

**(1971) 05 AHC CK 0008**  
**In the Allahabad High Court**

Lalai Singh Yadav

APPELLANT

Vs

State of Uttar Pradesh

RESPONDENT

**Date of Decision :** 14-05-1971

**Acts Referred:**

Limitation Act, 1963 — Section 29, 5  
Penal Code, 1860 (IPC) — Section 124A, 153A, 195A, 295A  
Limitation Act, 1963 — Section 29, 5  
Penal Code, 1860 (IPC) — Section 124A, 153A, 195A, 295A  
Limitation Act, 1963 — Section 29, 5  
Penal Code, 1860 (IPC) — Section 124A, 153A, 195A, 295A

**Citation :** (1973) 43 AWR 284 : (1971) CriLJ 1773

**Hon'ble Judges :** Yashoda Nandan, J;W. Broome, J;S. Malik, J

**Bench :** Full Bench

## **Judgement**

W. Broome, J.—This is an application u/s 99-B, Cr.PC, asking for the quashing of the State Government's order dated 26-8-1970 (published in the U. P. Gazette of 12-9-1970) forfeiting a book entitled "Samman ke liye dharm parivartan karen". This book is a compilation in Hindi of speeches made by the late Dr. Ambedkar, exhorting the scheduled castes to throw off the shackles of caste tyranny by repudiating the Hindu religion and adopting Buddhism instead. The application has been filed by R.N. Shastri, the publisher of the forfeited book, and by Lalai Singh Yadav, the President of the Dr. Bhim Rao Ambedkar Literature Committee. The impugned notification cites 24 passages in the book, which are objected to because they "promote or attempt to promote on grounds of religion, caste or community disharmony or feelings of enmity, hatred or ill will between different religions, castes or communities and insult or attempt to insult the religion or religious beliefs of a class", thereby rendering the publication of the book punishable u/s 153-A and 295-A. IPC

2. The application was filed on 4-12-1970, after the expiry of the period of two months from, the date of the impugned order prescribed by Section 99-B and a preliminary objection has been raised that the application is time-barred. Having

considered the averments, made in this connection in the accompanying application u/s 5 of the Limitation Act however we are satisfied that this delay has been fully accounted for and deserves to be condoned. Lalai Singh Yadav (applicant no. 1) came to-know about the forfeiture of the book on 22-10-1970, when a news item dated 21-10-1970 appeared in the Northern India Patrika, reporting that an official press note of that date had stated that the U. P. Government had forfeited the book entitled "Samman Ke liye dharm parivartan karen". From this the applicant inferred that the notification regarding the order of forfeiture must have been published in the official Gazette on 21-10-1970 or shortly before; but despite assiduous search he was unable to locate the notification (which had actually been published on 12-9-1970). He had no copy of the forfeited book in his possession and it was not until 15-11-1970 that he was able to contact the publisher (the second applicant R.N. Shastri), who had gone on tour in South India. Thereafter he went to Lucknow and made inquiries in the Secretariat and eventually on 2-12-1970 obtained the correct particulars of the notification. The present application was filed in this Court two days later. learned Counsel appearing for the State concedes that Section 5 of the Limitation Act applies to applications under Section 99-B, Cr.PC, in view of the provisions of Section 29(2) of the Act; and we are satisfied that the applicants are entitled to the benefit of Section 5, since they had sufficient cause for not making their application within the prescribed period of two months.

3. Coming to the merits of the case, we may first of all glance at the provisions of Section 99-A. under which the State Government has passed the impugned order of forfeiture. This section empowers the State Government to pass such an order in respect of a book which contains:?

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 religious feelings of any such class by insulting the religion or religious beliefs of that class, that is to say, any matter the publication of which is punishable u/s 124-A or Section 153-A or Section 295-A of the Indian Penal Code." In the present instance we are not concerned with sedition (Section 124-A, I. P. G.) but only with offences under Sec 153-A and 295-A IPC the relevant portions of which run as follows:?

153-A (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 ill-will 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.

295-A. 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 otherwise, insults or attempts to

insult the religion or the religious belief of that class, shall be punished with imprisonment of either description for a term which may extend to three, years, or with fine, or with both.

4. In order to justify the order of forfeiture in respect of the book with which we are at present dealing, it is suggested that this book promotes disharmony, enmity, hatred or ill-will between Sudras and Harijans on the one hand and members of the higher Hindu castes on the other and that it deliberately and maliciously outrages the religious feelings of Hindus and insults their religion. But when we are judging the book, it is important that we should bear in mind its underlying purpose, which is to draw the attention of the scheduled castes to the unfair disabilities imposed on them by the practices and customs of the Hindu religion in its Brahminical form and to persuade them to give up Hinduism and adopt Buddhism instead. Rational criticism of religious tenets, couched in restrained language, cannot amount to an offence either u/s 153-A or u/s 195A of the Penal Code. And criticism of the Hindu religion for its inculcation of the doctrine of untouchability and for the sanction which it has given to reprehensible treatment meted out to the lower castes has of recent years been considered perfectly legitimate, having been sponsored by no less a person than Mahatma Gandhi himself.

5. We may now turn to a consideration of the individual passages in the forfeited book that are relied upon as the basis for holding that it promotes disharmony, hatred and ill-will between high and low castes and that it insults the Hindu religion. Even on a cursory perusal, many of these passages clearly fall within the category of legitimate criticism and are such that no reasonable person of normal susceptibilities could possibly object to. They merely point out the disabilities suffered by the lower castes on account of the rigid stratification of society brought about by the caste system and the arrogance and contempt displayed by the higher castes in their relations with the lower. In this context we can see nothing objectionable in the passages which state that the Hindu religion is blemished, that Hindus lack sympathy, equality and independence, that in Hinduism there is no room for feelings of humanity and that in Hinduism progress for the individual is impossible. Nor can any serious objection be taken, in the context of this line of argument, to the statements that untouchability is the basis of Hinduism, that Brahmanism is "our enemy from birth" and deserves to be annihilated, that the higher caste Hindus are arrogant, selfish, hypocritical and false, that they exploit others, inflict mental suffering on them and treat them with contempt. Exception has been taken to the passage, which says that the preaching of Vedanta is a "mockery of humanity". But the context shows that this criticism is advanced because the Hindu religion tells those who are starving and oppressed, like the scheduled castes, not to think of improving their present lot but to console themselves with hopes for happiness in some future rebirth. Developing the themes of untouchability and caste tyranny, the author has remarked: "Do not stay with them-eyen their shadow is evil", thus advocating, in reverse, the attitudes adopted by high caste Hindus towards the

scheduled castes.. He has said that a religion which holds the touch of an unclean animal to be clean while considering the touch of a human being unclean is not a religion at all but idle chatter. And at one place he has given a fanciful derivation of the word "Hindu", saying that it is made up of "hin" from "hinsa" and "du" from "dushya-ti". But these passages too, if read in the setting in which they occur, with particular reference to the subject " of untouchability. will be found to be innocuous and unlikely to give offence to any reasonable person. Out of the passages cited in the Appendix to the impugned notification we may therefore eliminate passages 1. to 12. 20 and 24 as legitimate criticism of the tenets of orthodox Hinduism, with reference to the evils of the caste system and untouchability.

6. Next we may turn to passages 13 to 19 which are objected to because they comment adversely on the Hindu Scriptures viz. the Vedas and the Bhagvadgita,. Regarding the Vedas the author asserts that these hymns were "composed by hundreds of people, who were undeveloped and uncultured. But this passage has to be read in its context, which shows that it is only part of an argument aimed at refuting the orthodox view that the Vedas are of divine origin- In the same strain is another passage where the author has cited" a certain Shabar Swami as saying that the persons who composed the Vedas were "fools or niadmen". There is also a reference to the fact that the Vedas mention sexual intercourse with horse on the occasion of the ashwamedh (horse sacrifice) or ajamedh (goat sacrifice); but the author merely states that this subject has been discussed in the Vedas, not that the ritual in question has been approved or recommended, so there is nothing to take offence at here.

7. Regarding the comments on the Gita, we find that some of the pass.-ages complained of (i. e. those describing it as a "song of shepherds" or as a "political book") are completely innocuous. And the rest constitute legitimate criticism of orthodox Hindu ideas, pointing out that the Gita treats Sudras with contempt and attributes a variety of faults to them, so as to keep them permanently in a state of subjection. It is in this connexion that the Gita has been described as an "irreligious book". We are satisfied that none of these passages about the Scriptures, read in their proper context, contain anything that might be said to insult Hinduism or to promote disharmony and hatred between different castes.

8. Finally we come to passages 21 to 23, which are claimed to be objectionable because they criticise the Hindu gods, particularly Ram and Hanuman-The author states that Hindus think it right to despise others on account of the arrogance based on caste, and hope to attain salvation thereby; and the gods and goddesses of Hinduism are modelled on these same repulsive ideals. He then gives the story of Shambuk, a Sudra who dared to become an ascetic and was killed by Ram on that account; and he asks how anyone can worship a god like Ram, who .considered it his duty to commit the murder of a -sage in this fashion. Similarly he asks why Sudras and Harijans worship Hanuman, who he says was unchaste; and in support of this assertion he cites a passage from the Valmiki

Ramayana, according to which Bharat presented Hanuman with 16 maidens as a reward for bringing good news about Ram and Sita. The original text of the Valmiki Ramayan has been shown to us and we find that it describes both the killing of Shambuk by Ram and the presentation of the 16 maidens to Hanuman by .Bharat. That being the case, it is difficult to see how the repetition of these stories can be said to be an insult to the Hindu religion or to promote disharmony and hatred. In the eyes of orthodox Hindus the Valmiki Ramayana has the status of a holy book or scripture; and nothing that is mentioned therein can possibly be taken offence to or construed as an insult to Hinduism, however much it may be at variance with modern ideas of morality and ethics.

9. We are satisfied, reading the book as a whole and bearing in mind its avowed purpose, that none of the passages complained of can be said to be punishable either u/s 153A or u/s 295-A of the Penal Code. The impugned order of forfeiture was wholly unjustified and cannot be sustained.

10. learned Counsel for the petitioners has further argued that the impugned order is bad for non-compliance" with the provisions of Section 99-A Cr.PC, which requires the State Government to state the grounds for its opinion that the book in question contains matter which promotes enmity or hatred between classes of citizens or is intended to outrage religious feelings; and in this connexion he has placed reliance on the Full Bench pronouncement of this Court in Cr. Misc. Case 412. of 1970 (Lalai Singh Yadav v. State of U. P.) decided on All.). But it is unnecessary for us to express any opinion on this aspect of the case, in view of the conclusion we have reached that "the book which we are now considering is on the merits not liable to forfeiture at all-

11. This application is accordingly allowed, with costs assessed at Rs. 300/-, and the impugned order of forfeiture is set aside. " All the forfeited copies of the book "Saramaan ke liye dharm parivartan karen" shall be returned to the petitioners forthwith.