

(2013) 01 AHC CK 0116

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 941 of 2013

Mudassir Ullah Khan

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-01-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 200, 202
Penal Code, 1860 (IPC) — Section 295A, 298

Citation : (2013) 2 ACR 2020 : (2013) 3 ADJ 108 : (2013) 5 ALJ 73 : (2013) 81 ALLCC 152 : (2013) 98 ALR 48 : (2013) CriLJ 3741 : (2014) 3 RCR(Criminal) 863

Hon'ble Judges : Manoj Misra, J

Bench : Single Bench

Advocate : Sahid Ali Siddiqui, Ashraf Ali and Mohd Yaseen, for the Appellant;

Final Decision : Dismissed

Judgement

Manoj Misra, J.—Heard learned counsel for the petitioner and learned A.G.A. for the State.

By this writ petition, the petitioner has challenged the order dated 26.10.2012 passed by the Sessions Judge, Jhansi in Criminal Revision No. 115 of 2012 as also the order dated 21.5.2012, passed by the Chief Judicial Magistrate, Jhansi in Complaint Case No. 7926 of 2011, whereby the complaint of the petitioner has been dismissed.

A perusal of the record reveals that the petitioner filed complaint against the Sony T.V. Channel and the host of the popular T.V. program "Kauri Benega Krorapati" i.e. Amitabh Bachchan alleging therein that in the program of "Kauri Benega Krorapati" aired on 28.9.2011, a question was put to arrange the following holy books i.e. Bible, Guru Granth Sahib, Quran and Ved Granth in chronological order. It is alleged that there was no error in the chronological arrangement of the holy books as per the answer aired in the T.V. show, but the host Amitabh Bachchan after disclosing the correct answer stated as follows:

Sabsey Pahley Ved Aaye Yani D-Phir Bible Aaya Yani A, Phir Racha Gaya Quran Yani C-, Aur Akhir Mey Guru Granth Sahib Hua, Yani B"

2. It is stated that as per the belief of Muslim community, holy "Quran" was neither written nor created by any body but it came into existence/revealed by Allah (God) himself, therefore, disclosing the holy "Quran" as "Racha Gaya" is contrary to the belief of the Muslim community and, therefore, the religious feelings of Muslim community were hurt and as this statement was deliberately made the accused were liable to be prosecuted for the offenses punishable under Sections 295A and 298 I.P.C.

3. The learned Magistrate, after recording statement of the complainant as also of the witnesses, under Sections 200 and 202 Cr.P.C., took the view that there was nothing to show that the statement was made with deliberate and malicious intention to outrage religious feelings of any class of citizens of India or with deliberate intention to wound the religious feelings of any person, therefore, the essential ingredients for commission of any offense were absent. The revisional Court also carefully examined the matter and by a well reasoned judgment found no error in the order passed by the learned Magistrate and, accordingly, dismissed the revision.

4. Challenging the order passed by the Courts below, the learned counsel for the petitioner submitted that as the statement that the holy Quran was "Racha Gaya" was palpably wrong, the religious feelings of the Muslim community were wounded and since this statement was deliberately made, proceedings ought to have been drawn against the accused and, therefore, the dismissal of the complaint at the threshold was not legally justified.

Before examining the weight of the submission of the learned counsel for the petitioner, it would useful to examine the provisions of Sections 295A and 298 of the Indian Penal Code, which are as follows:

"295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.--Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by sign or by visible representations or otherwise, insults or attempts to insults the religious 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.

298. Uttering, words, etc, with deliberate intent to wound the religious feelings of any person.--Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

A perusal of the aforesaid provision clearly reveals that there should be a

deliberate and malicious intention of outraging the religious feelings of any class of citizens of India or of wounding the religious feelings of any person.

5. A perusal of the complaint, which has been enclosed as Annexure 2 to the writ petition, does not indicate that the statement i.e. describing the holy Quran as "Racha Gaya" was made with a deliberate intention to wound the religious feelings of any class of citizens of India or of any person.

6. Mere allegation in the complaint that the statement was deliberately made without any supporting material to show that there was a deliberate and malicious intention to outrage the religious feelings of any class of citizens of India or of any person would not be sufficient to draw the proceedings under Sections 295-A /298 IPC. The malicious intention should either be shown to exist or should be apparent from the nature of the act alleged to constitute an offense. In the instant case, both the Courts below have concurrently found that there was no material to infer the necessary mens rea. In the given circumstances, I do not find any illegality in the order passed by the Courts below so as to warrant interference under Article 226 of the Constitution of India.

The writ petition is, accordingly, dismissed.