
(2012) 07 AP CK 0058

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 5433 of 2012

Shareef Abdul Raheem Yamani and others

APPELLANT

Vs

The State of A.P. And another

RESPONDENT

Date of Decision : 23-07-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 295A, 34

Citation : (2012) 2 ALD(Cri) 550 : (2012) 3 ALT(Cri) 241

Hon'ble Judges : Samudrala Govindarajulu, J

Bench : Single Bench

Advocate : M.A.K. Mukheed, for the Appellant;

Final Decision : Dismissed

Judgement

Samudrala Govindarajulu, J.—The petitioners 1 to 3/A.1 to A.3 are accused of offence punishable u/s 295A/34 IPC in Cr.No.185 of 2012 of Mirchowk Police Station, Hyderabad. A.1 is Chairman of Ruby Channel, formerly known as Ruby City Cable Entertainment & News Channel at Hyderabad. A.2 is Managing Director and A.3 is Video Editor in the said channel. It is alleged that A.1 instructed A.2 in the presence of A.3 to telecast one Islamic programme by name Pygamber Hazrath Yousuf A.S., and instructed them to download the programme from www.youtube.com and that on 17.06.2012, A.2 instructed A.3 to download the clips and to telecast the same at 22.00 hours and that A.3 downloaded the said programme part 1 of 146 from You Tube. It is further alleged that in that programme, one person was acting as prophet and that it is objectionable offending religious feelings. It is further alleged that on 24.06.2012, A.3 telecasted part 43 of 146 - Urdu Full Movie - Islamic Movie. flv which is downloaded from You Tube. It is contended by the petitioners' counsel that the above programme telecasted in Ruby Channel of the accused was not banned by the Central or State Government and CDs of such programmes are freely available in market. Section 295A IPC reads as follows:

Deliberate and malicious acts, intended to outrage religious feelings of any class

by insulting its religion or religious beliefs.- Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of (citizens of India), (by words, either spoken or written, or by signs or by visible representations or otherwise), insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to (three years), or with fine, or with both)

The said provision deals with any act which insults or attempts to insult religion or religious beliefs of that class and which was intended to outrage religious feelings of any class or citizens of India. The said provision does not speak that the said act or publication or representation should have been banned or prohibited by any Government, either State or Central, under any law in force. Banning a work is not a pre-condition for application of Section 295A IPC to that work. Availability of the said programme in CDs in market, assuming to be true, will not clothe the accused to telecast the same in their channel so as to enable general viewers to look at the said programme.

2. Placing reliance on *Sujato Bhadra v State of W.B.* 2006 CRI.L.J.368 of Special Bench of the Calcutta High Court, it is contended by the petitioners' counsel that the book "Dwikhandita" written by foreign author Taslima Narseen of Bangladesh was held to be not offending any religious feelings and was not intended to outrage religious feelings to insult religion or religious belief of any class. Whether a book or telecast is offending religious feelings of a particular religion or religious belief would be a question of fact depending upon contents of that book or telecasted programme. In the absence of viewing the telecasted programme, this Court cannot hold whether the programme offends or does not offend religious feelings of any religion or religious belief. As per allegations in F.I.R. and in the remand report of A.3, the telecasted programme contained a clip wherein an actor acted as prophet and that it is offending the religious belief of one religion. Therefore, it cannot be said that the allegations do not attract ingredients of Section 295A IPC in this case. In the result, the Criminal Petition is dismissed.