. Learned HCGP argued that where the allegations disclose the ingredients of an offence and the surrounding circumstances establish a prima facie case, the investigation should be allowed to continue. The proceedings should not be quashed merely because the accused raises a possible defence or because the statement may admit of more than one interpretation.

13.7. He further submitted that the alleged statement and its circulation, considered along with the surrounding circumstances, disclose a prima facie case requiring investigation. According to him, whether the statement constitutes an offence should be determined after investigation and, if necessary, at trial. He maintained that the proceedings were neither inherently improbable nor legally incapable of resulting in a conviction and that the petition should therefore be dismissed.

13.8. Learned HCGP also submitted that the present proceedings were at the threshold stage, that the relevant question was whether the allegations disclosed cognizable offences, and that the recording and circulation of the statement provided a basis for investigation. These submissions have been considered under the earlier Points and are addressed below only to the extent necessary to decide whether the proceedings should be quashed.

13.9. This Point concerns the exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS to prevent abuse of the process of

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law and secure the ends of justice. The question is whether the allegations in Crime No. 201/2025 justify continuation of the criminal proceedings against the Petitioner.

13.10. The conclusions already reached under the earlier Points are material to this determination. Under Point (i), the Court found that the allegations do not disclose the essential ingredients of an offence under Section 196(1)(a) of the BNS. Under Point (ii), the Court reached the same conclusion in respect of Section 299 BNS. Under Point (iii), the Court held that the absence of a preliminary enquiry does not, by itself, invalidate the registration of the FIR. However, failure to conduct such an enquiry may require stricter judicial scrutiny when the FIR is challenged. Under Point (iv), the Court considered the constitutional protection of freedom of speech and expression in light of its findings on the two offences.

13.11. The issue is not whether the Petitioner has established her innocence through a separate body of evidence. It is whether the allegations

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themselves disclose the offences for which the criminal process has been set in motion.

13.12. **APPLICABLE PRINCIPLES FOR QUASHING**

13.13. In ***State of A.P. v. Golconda Linga Swamy***, paragraph 12, the Hon'ble Supreme Court recognised that where an FIR, read as it stands and without adding or subtracting anything, does not disclose an offence, interference by the High Court to quash the proceedings is legally permissible. This principle directly applies where the defect lies in the legal sufficiency of the allegations themselves.

13.14. The same approach is reflected in the passage from ***Mahendra Singh Dhoni v. Yerraguntla Shyamsundar***, paragraph 9, reproduced in paragraph 6 of ***Sri Keerthan Kumar & Anr. v. State of Karnataka***. The passage states that proceedings may be quashed where the allegations do not satisfy the essential ingredients of the offence. It also refers to paragraph 102 of ***State of Haryana v. Bhajan Lal*** [1992 Supp (1) SCC 335] in support of that conclusion.

13.15. In paragraph 20 of ***Pradeep Kumar Kesarwani v. State of Uttar Pradesh and Another***, the Hon'ble Supreme Court identified four steps that ordinarily guide consideration of a quashing petition where the accused relies on material of her own. This Court must consider whether that material is reliable and conclusive, whether it rules out the allegations, whether the prosecution or complainant has refuted or can justifiably refute it, and whether continuation of the proceedings would amount to an abuse of process and would not serve the ends of justice.

13.16. These steps must be applied according to the nature of the challenge raised. They do not require the accused to produce independent material in every case. Where the challenge is that the FIR itself does not disclose an offence, the Court must examine the allegations on their face, applying the principle in ***Golconda Linga Swamy***, Paragraph 12.

13.17. **APPLICATION OF THE PRINCIPLES TO THIS CASE**

13.18. The Petitioner does not rely on separate material to disprove the occurrence of the statement. Her principal contention is that the words recorded in the complaint, even if accepted as true, do not satisfy the legal requirements of Sections 196(1)(a) and 299 BNS. The State also relies on the statement as recorded and its circulation. The dispute is therefore principally about the legal effect of the allegations, rather than the truth of the occurrence itself.

13.19. In these circumstances, the first three steps in ***Pradeep Kumar Kesarwani***, which concern independent material relied on by an accused to rebut the allegations, do not directly govern the present challenge. That decision is distinguished to this extent. The applicable question is whether the FIR, on its face, discloses the offences invoked.

13.20. The Court has already answered that question under Points (i) and (ii). The allegations do not disclose the essential ingredients of Section

196(1)(a) BNS or Section 299 BNS. Those findings are not based on accepting a defence raised by the Petitioner or on resolving disputed evidence in her favour. They follow from the contents of the complaint itself.

13.21. The fourth step in ***Pradeep Kumar Kesarwani*** is relevant. Where the allegations do not disclose the essential ingredients of the offences charged, continuation of the proceedings would serve no legitimate purpose and would amount to an abuse of the process of the Court. A trial cannot remedy the absence of an essential ingredient in the allegations on which the prosecution rests.

13.22. **THE RESPONDENTS' OBJECTION THAT THE COURT MUST NOT CONDUCT A MINI-TRIAL**

13.23. This Court agrees with Learned HCGP that a quashing petition is not an occasion to conduct a mini-trial, weigh disputed evidence or determine the Petitioner's guilt or innocence. This Court has not done so. It has taken the allegations in the complaint as they stand and applied the relevant legal requirements to them.

13.24. The distinction is between a case where the allegations disclose an offence but the accused disputes the evidence, and a case where the allegations, even if accepted, do not disclose an offence.

13.25. In the former, investigation and trial ordinarily must proceed. In the latter, continuation of the criminal process cannot be justified merely by saying that further evidence may be collected.

13.26. The present case falls into the latter category. The Petitioner's success does not depend on a finding that the complaint is false or that the State's version is factually incorrect. It rests on the legal insufficiency of the allegations to constitute the two offences invoked.

13.27. **WHETHER FURTHER INVESTIGATION CAN CURE THE DEFECT**

13.28. Learned HCGP submitted that the effect of the statement and its circulation require investigation. In ***Amish Devgan v. Union of India***, paragraph 103, the Hon'ble Supreme Court recognised that the prosecution must

establish, through evidence, that the applicable legal standard has been breached.

13.29. That principle does not mean that an investigation must continue where the allegations themselves omit an essential ingredient of the offence. Evidence may establish facts that have been alleged; it cannot be used to substitute a legally necessary allegation that is absent from the complaint. The question is not whether the police might collect further material, but whether the offence is disclosed on the allegations presently relied upon.

13.30. The State has not identified any additional material that changes the legal character of the statement as recorded in the complaint. Its reliance remains on the statement, its circulation and the surrounding circumstances. For the reasons already given under Points (i) and (ii), those matters do not establish the essential ingredients of either offence. Further investigation cannot, by itself, justify continuation of proceedings that fail this threshold test.

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13.31. **PUBLIC ORDER AND THE LIMITS OF THIS DECISION**

13.32. This Court recognises the seriousness of the events referred to by Learned HCGP, including the stone-pelting incident of 07.09.2025, the protest and bandh that followed, and the need to maintain public order. Those concerns, however, do not remove the requirement that a criminal prosecution satisfy the essential ingredients of the offence invoked.

13.33. This decision is confined to the Petitioner and the offences punishable under Sections 196(1)(a) and 299 BNS. It does not prevent the police or the State from investigating the stone-pelting incident or any other offence disclosed by the available material, subject to law. No finding is made here on the guilt or liability of any other person.

13.34. The governing principle is clear. Where an FIR, read as it stands, does not disclose the essential ingredients of the offences invoked, the High Court may exercise its inherent jurisdiction to prevent abuse of the process of law. ***Golconda Linga Swamy*** (Paragraph 12)

directly supports that approach. ***Pradeep Kumar Kesarwani*** (Paragraph 20) supports quashing where continuation of the proceedings would amount to an abuse of process, although its first three steps, concerning independent material relied on by the accused, do not directly apply to the present challenge.

13.35. For the reasons recorded under Points (i) and (ii), the allegations in Crime No. 201/2025 do not disclose the offences punishable under Sections 196(1)(a) and 299 BNS. This conclusion does not depend on a finding that the complaint is false, nor does it require the Court to assess disputed evidence. It follows from the legal insufficiency of the allegations themselves.

13.36. Continuation of the proceedings against the Petitioner on those allegations would therefore amount to an abuse of the process of the Court. The Petitioner has made out a case for exercise of the inherent jurisdiction of this Court under Section 528 BNSS.

13.37. This Court answers point No. (v) in the affirmative. The Petitioner has made out a case

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for exercise of the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Crime No. 201/2025 and all consequential proceedings arising from it against the Petitioner and pending before the Court of the II Additional JMFC, Maddur, are liable to be quashed.

14. **Answer to Point No (vi): What order?**

14.1. In view of the answers to the Points above, this Court passes the following:

ORDER

(i) The criminal petition is ***allowed***.

(ii) The FIR in Crime No.201/2025 registered against the Petitioner for the offences punishable under Sections 196(1)(a) and Section 299 of the Bharatiya Nyaya Sanhita, 2023, at Maddur Police Station, and all consequential proceedings arising therefrom and pending before the Court of the 2nd Addl. JMFC Court Maddur, Mandya, are hereby ***quashed*** insofar as the Petitioner is concerned.

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This Court has been assisted by Ms. Harshada R.B., Law Clerk, in reviewing this judgment.

(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 1 Sl No.: 64