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**(2020) 04 RAJ CK 0060**

**In the Rajasthan High Court**

**Case No :** Criminal Misc(Pet.) No. 4433 Of 2018, 2818 Of 2019

Anna M.M. Vetticad And Ors

APPELLANT

Vs

State, Through Pp And Ors

RESPONDENT

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**Date of Decision :** 07-04-2020

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 156(3), 482

Indian Penal Code, 1860 — Section 120B, 295A, 500, 501, 504, 505

**Citation :** (2020) 04 RAJ CK 0060

**Hon'ble Judges :** Sandeep Mehta, J

**Bench :** Single Bench

**Advocate :** Mahesh Jethmalani, Muktesh Maheshwari, Sandeep Kapur, Ravi Sharma, Nishant Bora, Farzand Ali, Mahipal Bishnoi, H.M. Saraswat

**Final Decision :** Allowed

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## Judgement

These two criminal miscellaneous petitions under Section 482 CrPC have been preferred seeking quashment of the FIR No.458/2018 registered at the Police Station Basni, Jodhpur City (West) for the offences under Sections 295-A, 500, 501, 504, 505 and 120-B IPC and all subsequent proceedings sought to be taken thereunder.

Brief facts relevant and essential for disposal of the miscellaneous petitions are noted hereinbelow :

The petitioner Mr. Jack Dorsey is the Chief Executive Officer of the social media company Twitter, whereas the petitioner Ms. Anna M.M. Vetticad is a journalist. The respondent No.2- complainant Mr. Rajkumar Sharma submitted a complaint in the court of the Metropolitan Magistrate No.4, Jodhpur Metropolitan alleging inter alia that he belongs to Brahmin community and has immense religious faith. It was claimed that Brahmin community is highly respected in the society at large as it was responsible for formulation of social rites and customs. Various Shastras were the original creation of Brahmins, who were keeping the Indian culture alive since ages. Politicians, social workers, artists, industrialists

etc. usually seek guidance and blessings from Brahmins before beginning any auspicious work. The respondent-complainant also claimed that the people from other countries also consult Brahmins in the matters pertaining to worship and for performing religious ceremonies. It was also alleged that some people were indulging in tarnishing the image of the Brahmins in the society. The petitioner Jack Dorsey, being the Chief Executive Officer of the social media company Twitter, visited India and held a meeting with six female journalists. After the meeting, a photo was twitted on a Twitter account, in which a poster bearing slogan "Smash Brahminical Patriarchy" was prominently displayed.

The complainant alleged that by posting the highly objectionable photograph on the twitter account, the accused maligned the Brahmin society at large and also acted in a manner, likely to create rift and factions in the society and induce religious hatred towards the Brahmin community as a whole. The feelings of the entire Brahmin community were badly hurt by this tweet. The complainant submitted that after coming to know of this post on Twitter, he submitted a written report at the Police Station Basni on 19.11.2018, but they refused to register the FIR, whereupon, he submitted the complaint to the Commissioner of Police, Jodhpur, but no action was taken thereupon as well. Hence, the complainant was compelled to file the complaint in the court. He prayed that the petitioners be prosecuted for the offences under Sections 295-A, 500, 501, 504, 505 and 120-B IPC.

The complaint aforesaid was forwarded to the Police Station Basni, District Jodhpur under Section 156 (3) CrPC, where, the impugned FIR No.458/2018 came to be registered against the present petitioners and few unknown persons. The petitioners herein have approached this court through these miscellaneous petitions under Sections 482 CrPC seeking quashment of the FIR.

Mr. Mahesh Jethmalani, learned Senior Advocate, assisted by Mr. Muktesh Maheshwari, Mr. Sandeep Kapur and Mr. Ravi Sharma, representing the petitioner Mr. Jack Dorsey in S.B. CrI. M.P. No.4433/2018 and Mr. Nishant Bora, Advocate, representing the petitioner Ms. Anna M.M. Vetticad in S.B. CrI. M.P. No.2818/2019, vehemently and fervently urged that a bare perusal of the impugned FIR would indicate that it does not disclose necessary ingredients of any offence what to say of a cognizable one and thus, the same deserves to be quashed. They further contended that as a matter of fact, the petitioners did not act in a manner aimed at hurting the sentiments of the Brahmin society. They contended that a social event was organized in which the petitioners were present. An unknown lady came and handed over the allegedly offending placard to the petitioner Mr. Jack Dorsey. The moment was captured in the questioned photograph and was casually posted by the petitioner Ms. Anna M.M. Vetticad on her Twitter account without having any intention to hurt the sentiments, religious or otherwise, of any section of the society. They further contended that cognizance of an offence under Section 295-A cannot be taken except with the previous sanction of the Central Government or the State Government concerned

and thus, registration of FIR against the petitioner for the said offence is not permissible as no sanction was taken before entertaining the complaint. They further urged that a bare reading of the complaint would reveal that the only grievance of the complainant is regarding uploading of the photograph, in which the placard with inscription "Smash Brahminical Patriarchy" is visible. They contended that merely by the so called publication of these words, it cannot be accepted that religious sentiments of any citizen of this country were hurt. They buttressed that the concept of "Brahminical Patriarchy" is intended "to enforce effective sexual control over women to maintain not only patrilineal succession, but also caste purity, the institution unique to Hindu society". They urged that whether or not the said theory is relevant in the present context is a matter of sociological discussion and it cannot be linked even remotely with religious sentiments and thus, merely by posting these words intended to challenge the said concept, the petitioners cannot be held responsible for committing the offences attributed to them in the impugned FIR.

Mr. Nishant Bora, learned counsel representing the petitioner Ms. Anna M.M. Vetticad, who posted the disputed photograph on her Twitter account submitted that the petitioner never intended to offend anyone and is ready to tweet an apology so as to placate the hurt sentiments, if so, of the complainant or any other person of Brahmin community.

On these grounds, learned counsel for the petitioners sought acceptance of these miscellaneous petitions and quashment of the impugned FIR.

Per contra, learned Public Prosecutor and Mr. H.M. Saraswat, learned counsel representing the complainant, vehemently and fervently opposed the submissions of the petitioners' counsel. They urged that by uploading the picture of the offending placard containing the words "Smash Brahminical Patriarchy" on the Twitter account, the accused intentionally hurt the religious sentiments of the Brahmin people at large and also defamed the entire Brahmin society. On these grounds, they sought dismissal of the miscellaneous petitions urging that the allegations set out in the impugned FIR do disclose the necessary ingredients of cognizable offences and thus, the same should not be quashed in exercise of this court's inherent powers.

I have given my thoughtful consideration to the submissions advanced at bar and have gone through the impugned FIR as well as the factual report placed on record by the Investigating Officer. As per the entire set of allegations made in the impugned FIR and the factual report, it is manifest that the petitioner Jack Dorsey, being the CEO of the social media company Twitter, was on a tour of India when the incident took place. As per the contents of the FIR, the offending picture uploaded on the Twitter platform depicts the petitioner with few ladies and a placard is displayed on which the allegedly offending words "Smash Brahminical Patriarchy" were inscribed. Upon a consideration of the entire factual matrix, I am in conformity with the assertions of the petitioners' counsel that the words referred to supra cannot be construed as having any direct link with the

religious sentiments of any section of society. The phrase which has been castigated as offending in the FIR, may be construed as laying a challenge to the sociological concepts of a particular section/gender of the Brahmin community, but by no stretch of imagination can it be perceived that these words can even remotely be considered as hurting the religious sentiments of any citizen of India nor the same can be interpreted as creating a religion based rift in any section of society. The words in the poster at best convey the feelings of the concerned person regarding being strongly opposed to the Brahminical Patriarchal system and desirous of denouncing the same. Whether or not to follow or oppose the patriarchal system in the society is a matter of personal choice and cannot be thrust down anyone's throat. In this background, I am of the firm view that from a bare perusal of the allegations set out in the impugned FIR, the ingredients of the offences alleged are prima facie not made out.

Without prejudice to the above, counsel Mr. Bora acting on instructions, assured that the petitioner Ms. Anna M.M. Vetticad, who unintentionally posted the picture on her Twitter account, would be tendering an apology on her account for placating the sentiments of the complainant or any other person, who may have been offended thereby.

In wake of the discussion made hereinabove, I am of the firm opinion that allowing investigation of the impugned FIR to be continued is absolutely uncalled for. Without any doubt in the mind of this court, the impugned FIR does not disclose necessary ingredients of any cognizable offence so as to warrant its registration and investigation in furtherance thereof.

Consequently, the miscellaneous petitions deserve to be and are hereby allowed. The impugned FIR No.458/2018 registered at the Police Station Basni, District Jodhpur and all subsequent proceedings sought to be taken thereunder are hereby quashed. The stay application is also disposed of.