
(1975) 05 AHC CK 0025

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 566 of 1974

Lalai Singh Yadav

APPELLANT

Vs

State of Uttar Pradesh

RESPONDENT

Date of Decision : 20-05-1975

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 99A, 99B, 99C

Evidence Act, 1872 — Section 57(13)

Penal Code, 1860 (IPC) — Section 153A(1)(a), 295B

Citation : (1975) 05 AHC CK 0025

Hon'ble Judges : K.B.Asthana, CJ; M.N.Shukla, J and T.S.Misra, J

Final Decision : Dismissed

Judgement

Asthana, C. J.

I had the benefit of reading the opinions prepared by my brothers, Shukla and Misra. The scholarly elaboration and elucidation by my learned brothers of many an abstruse and difficult theological and my theological customs asking for consideration is indeed highly educative and illuminating. I agree with their final conclusion that the application be datelined.

The thesis of the learned author of the two books forfeited by the State Government appears to be that the uncivilized and wild hordes of Aryan invaders who entered India through the Himalayan passes in the northwest, in order to establish their hegemony and superiority over the caviled and noble inhabitants of the IndoGenetic plain deliberately invented the theory of Inclination for idolizing those leaders of their race who had succeeded in suppressing by resort to violent and tyrannical means the gentle indigenous population. After establishing their hegemony the so called Aryan intellectuals for thousands of years by preaching their religious philosophy and by propagating their froes and legend continued the process of brainwashing of the indigenous races and tribes in order to create opportunities to exploit them. According to this learned author, the so called backward classes described as Sudras amongst the Hindus are no

other than the exploited victims whose forefathers were at one time the roasters of the land. Then to perpetuate the exploitation the Aryans evolved a system of caste dividing the Hindus into higher and privileged classes on one hand and lower and unprivileged classes on the other.

One may agree or disagree with such a thesis but it cannot be denied from a pure intellectual point of view that the development of social order amongst the Hindus in some Phases spread over millennium may lend itself to such a historical interpretation. That in our Hindu Society there are superior and inferior classes formed on the basis of mere accident of birth is a fact and a reality. Whether it is a good or a bad system of organization of the Hindu society is not the question which is relevant for the purpose of this case. The crucial question to be determined is that in justifying his thesis whether the learned author has written words and given expression to his thoughts and reasons in a manner that offends the penal provisions of sections 153A, and 195 I. P. C.

The State Government is of the opinion that the offending passages in the two prescribed books are such which injure and hurt the religious feelings of the class of Hindus known as "Vaishnava Sampradaya" and tend to create a feeling of hatred, illwill and animosity between them and the Hindus of the scheduled castes. My brother Shukla has fully elucidated and described what "Vaishnava Sampradaya" is and so has brother Misra in his opinion. I do not claim to be as learned as my brothers on this abstruse topic and content myself by deriving enlightenment from their wisdom. I have no doubt that "Vaishnavas" amongst Hindus are a well defined and distinct class who believe in Vishnu as the Supreme Divine Being in the Trinity of the Hindu Pantheon and Ram and Krishna as His incarnation amongst many other incarnations. Rama and Krishna are regarded by "Vaishnavas" in the highest esteem and reverence. In fact, all Hindus including the Sudras believe in Ram and Krishna as being the Supreme incarnations. Whether Rama and Krishna were persons who actually lived in flesh and blood at any time as mortals or are mythical or imaginary persons is not germane to the issue before us it is the belief that matters. Indeed, the whole atmosphere is permeated by that belief. No Hindu can ever escape this faith and belief, it being the very essence of his soul. The wind that blows in the Genetic plain seems to chant the names of Ram and Krishna. The Hindus breathe and live by it. It has become an accepted fact of their life. To "Vaishnavas" Ram and Krishna are God, the Supreme Being. Such is their faith. Naturally, any person or thing associated with Ram and Krishna equally receives veneration and idolization by the Vaishnava. Every Hindu in some way or the other, even outside the pale of "Vaishnava" cult, venerates Ram and Krishna including Sita, the consort of Ram and the Milkmaid Radha, the celestial companion of Krishna. Sita and Radha are also objects of veneration and idolization. Many a poem, song, folk lore and other forms of literature spoken or written over thousands of years are replete with their glory. Any thing written or spoken disparagingly and insultingly about all of them collectively or individually would certainly tend to hurt the "Bhaktas," which, indeed, Vaishnavas are.

I have read and reread the passages in the two books which in the opinion of the State Government are offense. I unhesitatingly agree with my brothers that the perversity of these passages is obvious. I cannot help observing while admiring the great research and knowledge displayed by the learned author that his audacity in jumping to certain pernicious and mischievous conclusions do betray a tendency that the learned author's intention is to arouse feelings of animosity and hatred between the Hindus of Vaishnava faith and the lower caste Hindus. If the offending passages are expunged from the two books, the thesis of the learned author would still remain comprehensive, complete and logical. The clearly demonstrates that the learned author introduced the offending passage in his thesis for ulterior motives with the sole object of arousing hostile feelings in the hearts and minds of the scheduled and backward classes amongst the Hindus towards the Hindus of "Vaishnava Sampradara". The opinion formed by the State Government justified. The offending passages in the two books are squarely caught within the mischief of sections 153A and 295A, I. P. C.

The subsidiary question that the impugned order of the State Government did not conform to the mandatory provision of law has been very able answered by my brothers, I endorse their opinion in this regard,

I dismiss the application.

JUDGMENT

Shukla, J

This Special Bench has been constituted under section 99 C of the Code of Criminal procedure (hereinafter referred to as the Code) to hear and determine the application filed by the applicant Lalai Singh Yadav under section 99 B of the Code asking for the quashing of the State Government's order containd in the not affixation No. 2371P/VIII6116273, dated 13111973 forfeiting two books entitled "Sachchi Ramayan Ki Chabhi" and "Aryon Ka Naitik Pol Prakash" written and published by the applicant The material part of the said notification read as follows:

"Whereas it appears to the State Government that the Hindi books mentioned in the Schedule containing matter detailed in the Appendix to this notification which promote and attempt to promote on grounds of caste and community, disharmony and feelings of enmity, hatred, illwill between different classes of citizens of India, namely, Hindus of Vasisfenav Sampiadaya and those of backward and scheduled caste and to outrage the religious feelings of a class of citizens of India namely Hindus of Vashnav Sampradaya by insulting their religion and religion beliefs and the pulsation whereof is punishable under sections 153 A (1) (a) and 295A of the Indian Penal Code,1860 (Act no. 45 of 1860)." " now,therefore, in exercise of the powers under subsection (1) of section 99A of the Code of Criminal procedure,1898 (Act no. 5 of 1898) and on the respective grounds of its said opinion mentioned against each book in the said schedule, the Governor is pleased to declare every copy of the said books and of any other

documents containing copies, reprints and translation of, or extracts from the said books, to be forfeited to Government."

Section 99 A of the Code under which the order in question has been passed, so far as is relevant, is in these terms.:

"Where any newspaper, or bookor any documentappears to the State Government to contain any seditious matter or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of the citizens of India, or which is deliberately and maliciously intended to outrage the religion feelings of any such class by imputing the religion or the religious belief of that class, that is to say, any matter the publication of which is punishable under section 124A or section 153A or section 295A of the Indian Penal Code, the State Government may, by not Station in the Official Gazette stating the grounds of its opinion, declare "every copy of such book to be forfeited to Government."

The question which arises for consideration is whether the impugned order fulfils the requirements of section 99 A of the Code. As pointed out by the Supreme Court in *Harnam Das v. State of Uttar Pradesh* (A I. R. 1961 S. G. 1662.) the two essential conditions postulated by the section are that, in the first place, an order can be made under this section only when the Government forms a certain opinion. That opinion must be to the effect that the document with respect to which the order is proposed to be made contains matter the publication of which is punishable under section 124A or section 153 A or section 295A of the Penal Code. Section 124A of the Penal Code deals with sedition with which we are not concerned in the present case. Section 153A deals with matters promoting enmity between different classes of Indian Citizens and section 295A with matters insulting the religion or religious beliefs of any class of such citizens. These are the two sections which would be relevant for the purposes of the case in hand. The second requirement of section 99 A of the Code is that it is comparative that the Government must state the grounds of its opinion. The order made in the instant case clearly stated that in the Government's opinion the books contained matter (detailed in the Appendix to the notification) which was punishable under sections 153 A (i) (a) and 295A of the Indian Penal Code, 1860. Thus, the first requirement of section 99 A of the Code was fully satisfied.

In *Harnam Das's* case (*supra*), however, the Supreme Court set aside the order of the Government on the ground that it did not fulfill the second condition, It was found that the Government's order did not state as it should have, the ground of its opinion, In the absence of such grounds it could not be known whose feelings were alienated from each other or whose religious belief had been wounded according to the Government, nor why the Government thought that such alienation or offence to religion had been caused. In the present case the Government's order does not suffer from any such infirmity. The opening part of the order which we have quoted above is followed by a schedule which refers to

each book and contains the grounds of the opinion. There is also appended to it an appendix which contains a detail of the various items in those books respectively covered by the Schedule which constitute the offending material. It is necessary to extinct the Schedule which runs as under:

SCHEDULE

(1) Book "Sachchi Ramayan ki Chavi" written and published by Sri Lalai Singh Yadav, Ashok Pustakalaya, Jhinhak, district Kanpur, printed at Sasta Press, Jhinhak, district Kanpur.

Grounds of opinion. The book ridicules the Valmiki Ramayana which is held sacred by a large section of Hindus and specially those of the Vaishnava Sampradaya and insults Sri Ram and Sita and same other meanings of the word "ground or multiply decisions in interpreting that term, as its connotation is well understood in popular parlance. The essence of the matter was summed up by Chakravarty, J. in Arun Ranjan Coosh v. The State of West Bengal (59 Calcutta Weekly Notes 495) when he observed:

"Those grounds must necessarily be the import of or the effect or the tendency of matters contained in the offending publication, either as a whole or any portions of it, as illustrated by passages which Government may choose."

In the instant case the Schedule and the Appendix make abundantly clear that the Government had not merely supplied with adequate elaboration the details of the offending subjectmatter and the precise reaction or sentiment which it was likely to occasion but also given the specific items occurring in the two books which tended to provoke such feelings or reaction. Thus, there remains no manner of doubt that the Government had given the grounds on which the action under section 99A of the Code was taken.

Relying upon the language of section 99 A of the Code and section 295A of the Penal Code it was argued at the bar that the Hindus were not a "class" and therefore the action did not come within the mischief of those provisions. It is true that one of the essential requirements of section 99A of the Code and also of sections 295A and section 153 A of the Penal Code is that the offence must have been directed against or caused to a "class" of citizens in India. It was contended that since the term "Hindu" did not denote any defined class, the notification was vague. Therefore, it becomes necessary to ascertain who is a Hindu and what are his essential beliefs. It is a favorite dictum that Hinduism is not a religion but a whole way of life whose precepts cover a vast range of human activity outside the rope of most modern religions. This remark is, however, intended to highlight the pervasive influence of Hinduism over the complex of religious beliefs, customs and practices which have grown up in India and not to deny the distinctive entity of Hindus. It is too late in the day now to advance the argument that Hindus are not a class. The word "Hindu" is a medieval Persian term deriving from the Sanikrit "saindhava" meaning a dweller on the Sindhu or Indus river, usage preserves this geographic reference and

extends the words to mean all natives of the Indian subcontinent, regardless of religion. In the (3) Encyclopedia Britannica it is stated:

"In its traditional form the chief distinguishing features of Hinduism are the doctrine of the transmigration of souls, with its corollary that all living beings are the same in essence; a complex polytheism, subsumed in fundamental monotheism by the doctrine that all gods or divinities are subsidiary aspects of one God; a deeprooted tendency to mysticism and monistic philosophy; a ratified system of local customs, generally called castes, which is given religious sanction; and a propensity to assimilate rather than to exclude."

Dr. S. Radhakrishnan has traced the genesis of the term "Hindu" in these words: (4)

"The Hindu civilization is so called, since its original founders or earliest followers occupied the territory drained by the Sindhu (the Indus) river system corresponding to the Northwest Frontier province and the Punjab. The people on the Indian side of the Sindhu were called Hindu by the Persian and the later western invaders. From the characters of the Ramayana who are worshipped and held in high esteem by a large section of the Hindus, specially those of the Vaishnava Sampradaya).

(2) Book "Aryon ki Naitik Polprakash" written and published by Sri Lalai Singh Yadava, Ashok Pustakalaya, Jhijnhak, district Kanpur and printed by Sri Hubba Lal Azad Adarsh Printing Press, Jhijnhak (Kanpur).

Grounds of OpinionThe book contains insulting remarks against Sri Ram and Krishna who are worshipped and held in high esteem by a large section of Hindus, specially those of Vaishnava Sampradaya. In addition to this, many great men "of Aryan race have been characterized perversely, specially the Brahmins have been maligned."

The essential question to be decided, therefore, is as to whether the recitals in the Schedule are well founded and whether the publication thereof is punishable under section 153A (1) (a) and 295A of the Penal Code so as to justify the order of forfeiture in respect of the two books with which we are dealing. In order to appreciate this controversy the above mentioned provisions of the Indian Penal Code need also be perused. The relevant portions of those sections run as follows:

"153A (1) whoever by words, either spoken or written, or by signs or by visible representations 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 illwill between different religious, racial, language or regional groups or castes or communities... shall be punished with imprisonment which may extend to five years and shall also be liable to fine." "295A 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 visible representations or other wise, 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."

It was contended on behalf of the applicant that the Schedule contained only the opinion of the State Government and not the grounds of the opinion. This contention is wholly untenable. Whereas the earlier part of the notification merely stated the opinion, namely, that the publication was punishable under the aforesaid provisions of the Indian Penal Code, the Schedule brought out with sufficient precision the details with regard to the communities and sections of citizens whose susceptibilities were likely to be hurt and between whom feelings of enmity, hatred and illwill were likely to be caused. Thus, it was stated about the first book mentioned in the Schedule that it indicated the Valmiki Ramayana and cast aspersions on the principal characters enshrined therein who were adored by large sections of Hindus. Likewise about the second book mentioned in the Schedule it was categorically stated that it contained remarks derogatory of Sri Ram and Sri Krishna who were worshipped by a predominantly large majority of Hindus, specially those of the Vaisnav Sampradaya. A specific reference was made to another feature of the books, namely, that it characterized perversely many illustrious men of the Aryan race and particularly singled out of the Brahmans as the target of its belligerent attack. The underlying object of making a statement of the grounds in the order mandatory under section 99 A is to enable the Court to test the opinion of the State Government on that material. It is not necessary to refer to either the various dictionary Punjab, the civilization flowed over into the Genetic valley where it met with nonferrous cults of primitive tribes. In its onward march through the Daccan, the Aryan culture g of into touch with the Dravidian and ultimately dominated it, though undergoing some notification from its influence. As the civilization extended over the whole of India. It suffered many changes, but it kept up its continuity with the old video type developed on the banks of Sindhu. The term "Hindu" had originally a territorial and not a creedal significance. It implied residence in a welldefined geographical area. Aboriginal tribes, savage and halfcivilized people, the cultured Dravidians and the Vedic Aryans were all Hindus as they were the sons of the same mother. The Hindu thinkers reckoned with the striking fact that men and women dwelling in India belonged to different communities, worshipped different gods, and practiced different rites."

Further, he observes that (5) "Hinduism has come to be a tapestry of the most variegated tissues and almost endless diversity of hues." and concludes "Hinduism is therefore not a definite dogmatic creed, but a vast, complex, but subtly unified means of spiritual thought andrealization. It a tradition of the god ward endeavor of the human spirit has been continuously enlarging through the ages."

The same distinctive feature of Hinduism is underlined by Swami Nikhilanands

who declares that in a sense Hinduism is a complex religion but Hinduism has blended these differences into one of comprehensive religious philosophical system the keynote of which is unity in diversity. He observes (6) ;

"According to the Vedas, ultimate reality is all pervading, uncreated, selfluminous, eternal spirit, the final cause of the universe, the power behind all tangible forces, the consciousness which animates all conscious beings. This is the central philosophy of the Hindu, and his religion consists of meditation on this spirit and prayer for the guidance of his intellect along the path of virtue and righteousness.

From the philosophical standpoint, Hinduism is nondualistic, and from the religious standpoint, monotheistic. The Hindu philosophy asserts the essential nonduality of God, soul and universe, the apparent distinctions being created by names and forms which. From the standpoint of ultimate reality do not exist. Though the Hindu religion admits of many popular divinities, it regards them as diverse manifestations of the one God. Through them he fulfils the desires of His devotees. The Hindu trinity of Brahmans, Vishnu and Siva represents the three aspects of the Godhead which control the processes of creation, preservation and destruction respectively. Any one of them is incomplete and illusory without the other two. Through unceasing creation and destruction God preserves the universe. Hindu monotheism does not repudiate the various deities of the different faiths, but includes them as the manifestations of the one."

The author sums up the four cardinal principles of Hinduism as follows: the nonduality of the Godhead, the divinity of the soul, the unity of existence and the harmony of religions.

In (A.I.R. 1968 S.C. 1119) *Yagnapurush das Ji v. Nuldas* the question which was posed before the Supreme Court was directly this:

"Who are Hindus and what are the broad features of Hindu religion, that must be the first part of an inquiry in dealing with the pre-empt controversy between the parties. Historical and etymological genesis of the word "Hindu" has given rise to controversy amongst ideologists but the view generally accepted by scholars appears to be that the word "Hindu" is derived from the river Sindhu otherwise known as Indus which flows from the Punjab. "That part of the great Aryan race" says Monier Williams, "which itinerated from Central Asia through the mountain passes into India, settled first in the "districts" near the river Sindhu (now called the Indus). The Persians pronounced this word Hindu and named their Aryan brethren Hindus. The Greeks, who probably gained their first ideas of India from the Persians, dropped the hard aspirate, and called the Hindus "Indio"."

The Supreme Court proceeded to analyse the basic concept of Hinduism and ruled in the above decision that the Hindus were a distinct class with their definite religions and philosophy.

Therefore, the notification was not vague. It did specify the class whose religious

feelings were intended to be outraged by the offending matter contained in the two books.

Yet another ground of attack on the notification was that section 99A of the Penal Code and section 295A of the Penal Code contemplated the existence of two different "classes" of citizens between whom objectionable material could be said to promote feelings of enmity, hatred etc. and since the notification mentioned only Hindus of the Vaishnava Sampradaya on the one hand and those of backward and Scheduled caste on the other, who were not opposed to each other, the notification was bad. The argument is spacious. In the first place, the whole includes the part and there can be different similar groups within one larger class and for the purposes of applying section 99A of the Code or sections 153 A and section 295A of the Penal Code it is not necessary that there must be two hostile camps or two classes entirely alien to each other. There can be subsidiary classes within one central class. The above observations do not contemplate a division of classes necessarily on religious grounds. Any definite and ascertainable class of citizens of India comes within the purview of those sections although classes may not be divided on racial or religious grounds. The reform, Hindus of the Vaishnava Sampradaya and those of backward and Scheduled caste are both "classes" of citizens of India. They are covered by section 99A of the Code and the opinion of the Government was clearly expressed that the two books written by the applicant promoted feelings of enmity or hatred between those two different "classes" of citizens of India.

Secondly, it is a historical fact that the high caste Hindus and the backward and Scheduled caste Hindus constitute two altogether different "classes" in course of time Hindu society came to be divided into "Deviates" or high caste Hindus and the "Non deviates" or Sudras i.e. the backward and Scheduled caste Hindus. Nulla observes(8):

"The Hindus are divided into four castes namely:

- (1) the Brahmans, or priestly caste ;
- (2) the Kshatriyas, or warrior caste ;
- (3) the Vaisyas, or agricultural caste ; and
- (4) the Sudras.

The members of the first three caste are called twiceborn or regenerate. The second birth or generation consists in the study of the Vedas or sacred literature and in the performance of samskaras or sacraments. All these are denied to Sudras except the samskara of marriage."

The whole society was divided by Manu, the first lawgiver into two parts, namely, "Dvijas" and "Sudras" by the test of ability of reciting and learning of Vedas. It was observed (9):

"Up to the age of eight a Sudra as well as a Dvija are equal. (Munusarti 11172)

Ali are Sudras. After the initiation ceremony the Dvijatis learn the allotted vocations and are thus quite different persons when they come of age. By the initiation ceremony they are reborn again and are, therefore, known as Dvijatis."

Enumerating the disabilities of Sudras, Sri P. V. Kane remarks (10):

" He was not allowed to study the Veda.....the sudra is known to be unfit for the samskara of Upanayana) The study" of the Veda follows after Upanayana and the Veda speaks of the Upanayana of only three classes "one should perform Upanayana for a Brahmana in spring, for a Rajanya in summer and in sarad (autumn) for a Vaisha "

The hiatus between Dvijatis and nonDvijatis seems still more pronounced when we compare the backward and Scheduled classes with the Vaishnav Sampradaya of the Hindus. It is a fact that Vaishnavism is a distinct cult and the Vaishnavas form a "class" by themselves. Vishnuism with Shivaism and Shaktism is one of the main forms of modern Hinduism. God Vishnu appears as early as the time of the RigVeda (dating perhaps from c. 1200 to c. 900 B. G.), a few hymns of which celebrate him. By the Epic period (i. e. c. 600 R. G. c. A. D. 200) he had assumed that aspect of the godhead which he holds today: that of preserver and pr of e of or of the world. Vishnuism is specially associated with "Bhakti (devotion to God), image worship, theistic philosophy and the idea of incarnation. The Vaishnava profoundly believe in the theory of Avatars. Lord's descent upon earth when unrighteousness grows and right is on the wane: when the forces undivine seem to be stronger than the divine, the Lord incarnates Himself on earth to save righteousness. Vishnu Purana insists on the supremacy of the worship of Vishnu. Vaishnavism subscribes to the belief that Krishna and Rama were Avatars of Vishnu. The Bhagavata Purana is a chronicle of the various Avatars of Lord Vishnu the Encyclopedia Britannica contains the following notice(11)

"Vishnuism speaks of five forms of God, which include, in addition to (1) the avatars: (2) God in his transcendent (para) form, possessing six attributes ; knowledge. lordship, ability, strength, virility, and splendor ; (3) the manifestations (Vishnu) of God Vasudeva (Krishna), Samakarshana (Krishna's elder brother), Pradhumna (Krishna's son) and Aniruddha (Krishna's grandson), each of whom has certain cosmic functions ; (4) the immanent (antaryamin) form of God as the inner ruler, the form favoured by contemplatives ; and (5) the idol (area), the most concrete form of God which is worshipped in temples. "The ultimate goal of the devotee is to escape from the cycle of birth and death so as to enjoy the presence of Vishnu. This cannot be achieved without the grace of God. Vishnu is not only the end (upaya) but also the means (upaya). The auxiliary disciplines needed are karma, the path of good works janana, the way of spiritual knowledge ; and bhahli, unwavering devotion to God. When the devotee becomes mature and surrenders himself completely (prapatti) to the Lord, he it saved. "The most important philosophical school of Vaishnavsim are (1) Yishiibladraila ("qualified monism"), associated with the name of Ramanuja

which teaches that matter and should are part of the while, which the Absolute. (2) Davita ("dualitm") the principal exponent of which was Madhva, who taught that should have initiative separateness from Gad, the only Independent reality. (3) Dvaitadvalta ("dualism monism") taught by Nlmbarka (U the century), according to which the world of should and matter in both different and not different from God. (4) Shuddba dvaita ("pore monism") of Vallabha which explains the world without the doctrine of maya.. (5) AtMnya Bhedabheda ("inconceivable duality and nonduality") of chaltanya In which the relation between the world of souls and matter on the one band and God on the other in not to be grasped by thought, but as in Nimbarka's system, is both different and nondifferent."

It may be noticed that Valshnavism by and large maintains the scheme of castes or "Yarnaj" envisaged by Manu. Vishnu Puran declares (12):

"I know Him to be the devotee of Vishnu who never deviates from the duties of him caste."

Ramanuja, a great Acharya of Yash naviam, was anxious to maintain all the ancient restrictions of the higher caste, though he opened the portals of the city of God to the lowest caste by evolving the doctrine of Prapatti. Ramanuja's a lyitem of theism in which Bhakti holds a higher place than Jnana. But easier than the path of Karma, Jnana and Bhakti, whom is open only to the first three castes, is the path of the Prapatti or absolute surrender to God which open to all and is also the quickest path. Sri Ramanuja's writings reflect the traditional Hindu point that the Sudrai represent the 4th and different "elan" from the three classes of the high caste Hindus inasmuch as the latter are entitled to Upanayan Sanskar (sacred thread ceremony) whereas the former had denied his right. In his celebrated work "Sri Bhasya" Ramanuja writes:

Rendered into English it would mean(13):

"Wherever scriptures refer to upanayan Sanskar and are such expressions "I admit you to the sacred thread, I have invested you with the sacred thread" etc. they also add that the Sudra is not entitled to Upanayan, that be is not fit for any Sanskara nor does he incur sin by not observing such Sanskara. The fourth Verna is the only class which needs no Sanskara."

Thus, the Vishnu vitas or the religious group of Hindus of the Vauhnav Sampradaya and those of the backward and Scheduled caste constitute two different "classes" for the purposes of applying section 99A of the Code. From the above analysis of the classification of Hindu Society into the three castes and the fourth lower caste, i.e. the caste Hindus and the Scheduled caste Hindus this Bench should not,however, be understood as endorsing such class distinction. We have noticed it purely as a historical fact in the evolution and growth of the Hindu community. The modern standards are radically different.

Coming now to the merits of the case we may turn to a consideration of the

individual passages in the forfeited books which are calculated to promote disharmony, hatred and all will between high and low caste of Hindus and also which insult the religious feelings of the Hindus of Vaishnu v Sampradaya. The appendix of the Schedule to the not inflation gives a list of the objectionable items contained in the books in question. It may be noted that the first book, namely, " Sachchi Ramayan ki Chabhi" recklessly denigrates the Ramayana. We have already went that the two great figures among the Avatars of Vishnu are Rama, calibrated in the Ramayana and Krishna, the hero of the Mahabharat. In the Ramayana its hero Rama, the model of virtue, the pattern of perfection is made the incarnation of Vishnu who took form on earth for the repression of wrong and the inculcation of virtue. Everyone is aware of the vat importance of the two epics, namely the Ramayana and the Mahabharata In India. P. V. Kane aptly describes them as "the two great heirlooms of Indian antiquity" he say (14)

"The Ramayana is preeminently a Kavya yet an account of its noble ideals it is relied upon as a source of "Dharma" in the Niband has."

Thus, it has become almost a Dharmasastra, a moral and religious treatise and an invaluable guide to happy living. Unlike other erudite works, which are great authorities for the learned alone, the Ramayana is wrought into the very life of every Indian man, woman and child. To quote from an eloquent passage of Mrs. Annie Besant (15):

""Can a Hindu wife have fairer and sweeter exemplar than the gracious Sita ? Can a Hindu prince hope himself on more regal lines than those of Ram Chandra ? Can a Hindu brother find a nobler type of fraternal devotion than Lakshmana ? Why, the very name carry a thrill through every Hindu heart. All the melody of their lives sounds sweetly out when the keen of the names is struck."

It is difficult to exaggerate the phenomenal sway which the Ramayana has exercised over the Hindu mind. The Ramayana is neither old or new. It is eternal ; it is past history but perennial experience. Times may change, millenniums may pass but its flavour abides. The following is the opinion of a contemporary writer (16):

It has enriched our racial memories with ambrosial myth and archetypal figures and It has been for us more real than history, and more persuasive than philosophy or ethics"

The immortality of the Ramayana is presumed by Brahma (17) ;

"As long as the hills endure and rivers flow, till that date Ramayana will continue to flourish." Or, as sung by Goswami Tulsidas in the Ramcharitmanas (18):

"It contains the gracious name of the Lord of Raghus, which is exceedingly holy and the very ore of the Puranas and the Vedas. It is the abode of blessings and the remover of evils, and is uttered by Lord Siva, the enemy of the demon Tripura, along with his consort Urna."

Even so restrained and debate as Rt. Hon"ble V. K. Srinivasan Sastri burst into eulogy when he talked of the Ramayana. He described it as:

"One immortal product of the human mind, "almost without a rival in the world"s literature" "whether we judge by the grandeur of the theme, by the variety of characters portrayed, by the tone of its idealism, or by the appeal that it makes to the devout heart. it ranks among the noblest monument of the poetic genius."

The Hindus in general and the Vaishnevites in particular treat Ramayana with the greatest sanctity and it is their indomitable faith that whenever it is chanted, love and pity still find birth ;

" he who reads this sacred narrative of Sri Rama, which is capable of purifying the mind and wiping out sins and is treated on a par with the Yedas, is completely absolved of all sins." (19)

The whole tenor of the applicant's book is to decry and ridicule the Ramayana as the repository of unbecoming and unedifying stuff. It is bound to outrage the religious feelings of the casteHindus.

To take only a few illustrations, the item at page 23 of the applicant's first book attacks and vilifies the character of Rama. It reads:

"Rama was always steeped in undue licentiousness."

Such a statement must sound heretical and revolting to a Vaishnav Hindu. Who can deny a Vaishnavite's abysmal faith in the infinite greatness and supreme glory of this great Avatar Rama. To him Sri Rama is he never deviates from the straight and narrow path of Dharma. He has dedicated Himself to the steadfast and unflinching practice of Dharma as borne out by his famous declaration to Kaikeyi (20):

"I do not desire to live in the world as a slave to material gains. Know me to be devoted to immaculate righteousness like the Rishis,"

Rightly says P. Nagaraja Rao (21):

"Reverent admiration for Sri Rama's character is a part of the fundamental faith of every devout Hindu, be he a Saivite or a Vaishnava. Whether we look upon Rama as an avatara of Vishnu or as a human being who succeeded in being a perfect exemplar of all the human virtues, we shall be compelled to confess ourselves unwearied admirers of Sri Rama a transcendental excellence."

The second book has a pretentious and provocative title which suggests that it is an indictment of the Aryan race and its illustrious personalities. It claims to expose their moral bankruptcy. To begin with, the item at page 36 of his second book referred to in the Appendix to the Schedule reads.

"A description of the incident of "Robbing the robes (Chir Naran) and of sport (Ras Leela) by Krishna and his brother Balram for two months continuously is unbecoming, unabashed, complete and naked debauchery."

It is manifest that such denunciation is bound to be anathema to the Vaishnavita Hindus. Down the centuries the Hindu spiritual experience has esteemed Krishna as the supreme incarnation of God as Great Lord Vishnu. The Vaishnavas adore him as the eternal God who lives over as the Inmost Soul of all Souls, in everything, in every specks or particle of this vast universe. Gita describes Him as the divine being, the supreme being, who contains this world within himself and pervades everything:

His place in history is not limited to space or time. He is still a vital force, a focus of spiritual aspiration in an age of skepticism. Duncan Greenless chose the sentiments of millions of Vaishnavas when speaking of Krishna he writes (22):

" he is eternal, and lives as truly today in the heart of His devotees as he ever did at Gokul or in the moonlit groves on the banks of Yamuna"

"With the Copies whose all he was, His play goes on eternally ; Brindavan is the garden of every human heart ; in the deepest recesses of its holy secrecy is His Arbour of Love, where he teaches the delights of Love to all who give their hearts to him."

The item at page 37 of the book is to the effect that the story which occurs in the "Mahabharata" about Drupadi's Sari being enlarged by Krishna is a myth, the fact being that on account of menses she had covered her private parts with cushion of cotton and tied her Sari firmly, still when Dushashan dragged her forcibly, she became half nude. The entire description of the incident given by the author not only exceeds the bounds of propriety but betrays undiluted depravity of taste.

The item at page 40 of the book attempts to demolish two great figures venerated by the Vaishnavite Hindus namely. Lord Krishna and Mahatma Gandhi. It says in substance:

"Krishna by washing the feet of the guests in the heroes Sacrifice (Rajauya Yagya) organized by Yudhushtira act on example before the Shudras of rendering a service without remuneration."

Likewise Mahatma Gandhi on the one hand advised the myriad Shudras to ply the spinning wheel whereas clandestinely he advised the capitalists of his Vanish community to establish textile mills propelled by heavy machines."

"..... the selfish Gandhi went on fast unto death in order to deprive the Scheduled caste of their right of double representation but why did that hypocrite and Bagla Bhagat Gandbi did not observe test unto death in order to eradicate unsociability ?"

It is common knowledge that Mahatma Gandhi dedicated his entire life to the eradication of unsociability and defined the Scheduled caste people as Harijans. To brand him, the before, as a secret ally of the bourgeoisie and an adversary of the Scheduled caste is not only a sticking lie but shocking to the sentiments of

the Highcaste Hindus who adore him as one of the greatest Aryans ever born. Few in the or lifetime aroused stronger emotions or touched deeper chords into humanity than Gandhi did. ""Generations to come, it may be," wrote Einstein of Gandhi in 1944, "will scarcely believe that such one as this ever in flesh and blood walked upon this earth. "To the Indiana he symbolized the embodied voice of sixty years of their struggle for freedom but on the larger canvas of the world he was, to quote the inimitable eulogy of Dr. Radha Krishnan, "the central figure of our age who has disclosed to an unheeding world the beauty of truth and the power of love. He belongs to the type that of redeeming the human race." Even such a critical and by no means sympathetic estimate of him as the one made by a Government thinker Sri Hiran Mukerji states that he was "a maker of man of events stupendous individual",. "the man to whose name India has resounded more than to any other in a thousand year," "who roused our people however from the torpor of ages and gave them a new spirit", for "in the dynamic phases of his many splendoured "life Gandhi helped more than any one man to awaken his people to fearlessness."

An other item at page 45 of the book begins with the caption "Vybhichari Arya" (corrupt Aryans). It deals with the three kinds (trinity) of Hindu gods, namely Brahm. Vishnu, and Mahesh and relates incidents purporting to demonstrate that they were all corrupt. Thus, for instance, about Brahma it is stated that he cohabited with his daughter Sarafwati, which was the height of depravity of Character. This will be considered in greater detail hereafter. For the moment it need only be pointed out that many events which find place in Hindu scriptures are meant to be symbolical or allegorical in character, hinting at some profound or fundamental truth, but the unwary and inexperienced reader misses their symbolical significance. That is precisely what seems to have happened with the author's interpretation of Brahma's ostensible incest.

Both the books written by the applicant contain flagrantly objectionable material. The author's opinions are expressed throughout in most intemperate language, betraying fanatical lervour. As we have already shown, some of it appears to be born of prejudice and some is the result of lack of understanding. Anger or bitterness sometimes sprigs from inadequate comprehension of a subject or the me. Superficial knowledge breeds an attitude that can best be described as intolerant, It encourages a tendency to turn a blind type to themerlts and virtues of the greatest men, to belittle the herpes and decry the genius. It destroys the perspective and renders ineffective the faculty to perceive the hidden significance of things, the symbolic and mystical nuances concealed in outward forms. the cumulative effect of the unbalanced and vituperative writing evidenced by these two books is unmistakably to outrage the religion feelings of the Hindus of Valshnav Sampradaya by insulting their religion and religious beliefs and also to promote disharmony and feelings of enmity, hatred or illwill between them on the one band and those of the backward and Scheduled caste. It is a systematic tirade against the Aryans in general and the Hindus of the Vaishnav Satnpradaya in particular and virtually a challenge to the Scheduled caste to rise in revolt

against the so-called highcaste Hindus. Such writings have incalculable potential for mass disruption.

Perhaps the often of ed episode of Brahma seducing his daughter which the applicant has highlighted at page 45 of his second book is derived from the following verse of Srimad Bhagavata on which owing to want of proficiency in Sanskrit only a literal construction has been placed and its deeper meaning has been missed by a host of commentators, The applicant has manifestly fallen into the same error and confined himself to Its literal meaning, failing to appreciate its correct interpretation. The scientific and spiritual meaning of the verse was revealed by such profound scholars of Sanskrit as Kumaril Bhatt and Swami Dayanand Saraswat. The relevant verses are reproduced below:

"Yidura, we are told that, eager to push on the work of creation, Brahma (the selfborn) fell in love with his own daughter, Vak, who was most handsome and captivating, but she had no carnal desire in her. Finding that their father had set his heart on unrighteousness, his sons Marichi and the other sages, remonstrated with him out of filial affection "

Brahma (the Lord of Prajapatia felt much ashamed to see his own sons, the Lord of created beings, thus pleading with him before his very eyes and immediately cast off his body, which continued in the form of fog, ako known by the name of darkness (23) B. Its scientific meaning:

(a) The phraseology used in these verses deserves careful study. In Sanskrit that word "Prajapatia" has a special meaning. It connotes both "Brahma" and the " sun ". The Sanskrit word "Marichi means sunrise but it has also been used as a pronoun, being the name of sons of Brahma (Prajata). The word "Tanvi" means having a subtle or delicate body. This again is used in a double sense denoting twilight as also the daughter of Brahma.

(b) Kumaril Bhatta"s interpretation: The poet Vyas has employed a metaphor to state a scientific phenomenon, namely, the accumulation of fog. In cold winter mornings, the twonight precedes the sunrise, hence the former is said to chase the latter and since the twilight is caused or created by the sun,it is described as the daughter of the sun.The sun projects it crimson rays into twilight which is likened to the union of male and female.

(c) When Brahma in the shape of the sun pursued his daughter i.e. the twilight, he was admonished by his sons i,e. the rays of the SUR. Then Brahma or the sun shed his Taporous body and the same was collected by the four directions i.e. it permeated all sides in the shape of Nihar or fog.

(d) That the verses are not intended to have literal but a metaphorical meaning is conclusively proved by the use of the word "Nihar" in the last line of verse 33 quoted above, which would other wise be unintelligible.

B. Its spiritual meaningThe interpretation favoured by Brahmvaivart Purana:

23. Srimad Bhagavata, Book III, Gh. 12, Yerses 28, 29 and 33 Prejapati or Brahma connotes mind whereas Saraswati (Brahma's daughter) is speech or Vani. What is conceived in the mind is later expressed through speech. In other words, the speech takes birth from the existence of the mind. Hence, the two are related as father and daughter. When the mind cohabits with his daughter which means the faculty of speech, then sons in the shape of words are created.

Yet another episode which is castigated at page 36 of the applicant's second book is "Chir Haran" or the stealing away of the garments of the cowherd maids by Lord Krishna. In short, the story which is found in Book X, Chapter 22 of the Srimad Bhagavata verses 128 is that in the Hemant season the maids of Vraja rose curly in the morning and arrived on the bank of the Yamuna and sported merrily in the waters of the sacred river, singing glories of Lord Krishna, leaving their clothes on the bank as usual. Sri Krishna accompanied by his companions picked up the clothes and climbed upon a Kadamb tree nearby. The maids entreated him to return their clothes but he compelled them to come up to him near the Kadamb tree, nude as they were and receive their clothes. The maids had no option but to do as they were asked and take back the clothes. In the first place, it must be borne in mind that this narrative can have possibly no carnal or sensual back ground. The maids were only room five to eight years old. They are described as "Kumarika". In the Sanskrit the epithets "Darita and "Kumarika" are applied to girls of the above mentioned ages. the se maids were devotees of Krishna. That is why the poet says:

which means that while taking a dip in the Yamuna they were glorifying Krishna. It may also be mentioned that at that time the age of Krishna was only six years and three months, as we have it on the authority of the Bhagavata, that at the time of lifting the Govardhan mountain. He was seven years old and that event happened eleven months after the "Ghir Haran". Moreover, Krishna was not alone at that time. He was in the company of companions of like age. The maids were at that time observing a fast to propitiate Goddess Katyayani and in which condition it was forbidden to take naked bath. Secondly, this story has a profound philosophical message. In the previous chapters the author Vyas had already pointed out that the Copies (maids) were engaged in Sadhana or worship of Lord Krishna. When an aspirant advances on the path of divine worship, the tenacious Maya (Illusion) obstructs his progress. He finds it impossible to resist the Maya until the Lord intervenes and destroys the veil of ignorance. When the wall of previous Samskaras (impressions) is knocked off by the grace of the divine forces, the surrender is complete. The self-deluding age disappears and the aspirant attains union with the godhead. Therefore, the Lord's stealing of the garments in the parable symbolisms the annihilation of the barrier of ego or the previous Samskaras of the Copies.

Yet another incident which has been the subject of scathing attack by the applicant in his second book at page 36 is the "Ras Leela", Ras play or the Ras dance of Lord Krishna. The theme is embodied in the celebrated five chapters i.e.

from 29 to 33 of Book X of Srimad Bhagavata. It is at once the most soul-enrapturing and vulnerable aspect of that Mahapurana. It has been misinterpreted and often evoked acrimonious debate. The late Mrs. Annie Besant felt so exaggerated by the campaign of vilification in this regard that in one of her speeches she is reported to have despairingly remarked."

"Beloved Krishna if it was not your pleasure to send forth a single sound in modern India possessed of the ability to interpret and expound the message of your Ras Leela to the people, when you should have better carried away Srimad Bhagavata along with you."

The gist of the Ras Panchadhvayi (five chapters) of book X of Srimad Bhagavata is that in the nights adorned with full blown jasmine on the sandy banks of the Yamuna Krishna sported and danced with two hundreds of bevy of lovely women of Vraja and having kindled love in their breasts disappeared giving them the salutary advice: (24)

"Love for Me is fostered not so much by physical proximity(to Me) as by hearing My praises, looking at Me meditating on Me or by singling Me glories. Therefore, return home."

Properly understood, Rasalila portrays the purest spiritual union between the loving soul and her beloved God. It is a merging in the Bliss of Oneness. It is not external, physical scene of erotic pleasure but the ecstasy of perfect union in the Divine. It is at once a rapture of the spirit, surpassing consciousness of time or heart, and yet aware of God, and God alone in the fullness of spiritual love. It is all an inner experience, a purely spiritual communion, for to all duster appearances the souls were sleeping in their own homes all the while. The great Sufi teachers have also sung that song of mystical union in which the antithesis of "lower" and "beloved" is resolved by their transmutation into the Universal Essence of love. Duncan Greenleaf in the "The Gospel of Sri Krishna" brings out in a passage of sublime beauty the transcendental significance of Rasalila. Says he "Love soars to the height? in the ecstatic dance of Krishna with his devotees, and they realise how they become one with Him through Love. This mystical oneness creates the dangerous sense of being better than others because he has chosen them, and that they can reach Him by their own unaided efforts and merits. They dream that he is a sort of blankness apart from ordinary life. When his grace overcomes these evils, the path to real union lies open to the soul."

Appreciation of the real motif of "Ras Leela" demands a high degree of spiritual insight. King Parikshit forestalled the modern skeptics by putting to Sukhdeo two vital questions and eliciting replies which explain the quintessence of the theme. "How did the souls", he asked, "who knew Sri Krishna to be nothing more than their darling or paramour and did not recognize him as Brahma (infinite) attain salvation ? Sri Suk replied: (25)

"Indeed they who constantly cherish (the feelings of) lascivious passion, wrath,

fear, affection, kinship or devotion towards Sri Hari attain oneness with him."

The essential condition for attaining oneness with God is constant remembrance of Him, dedication of the entire self to the Lord, living with the Godidea. If such intense craving is present in the aspirant, even though it may be inspired by lust, in course of time the Lord ceases it and transmutes it into pure love. Though the infinite has no desires and is beyond the three Gunas (attributes), he manifests Himself in enchanting finite forms for the purpose of bestowing the boon of final beatitude on human beings: (26)

"The manifestation of the Lord, who is free from decay and cannot be cognized through the intellect, (nay), who is beyond the three Gunas as well as their Controllers, O protector of men, is intended (only for bestowing the boon of final beatitude on human beings."

The other question put by Parikshit was "it was for establishing Dharma (righteousness) that Lord Krishna descended in the world of matter, then why did he commit a transgression of official standards by embracing others' wives?" Sri Suka replied, "Violation of Dharma (the principles of righteousness) and overboldness are occasionally witnessed on the part of the Mighty. It does not however, bring any sin on those possessed of exceptional glory, as in the case of fire that consumes everything, including even impure substances such as filth and corpses, but those who are not so powerful i. e. the ordinary mortals (bound by the Karmas or action) should not attempt this, otherwise they would meet their ruin, even as no one other than Rudra would, if he was allowed to swallow the poison churned out of the ocean. The situation may aptly be described in the words which Wordsworth applied to Shakespeare "others abide our question, though art free." In the Bhagavad-gita such exceptional or powerful persons are described as "Ishwar" (for Krishna was one such mighty person who possessed the divine capacity of stripping a substance of all its impurities and himself remaining unaffected by them. He apparently exhibited various amorous gestures and sported in the midst of the women of Viraja but in reality he reveled in his own self and described in such words as:

Having assumed a human semblance in order to shower His grace on (and attract solely towards Him) created beings, the Lord indulges in sports and play, hearing of which man may get exclusively devoted to Him.

Ordinary human beings are not endowed with such exceptional strength or character. That is why Suka concludes by giving a prudent advice that only the precepts of the great ones should be followed and not their entire conduct; the courtly humanity should emulate only so much of their conduct as is in conformity with their precepts: (28)

"A precept (alone) of the mighty (those possessed of wisdom, dispassion and so on) is authoritative (and therefore worth following, if uttered in right earnest and not as a test of our wisdom.) Their conduct (however) is worth imitating on certain occasions only. (Therefore) an intelligent man should follow only such of

their conduct as a consistent with their own precept."

Thus, these two books bristle with aspersions which are not willfounded but based on distortion and ignorance of the true meaning of the sacred books of Vishnu Hindus. The applicant has attacked their prophets and great men in a reviling manner. Nonferrous passages in these books are scurrilous, indecent and highly objectionable. They are insuring to their religion and must be painful to the Vaishnav Hindus, excite their anger and disgust. That Ramayana if sacrosanct to such Hindus, that Rama, Krishna, Brabma, Mahatma Gandhi, to wit only a few, are held in the highest esteem by them are matters of common knowledge and courts can take judicial notice thereof under clause 13 of section 57 of the Evidence Act. In all these cases and also on all matters of public history, literature, science or art, the Court may resort for its aid to the appropriate books or documents of reference. It is well established that judicial notice is taken of the common affairs of life which are of general knowledge. The aforesaid matters must be regarded as "notorious" facts of public history. The law on the point may be summed up in the following words: (29)

"Matters of common and General knowledge. The matter of which a court will take judicial notice must be a subject of common and general knowledge. In other words, judicial knowledge of facts is measured by general knowledge of the same facts. A fact is said to be generally recognized or known when its existence or operation is accepted by the public without qualification or contention. The test is whether sufficient notoriety aitches to the fact involved as to make it proper to assume its existence without proof. The fact that a belief is not universal, however, is not controlling, for there is scarcely any belief that is accepted by everyone. Those matters familiarly known to the majority of mankind or to those persons familiar with the particular matter in question are properly within the concept of judicial notice. Judicial knowledge is continuously extended to keep place with the advent of art, science and general knowledge."

Judicial notice can also be taken of religious history. The Courts have taken judicial notice of the prevalence of a particular religious persuasion or belief at a place within their jurisdiction and also the distinction between the beliefs and ideas of one scat and those of another. These have been considered to be matters of common knowledge. Religious history has also been taken to be a subject of common knowledge. This portion has been summed up in the American Jurisprudence as follows: (30)

"Matters of religious history are deemed to be subjects of common knowledge, and therefore, of judicial notice, whether general or of a particular sect for Christianity has been declared to be a part of the common law, and courts, of their own motion, will take notice of the law. Thus, courts will take notice without proof of the creed and general doctrines of any denomination prevalent within their jurisdiction upon the theory that these are matters of common knowledge. They will also notice the distinction in belief between any sects or group of sects or of the separation of two sects, formerly one, as well as the fact that there are

numerous religious sects, each with its own doctrine. Judicial knowledge in this respect will include not only the revealed law of God as set forth in the scriptures and the form or manner of worship but also His natural laws as demonstrated by science, or admitted by man's natural experience. A court may judicially know the prevalence of a certain religious denomination in a given district. It is said to be a matter of common knowledge that the attendance at any particular church is not limited to its members and that many incorporated church societies have been in existence."

Thus, for instance in *I. T. Commissioner U. P. v. Radhaswami Satsang Sabha* (A.I.R. 1954 All. 291) judicial notice was taken of the fact that there was a flourishing colony of Satsangis at Agra and most of the big cities in the State of Uttar Pradesh. In *State of A.P. v. K. Satyanarayana* (A.I.R. 1968 S.C. 825) their lordships of the Supreme Court took judicial notice of the fact that clubs usually collect from members extra charges for playing cards and late fees for using the club premises beyond the scheduled time. In *State of U. P. v. Sham Sunder* (A.I.R. 1961 All. 413) the Court took judicial notice of the fact that the cancer ward attached to the Kamla Nehru Maternity Hospital was a separate Hospital under the same management.

Lastly, the question arises whether the offending items in the two books which we have enlarged upon contain matter which would be punishable under section 153A or section 295 A of the Indian Penal Code so as to attract section 99A of the Code of Criminal Procedure. We have held above that in the present case the objectionable passages are not well founded. The law, however, does not require that they must be proved to be factually incorrect or unsustainable. It was sufficient for the applicability of section 99A of the Code that the passages, though based on some source or authority, are likely to hurt the traditional beliefs of a class and occasion the consequences contemplated by sections 153A and sections 295A of the Indian Penal Code. The plea of truth or source or authority on which the attack is founded in cases of scurrilous and vituperative attacks is no defence. See *Koli Charan v. King Emperor*. (A. I. R. 1927 All. 649.) These sections contemplate merely the existence of certain norms and not an enquiry into their validity or ideological propriety. The underlying principle of these provisions of law is to protect the religious institutions and the religious convictions of the people. In early social and legal history we find great emphasis on preserving the existing religious institutions on which social interest was considered to depend, but in modern times with the dominance of secular power the importance of religious institutions has waned. Julius Stone observes (Julius Stone: "Social Dimensions of Law of Justice" p. 33334):

"In view of the important role of the supernatural sanction in early social and legal development, it was natural to find there a heavy stress on the social interest in preserving the existing institutions of the kin religion. Indeed, even after the dominance of secular political power, the new authority had constant regard to religious institutions as an instrument of its own purposes, as in the

widespread use of the religious ordeals as a mode of trial. The fear of direct intervention of outraged gods made the security of religious imitations a foundation of the general security. After the secular authority had finally prevailed, the security of religious institutions continued to play an important role in law. Its pressure on the law of marriage and divorce was decisive until the nineteenth century. since that time the claim has weakened, in its various manifestations In the criminal law (as in blasphemy), in the law of evidence (as regards the testimonial capacity and oath), and in the law as to disabilities of dissenters, jews and atheist."

The principle of the security of religious imitations and beliefs is to a great extent preserved in sections 153A and sections 295A of the Indian Penal Code .

In order to attract section 153A of the Penal Code the words spoken or written must be such as promote hatred, feelings of enmity etc. The view of this Court has been that intention is not a necessary ingredient of this section and if the words are likely to have the effect contemplated by the section, it is not necessary for the prosecution further to establish that the writer had the intention to promote such hatred. See *M. L. G. Gupta v. Emperor* (A. I. R. 1936 Allahabad 314). Section 153 A was added by Act IV of 1898. Section 295A of the Indian Penal Code in which intention is a necessary ingredient was introduced by the Criminal Law Amendment Act (IV of 1927) owing to the agitation following the diction of the Lahore High Court in the notorious *Rangila Rasul* case (*Raj Paul v. Emperor*, AIR 1927 Lahore 590:) in which it was held that section 153A was not meant to stop polemics against a deceased religious leader, however, scurrilous and in bad taste such attacks might be. But in a subsequent case known as the *Risalaivartman* case (*Devi Sharan Sharma v. Emperor*, (A. I. R. 1927 Lahore, 594):) in which this decision has not been referred to, it was decided that a scurrilous, vituperative and foul attack on a religion or on its founder would come within the purview of section 153A. The *Rangila Rawl* case was sparsely dissented from in *Ketli Charan v. King Emperor* (*supra*) in which it was held that the book entitled "*Yiohitra Jiwan*" depicting the life of the Prophet Mohammad promoted feelings of enmity between Hindus and Mohammedans. The Legislature, therefore, enacted a special provision dealing with such offences. It was pointed out by this court in *M. L. C. Guppies* case (*supra*) that even if the question of intention was material for an offence under section 153A, "such intention must be gathered from the words spoken or written and that this would be conclusive and it would not be necessary for the prosecution further to prove that such as intention was behind the use of such word." There is consensus that an intention has to be judged primarily from the language of the book and the circumstances in which it was published. If the language is of a nature calculated to produce or to promote feelings of enmity or hatred, the writer must be presumed to intend that which his act was likely to promote, It is legitimate to infer that where the language employed is patently scurrilous and offensive as in the instant case the requisite intention under section 153A and section 295A must be presumed. Even English law which does not regard mere denial of

Christianity as constituting an offence of blasphemy recognizes that it would become criminal if the attack on religion is accompanied by scurrility and profanity. In the leading case of *Bowman v. Secular Society Limited* (1917) Appeal Cases 406:) the House of Lords ruled that "scurrility or indecency is an essential element of the crime of blasphemy at common law and that the crime of blasphemy is not constituted by a immoderate attack on religion in which decencies of controversies are maintained." Fair criticism is different from promoting enmity between classes, or outraging the religious feelings of any class by insulting persons, etc. In *R. v. Boulter* (1908) 72 J. P. 188;) which was an indictment for blasphemous speeches, Phillimore, J. directed the jury as follows:

"A man is free to speak and teach what he pleases as to religious matters, though not as to mortals. He is free to teach what he likes as to religious matters even if it is unbelief. But when we come to consider whether he has exceeded the limits, we must not neglect to consider the place where he speaks, and the persons to whom he speaks. A man is not free in a public place where passersby who might not willingly go to listen to him knowing what he was going to say might accidentally hear his words, or where young people might be present. A man is not free in such places to use coarse ridicule on subjects which are sacred to most people in the country. He is free to use arguments."

It has ultimately to be decided on the facts of each case whether the words used would promote enmity, hatred etc. or outrage the religious feelings of a class. The law on the subject has been stated by Russell in the following words (41)

"In *Bowman v. Secular Society Ltd.* the principle emerges that the gist of the offence lies not in the substance of the doctrines promulgated or the objections raised, but in the manner of the attack made upon the Christian faith, and that it must be left to the jury to decide whether the terms used amount to such vilification, ridicule or scurrility as would outrage public feelings and tend to cause a breach of peace."

The principle of criticizing the religious beliefs of others does not include a license to resorting to vile and abusive language. Holding up to obloquy and derision the religious beliefs would amount to stirring up resentment and hatred on the part of those who accept it as their creed.

In *R. v. Bradlaugh* (42) it was observed:

"The willful intention to insult and mislead others, by means of licentious and contumelious abuse offered to sacred subjects or by willful sophistry calculated to mislead the ignorant and unwary, has been stated to be the criterion and test of guilt."

It is said by Blackstone (43) that contumely and contempt are what no establishment can tolerate: but, on the other hand, it would not be proper to lay any restraint "upon rational and dispassionate discussions of rectitude and

propriety of the established mode of worship."

The objectionable contents of the books written by the applicant are bound to inflame the feelings of the Hindus of the Vaishnav Sampradaya and promote dissensions and animosity between them and the backward and Scheduled castes. It is manifest that things sacred to the Vaishnav Hindus have been treated and handled by the applicant with profound irreverence and the words used by him are blasphemous in every sense of the term. The opinion of the State Government is fully sustained on the grounds disclosed in the main notification.

For these reasons para of the opinion that this application must be rejected.

I accordingly dismiss the application.

JUDGMENT

T. S. Misra,J,

I have had the benefit of reading the judgment proposed to be delivered by my learned brother Shukla, J, with which my Lord the Chief Justice has agreed. I also agree with the conclusion but would like to add a few paragraphs of my own.

The applicant is a publisher and author of two books (1) Sachchi Ramayan ki Ghabhi and (ii) Arjun ka Naitik Poi Prakash. On November 13, 1973 the Government of Uttar Pradesh, the respondent, made an order under section 99A, of the Code of Criminal procedure, 1898, forfeiting these books. That order so far as material was in the following terms:

"Whereas, it appears to the State Government that the Hindi books mentioned in the Schedule containing matter detailed in the Appendix to this notification which promote and attempt to promote on grounds of caste and community, disharmony and feelings of enmity, hatred, illwill between different classes of the citizens of India, namely, Hindus of Vaishnav Sampradaya and that of backward and scheduled caste and to outrage the religious feelings of a class of citizens of India namely Hindus of Vaishnava Sampradaya by insulting their religion and religious beliefs and the publication whereof is punishable under section 153A (i) (a) and section 295A of the Indian Penal Code, 1860 (Act no. 45 of 1860).

now, therefore, in exercise of the powers under subsection (1) of section 99A of the Code of Criminal procedure, 1898 (Act No. 5 of 1898) and on the respective grounds of its said opinion mentioned against each book in the said Schedule, the Governor is pleased to declare every copy of the said books and of any other documents containing copies, reprints and translation of, or extracts from the said books to be forfeited to Government.

SCHEDULE

(1) Book "Sachchi Ramayana ki Chabhi" written and published by Sri Lalai

Singh Yadav, Ajhok Pustakalaya, Jhinjnak, district Kanpur, printed at Sasta Press, Jhinjhak, district Kanpur.

(2) Book "Aryon ka Naitik Poi Prakash" written and published by Sri Lalai Singh Yadava, Ashok Pastakalaya, Jninjhak, district Kanpur and printed by Sri Huba Lal Azad Adarsh Printing Press, Jhinjhak (Kanpur).

Before I state the contentions of the applicant, I want to set out briefly certain general principles which should be kept in view in dealing with a case of this nature. An order under section 99A of the Code of Criminal procedure can be made only when the Movement Furnas an opinion that the document, concerning which the order is proposed to be made, contains any matter the publication of which is punishable under sec. 124A, or sec. 153A or section 295A of the Indian Penal Code. The grounds of its opinion must be stated by the Government in the order. Section 99B of the Code of Criminal procedure gives the person interested in the books forfeited a right to apply to the High Court to set aside the order made under section 99A of the Code. The grounds of which an application can be made under section 99B of the Code are the grounds which if established would enable the High Court to set aside the order under section 99D of the Code. These grounds are to be confined to challenging the propriety of the grounds on which the Government's opinion resulting in the order of forfeiture was based. the order of forfeiture shall be set aside under section 99D of the Code if the Court is not satisfied that the grounds on which the Government formed its opinion that the books contain matters the publication of which would be punishable under any one or more of section is 124A, section 153A and section 295A of the Indian Penal Code that opinion.

Learned counsel for the applicant submitted at the outset that the Government in the impugned order did not state the grounds of its opinion. That contention, in my view, is without any substance. The impugned order of November 13, 1973, the material part of which has been quoted above does contain the grounds of opinion. With regard to the book "Sachchi Ramayan ki Chabhi the grounds of opinion were as follows.

The book ridicules the Balmiki Ramayana which is held sacred by a large section of Hindus and specially those of the Vaishnava Sampradaya and insults Sri Rama, Sita and some other characters of the Ramayana who are worshipped and held in high estate by a large section of the Hindus, specially those of the Vaishnava Sampradaya."

With regard to the book "Aryaon ki Naitik Poi Prakash" the grounds were stated in these terms:

"The book contains insulting remarks against Sri Rama, and Sri Krishna who are worshipped and held in high esteem by a large section of Hindus, specially those of Vaishnava Sampradaya. In addition to this, many great man of Aryan race have been characterized perversely, specially the Brahmins have been maligned."

It was the n urged on behalf of the applicant that even if it was assumed that the said order contained the grounds of opinion those "grounds should not justify the opinion that the sold books contained matters, the publication of which would be punishable under section 153A (i) (a and section 295A of the Indian Pench Code.

In order to appreciate this contention, it is necessary to examine the scope of section 153A (i) (a) and section 293A of the Indian Penal Code. Section 153A deals with matters prom of ing enmity between different classes of Indian citizens whereas Section 295A deals with matters insulting the religion or religious beliefs of any class of such citizens, Section 153A provides that no person shall by words either spoken or written or by signs or by visible representations or o the wise promote or attempt 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 illwill between different religious, racial language or regional groups or castes or communities or commit 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. In other words, no person is entitled to writer any or do anything which would inflame the feelings of one class or subjects against another class or subjects, and promote feelings of enmity and hatred between different classes.

The main ingredient of Section 295A of the Indian Penal Code is insult to religious beliefs of a class of citizens of India. The other ingredient is that the writing was made with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India. The intention of the author of book is to be judged primarily by the language of the book itself, though it is permissible to receive and consider external evidence either to prove or rebut the meaning ascribed to it. If the language is of a nature calculated to produce or to promote feelings of enmity or hatred the writer must be presumed to intend that which his act was likely to produce (1). The word "malicious" in section 295A of the Indian Penal Code cannot an injurious action done voluntarily without a lawful excuse. The book "Sachchi Ramayan ki Chabhi" is said to ridicule the Balmiki Ramayan which is held sacred by large sections of Hindus and specially of Vaishnava Sampradaya and insult Sri Rama and Sita and some other characters of the Ramayana who are worshipped and held in high esteem by a large section of Hindus specially of Vaishnava Sampradaya. Similarly the book "Aryon Ka Naitik Poi Prakash" is said to contain insulting remarks against Sri Ram and Sri Krishna. It has also maligned the Brahmins and characterized perversely many great men of Aryan race. These two books are said to promote and attempt to promote on grounds of caste and community, disharmony and feelings of enmity, hatred, illwill between different classes of citizens of India, namely, Hindus of Vaishnava Sampradaya and that of See Kali Charan Sharma v. Emperor (A. I. R, 1927 Alld. 649): V backward and scheduled caste and to outrage the religious feelings of a class of citizens of India, namely Hindus of Vaishnava Sampradaya by insulting their religion and religious beliefs.

Placing reliance on the majority view in 1971A. L. J. 760 (2) it was urged on behalf of the applicant that there is no such deified class in India which can be named the Hindus except perhaps, by way of contradistinction vis avis the Christians or Muslims and that its identity, cannot be said to be certain, specially in the matter of religious faith, feeling or beliefs, or ceremonial rituals or cults, or practices. No doubt the majority view in L. S. Yadav's case (supra) was expressed in those terms but it was also stated that in judging whether a particular publicity of comes within the mischief of either Section 99A of the Code or Section 295 A of the Indian Penal Code the Court must know with reasonable certainty as to the class of citizens of India whose religious feelings, have been sought to have been outraged deliberately by insulting the religious beliefs of that class.

In the present case, the impugned order sets out in clear and certain terms that the two books in question promote and attempt to promote on grounds of caste and community, disharmony, feeling of enmity, hatred and illwill between different classes of citizens of India, namely Hindus of Vaishnava Sampradaya and that of backward and scheduled castes and to outrage the religious feelings of a class of citizens of India, namely Hindus of Vaishnava Sampradaya by insulting their religion and religious beliefs.

The questions as to who are Hindus and what are the broad features of Hindu religion find their answer in Shastri Yagnapurushdasji and others v. Muldas Bhundardas Vaishya and another (3) Ganpat v. Returning Officer and others.(?) Dealing with the historical and etymological genesis of the word "Hindu" Gajendragadkar C. J., in Yagna persuades case (supra) bowered in paras 27, 28 and 29 that:

" "Hindu" is derived from the river Sindhu other wise known as Indus which flows from the Punjab. That part of the great Aryan race, says Mairner Williams which immigrated from Central Asia, through the mountain passes into India, settled first in the district near the river Sindhu (now called the Indus). The Persians pronounced this word Hindu and named their Aryan brethren Hindus. The Greeks who probably gained their first ideas of India from the Persians, dropped the hard aspirate and called the Hindus "Indio"."

The Encyclopedia of Religion and Ethics, Vol. VI has described " Hinduism" as the title applied to that form of religion which prevails among the vast majority of the present population of the Indian Empire (p. 686). As Dr. Radhakrishnan has observed: The Hindu civilization is so called, since its original founders or earliest followers occupied the territory drained by the Sindhu (the Indus), river system corresponding to the NorthWest Frontier Province and the Punjab. This is recorded in the Rig Veda, the oldest of the Vedas, the Hindu scriptures which give their name to this period of Indian history. The people on the Indian side of the Sindhu were called Hindu by the Persian and the later western invaders. That is the genesis of the word "Hindu".

"When we think of the Hindu religion we find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet, it does not worship any one God ; it does not subscribe to any one dogma ; it does not believe in any one philosophic concept, it does not follow any one set of religious rites or performances.

In fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more ". nothing from "The Hindu View of Life" by Dr. Radha Krishnan, "Six Systems of Indian Philosophy" by Max Muller, and religious Thought and Life in India" by Monier Williams Gajen dragadkar, C. J. observed that:

"Thus, it is clear that unlike other religions and religious creeds, Hindu religion is not tied to any "definite set of philosophic concepts as such.....as regards those sections of the Hindu community which believe in the worship of idols, their idols differ from community to community and it cannot be said that one definite idol or a definite number of idols are worshipped by all the Hindus in general. In the Hindu Pantheon the first gods that were worshipped in Vedic times were mainly Indra, varuna, Vayu and Agni. Later Brahma, Vishnu and Mahesh came to be worshipped. In course of time, Rama and Krishna secured a place of pride in the Hindu Pantheon and gradually as different Philosophical concepts held sway in different sects and in different sections of the Hindu community, a large number of gods, were added, with the result that today the Hindu Pantheon presents the spectacle of a very large number of gods who are worshipped by different sections of the Hindus." Finally referring to Gita Rehasya" by Bal Gangadhar Tilak the Supreme Court observed that B. G. Tilak evolved a working formula which may be regarded as fairly adequate and satisfactory. Said Tilak "Acceptance of the Vedas with reverence ; recognition of the fact that the means or ways to salvation are diverse ; and realization of the truth that the number of gods to be worshipped in large that indeed is the distinguishing feature of Hindu religion." Referring to this broad and coinprehensive character of Hindu religion the Supreme Court further observed:

"While guaranteeing the fundamental right to freedom of religion. ?explanation 11 to Art. 25 has made it clear that in subclause (b) of clause (2) the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaiua or Buddhist religion and the reference to Hindu religious institutions shall be construed accordingly."

Recently in Ganpat's case (sufara) (5) the Supreme Court observed".....Hinduism is a very broad based religion. In fact some people take the view that it is not a religion at all on the ground that there is no one founder and no one sacred book for the Hindus. This, of course, is a very narrow view merely based on the comparison between Hinduism on the one scale and Islam and Christianity on the other. But one knows that Hinduism through the ages has absorbed or accommodated many different practices, religious as well

as secular, and also different faiths....." Hinduism is so tolerant and Hindu religious practices so varied and eclectic that one would find it difficult to say whether one is practicing or professing Hindu religion or not. Especially when one is born a Hindu the fact that he goes to a Buddhist temple or a church or a dargah cannot be said to show that they are no more Hindus unless it is clearly proved that they have changed their religion from Hinduism to some other religion." This takes us to another question as to who are the Hindus of Vaishnava Sampradaya is comprised of four sects:

1. Sri Sampradaya founded by Ramanujacharya.
2. Brahmin Sampradaya founded by Madhavacharya.
3. Rudra Sampradaya founded by Vishnuswami and Vallabhacharya, and
4. Sanakadi Sampradaya founded by Nimbark.

The philosophy of Ramanuj was Vishishtadvaita that is, qualified non dualism. He recommended the worship of Vishnu, Krishna and Ram. His followers are called " Shri Vaishnavas" as they worship Shri or Lakshmi and Narayan, Brahma Sampradaya of Madhavacharya believes in the philosophy of Advaita or Dualism. the worship of Radha Krishna forms the predominating element in this cult. The philosophy of Vishnuswami or Vallabhacharya was Shuddha Advait and his followers worship Bal Gopal or Nand Nandan. Nimbark preached the philosophy of Advaita. Vallabhacharya commended the worship of Radha Krishna. The followers of Gaurang Deo are also worshippers of Radha Krishna Nityanath, Gyandeo, Sopandeo, Muktabai, Namdeo, and Tukaram, all from Maharashtra. J. Narsingh Mehta from Gujarat, Soordas and Tulsidas from Uttar Pradesh. Sri Shanker deo from Assam, Mirabai from Rajasthan and Srimati Muni, Vamunacharya, Prishnathkopi, Vishnuchitta, Bhakta Padmanabha. Kulshekhar and Devi Andal from southern India preached in one form or the other the philosophies of Vaishnava Sampradaya. The history and development of Vaishnava Sampradaya and its distinctive features are to be found in Ved, Upanishad, Narad Pancham, Maha Bharat, Ramayan, Puran and Bhagwat. The Majority of Hindus of Vaishnava Sampradaya are worshippers of Krishna. He is, in the belief of his followers the Supreme God. Says Shrimad Bhagwat (1/3/29) "Krishnastu Bhagwan Swami" (Krishna is God himself). Most of these Vaishnavite Hindus also believe Ram as incarnation of God and worship Him as such. Bhakti cult in all its glorious shades finds its manifestation in the writings of the Acharyas, saints and poets of Vaishnava Sampradaya.

The various Vaishnava Systems essentially derive their spiritual elements from Bhagwat Gita. Each of them, however, attached varied importance to the different spiritual doctrines, set up a metaphysical theory of its own and prescribed ceremonial rules for its followers. Bhagwat Gita was supplemented by the Samhitas, Puranas such as Vishnu Puran and the Bhagwat, each elucidating the essential doctrines and laying down the ceremonial.

In the 11th Skandh of Shrimad Bhawat, the sacred scripture of Vaishna. vise and its broad features have been described thus:

A Vaishnava, according to Tulsidas, believes:

Summing up, Tulsidas recommended:

Yogiraj Shri Devraha Baba in his article captioned "Vaishnava Dharm ke Mool Tatva" (Fundamentals of Vaishnavism) writes that "Vasudhaiva Kutumbakam" is the basic precept of Vaishnavism and Bhakti is its cult. The belief of a Vaishnav is, says Padma Puran (Adikhand 61/731975 that the birth of a man is useless if he is not a votary of Bhagwan Krishna.

Valmiki in his "Ramayan" considered Shri Ram as incarnation of God Bhagwan Narain); Narsi Mehta of Gujarat in his immortal "Bhajan" described a Vaishnava as one who feels and understands the distress of others. According to him the broad features of a Vaishnava are:

Hindus of Vaishnava Sampradaya thus form a distinct class or group who regard Shri Ram and Shri Krishna as God Almighty and worship them as such. Any person who by his writing or other wise depraves and insults Sri Ram, Sri Krishna. Sita and Radha and other characters of Ramayan whom a Vaishnava worships as incarnation of God shall, without any manner of doubt, outrage the religious feelings of Hindus of Vaishnava Sampradaya and shall thereby commit an offence punishable under section 293A of the Indian Penal Code .

The offensive passages of the two books are referred to in the Appendix to the impugned order. It is not necessary to quote all those passages here. Reference to a few passages has been made in the judgment of brother Shukla, J., and he has pointed out how those passages outrage the religious feelings of Hindus of Vaishnava Sampradaya, and insult their religion and religious beliefs. With respect, I am in full agreement with his views. I have gone through the passages mentioned in the Appendix to the impugned order and satisfied that they are of such a nature that Hindus of Vaishnava Sampradaya are bound to be offended thereby. The applicant in his two books in question has attempted to demonstrate though perversely, that Rana, Krishna and other characters of Ramayan as also the Brahmins and some other great men of Aryan race were hostile to the members of the scheduled caste. He has thereby promoted and attempted to promote on grounds of caste and community disharmony and feelings of enmity, hatred and illwill between Hindus of Vaishnava Sampradaya and those members of the scheduled castes who are not Vaishnavites.

The learned counsel for the applicant, however, urged that there was high authority in support of the view expressed by the applicant in his aforesaid two books, and that he had merely extracted the quotations from Valmiki Ramayan and other ancient books. In this connection it may be recalled that in a case like the present one the truth of the matter can neither be pleaded nor proved. What has to be seen is whether there was deliberate and malicious intention of

outraging the religious feelings of a class of citizens of India. Even a true statement made at times may outrage religious feelings others. The applicant has by writing the said two books committed an injurious act without a lawful excuse. He has insulted the religious feelings of Hindus of Vaishnava Sampradaya whose basic faith is that Shri Krishna and Shri Ram are God. He has used vile and abusive language and has described Ram, Krishna, Sita and others as debased characters and as worst type of shameless sensualists. This is an utterly unwarrantable defamation of those who are worshipped as God by the Hindus of Vaishnava Sampradaya. He has also painted Mahatma Gandhi, father of the nation, as a mean person. The petitioner in his attempt to project Krishna, Ram and Sita as also other characters in Valmiki Ramayan as mean, selfish, debased, licentious, and corrupt has certainly outraged the religious feelings of a distinct class of a group of Hindus, namely, those of Vaishnava Sampradaya. Needless to say that Ramayan of Valmiki breathes throughout a high moral tone and furnishes ideals of continual fidelity and fraternal affection which have indubitably contributed to the happiness of Hindu family life.

I am satisfied that the grounds on which the Government formed its opinion that the two books "Sachchi Ramayan ki Chabhi" and "Aryan ka Naitik Poi Prakash" contained matters the publication of which would be punishable under Sections 153A and 295A of the Indian Penal Code do justify that opinion, and I find no reason to set aside the impugned order of forfeiture. The application is accordingly dismissed.

JUDGMENT

The application is dismissed with costs, which we assess to Rs. 200.