
(2019) 04 P&H CK 0174

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 32227, 32226 Of 2016 (O&M)

Vishal Dadlani And Ors

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 29-04-2019

Acts Referred:

Indian Penal Code, 1860 — Section 124A, 153A, 196, 199, 295A, 505, 505(2), 509
Information Technology Act, 2000 — Section 66E
Code Of Criminal Procedure, 1973 — Section 154, 161, 196, 200, 482
Constitution Of India, 1950 — Article 19(2), 19(1)(a), 19(1)(s), 25

Citation : (2019) 04 P&H CK 0174

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : R.S. Cheema, Arshdeep Singh Cheema, Satish Sharma, Karuna Nandy, Amandeep Singh Talwar, Kuldeep Tiwari, Khushbir K. Bhullar, Sandeep Jain

Final Decision : Disposed Off

Judgement

Vide this common judgment, I intend to dispose of both the aforesaid petitions i.e. CRM-M Nos.32227 and 32226 of 2016, as common questions of law and facts are involved for adjudication.

The petitioners namely Vishal Dadlani (in CRM-M No.32227 of 2016) and Tehseen Poonawala (in CRM-M No.32226 of 2016), are arrayed as an accused in the impugned FIR No.0310 dated 28.08.2016 (Annexure P1) registered under Sections 295-A, 153-A and 509 of the Indian Penal Code (in short 'IPC') (Section 66E of the Information Technology Act, 2000 added later) at Police station Ambala Cantt. Haryana, and they are praying for quashing of the said FIR and all other proceedings arising therefrom.

Brief facts of the case are that respondent No.2/complainant namely Puneet Arora, got the aforesaid FIR registered. For a reference, the contents of FIR No.0310 dated 28.08.2016 is reproduced as under:-

"Sir, as you are aware that the State of Haryana is celebrating the Golden Jubilee year of its establishment. For this reason on 26.08.2016, the session of the Vidhan Sabha commenced with the sermons of the renowned Jain Saint and Tapasvi, Sh. TarunvSagar Ji. Indian culture has always had respect towards the saint fraternity. But Vishal Dadlani and Tehseen Poonawalla have intentionally used the internet and through that twitter account broadcasted tweets on 27.08.2016. The words used in them express disrespect, criticism and have spread religious discontent/ enmity towards the Jain community and the Saint and Tapasvi Sh. Tarun Sagar. I am visibly hurt and aggrieved. My belief and religious feelings have been hurt. Tehseen Poonawalla has gone a step further. He has posted a picture of a half clad woman along side the picture of respected Sh. Tarun Sagar Ji. The society is taking about protecting and educating the girl child. By posting the picture of a half clad woman and by comparing it to the Jain monk is great disrespect towards both the female fraternity and the Jain Monk. The session of the Haryana Vidhan Sabha was in presence of the respected Governor, respected Speaker, respected Chief Minister and all Elected Representatives of the State of Haryana. By the use of such words by Vishal Dadlani (@ Vishal Dadlani) and Tehseen Poonawalla (@ Tehseenp) have intentionally disrespected all the above respected persons and 2.5 crore residing in Haryana. This is straight away, through the medium of the internet, a matter of spreading religious discontent/ enmity, hurting of belief and religious sentiments, disrespect of Jain Saint who belongs to a minority community, the entire female fraternity, 2.5 cr residents of Haryana, the respected Governor, respected Speaker, respected Chief Minister and Elected Representative, the matter concerns disrespect towards all. Hence, you are requested to initiate the relevant and strict legal proceedings.

Complainant Sd/ - Puneet Arora." Counsel for the petitioner - Vishal Dadlani (in CRM-M No.32227 of 2016) has submitted that the petitioner is a prominent Singer and Composer, who has composed and written many songs in Hindi Film Industry, apart from performing various shows and acting as a Judge in television programmes.

Counsel for the petitioner has further submitted that on 26.08.2016, the Government of Haryana extended an invitation to one Jain Monk (Muni) Sh. Tarun Sagar, to deliver a speech in the Haryana State Legislative Assembly at Chandigarh, on the social and political issues. On the next day i.e. 27.08.2016, the petitioner posted a series of message on a social media platform i.e. 'Twitter', questioning the wisdom of the Haryana State Legislative Assembly in inviting a religious leader to address a political form. The tweets, which were made by the petitioner are reproduced as under:-

"If you voted for these people, YOU are responsible for this absurd nonsense. No #AchcheDin, just no #KachcheDin". This was posted with a photograph captioned "MONKERY OF DEMOCRACY."

People actually trying to defend the colossal idiocy of some naked monk,

addressing Haryana assembly telling women how to live! UNREAL! (2)

(2) That dude has the same education, as he has clothes on. None. I've no problem with nudity. I have a problem with religion in governance.

I wonder how the idiots defending that shit, don't see the hypocrisy of it. Or 'hipocrisy', as they spell it.

Everyone is entitled to believe whatever they like & worship whomever they choose. Can we just keep ALL of those OUT of Governance, please?

All respect for Jains & Jainism. Their concept of non-violence is what the world needs. But why 'saints' in parliament?

Nothing vulgar about nudity. Telling women how to live, what to wear, where to go, what to do....THAT is vulgar!

Get jurists, scientists, social-workers, reformers, infrastructure/management experts. Why so-called 'saints'?"

In one of the tweet, the petitioner posted the photograph of Jain Monk (Muni) Tarun Sagar,, when he was addressing the Haryana State Legislative Assembly. Counsel for the petitioner has placed on record all the tweets (collectively) as Annexure P2, wherein many of the followers of the petitioner gave similar reply, whereas some followers of Jainism advised the petitioner that if he do not understand Jainism, he should not question any religion, however, in reply despite such advisory to the tweets made by the followers of the Jain Muni, the petitioner continued to made the aforesaid tweets and a perusal of the same show that it started at 04:01 AM on 27.08.2016 and continued till 09:51 AM on the same day. Lastly in one of the tweet, the petitioner even stated that it is not offensive to all and he apologized if he had hurt anyone. The tweets were apologetic in nature by referring that the politics and religion should be separated.

Counsel for the petitioner has further argued that even Jain Muni (Monk) Tarun Sagar, in an interview to the ABP News stated that the petitioner has a right to differ and criticize and he do not care what people say about him and in an interview with Jain Muni Tarun Sagar forgave the petitioner - Vishal Dadlani for his tweets. In this interview (attached as Annexure P6) dated 29.08.2016, Jain Muni has explained about the lifestyle of Digambar Sadhus, who remained naked and stated that the petitioner does not know about the Jainism, Jain Monks, their belief and the lifestyle. It was also stated by the Jain Muni that even previously, he was invited by the Delhi Legislative Assembly, however, this programme was cancelled.

Counsel for the petitioner has further submitted that even thereafter, the petitioner has sent an open letter to Jain Muni Tarun Sagar, all Jain Saints and the followers of Jainism, which reads as under:-

"It's been four days now, since I tweeted about the appearance of Muni Tarun

Sagar ji in the Haryana State Assembly. I feel like I have failed in my duty as a human being, to be sensitive to the feelings of others. I had no intention whatsoever to cause any offence. I'm not a religious man, but I know how much religion means to believers. I have asked for forgiveness from Muni Tarun Sagar ji, and his followers, several times, but it's not enough for the guilt and pain I feel.

As a concerned Indian, I should have been especially careful to be sensitive to the sentiments of followers of Muni Tarun Sagar ji. Especially after receiving his forgiveness, I realise what a magnanimous and generous heart he has, and what strength lies within the gentleness of the Jain people. I have always stood up for the rights of every Indian, and I feel like I have failed my love for my country this time. Because it is the gentle and kind Muni Tarun Sagar ji who could have been affected, I know I have no reason to be afraid, but I do have strong reason to be hurt and disappointed with myself. I wish to apologise again, and also to state very clearly, that I am no longer going to be involved or associated with any political parties or individuals. In my capacity as an artist and a musician, I will only work for social causes, for the upliftment and betterment of the poor and underprivileged, as the Jain Community does. It is my ego that led me into speaking without thinking and unintentionally saying something that has caused unhappiness to my Jain friends. It is that same ego that I hope to defeat, with your help.

I apologise again, from the depths of my heart, and ask that Muni-ji and all my Jain brothers and sisters, forgive me. I promise you all, it is a mistake that will not be repeated. In a display of true Jain generosity, Muni-ji has already said that my statement is irrelevant to him and that he forgives me, but I still feel the need to personally ask his forgiveness again, and that of any and all his followers and those from the Jain community who I may have caused unhappiness.

It is my fervent hope that I can convey that I have the greatest respect for him and the Jain religion. I ask your forgiveness in the spirit of Paryushan...Michhami Dukudam."

Before referring to further argument of counsel for the petitioner, on legal precedents, it would be relevant to refer to the contentions raised by learned Senior counsel for the petitioner - Tehseen Poonawala (in CRM-M No.32226 of 2016).

The petitioner - Tehseen Poonawala also tweeted in a similar manner. The tweet made by the petitioner - Tehseen Poonawala on 27.08.2016, reads as under:-

"Tehseen Poonawala @Tehseenp Why is this 'naked' man 'holy' even if he walks 'nude' in the state assembly while a woman would be termed a slut 27/08/16,"

The photograph of the Jain Muni was identical to the photo posted by the petitioner - Vishal Dadlani, however, by way of Photoshop, the photograph of a lady whose face was not shown, in a sitting posture wearing only undergarments

was clubbed and posted along with the photograph of Jain Muni. It is also worth noticing here that the petitioner - Tehseen Poonawala, even thereafter, on the said topic made number of tweets in response to the tweets made by his followers, some of whom even criticized him for making such tweets.

It would also be relevant to refer to some part of the speech made by Jain Muni in the Haryana State Legislative Assembly as reported by e-media, which is reproduced as under:-

"He equated dharma to the husband and politics to the wife, suggesting that the latter should "accept the discipline" imposed by the former.

He recommended ways to eradicate female foeticide. He even took potshots at Pakistan. And all through the discourse that lasted 40 minutes, Jain religious leader Tarun Sagar had MLAs cutting across party lines at the Haryana Assembly listening in rapt attention.

Delivering his "Kadve Vachan" to mark the start of the monsoon session, the first such event organised at the Vidhan Sabha, the monk, who appeared in the nude was seated on a dais, above the seats of the Governor, Chief Minister and MLAs.

Invited to speak by Education Minister Ram Bilas Sharma, Sagar said, "Rajniti par dharam ka ankush zaroori hai. Dharam pati hai, rajneeti patni. Har pati ki yeh duty hoti hai apni patni ko samrakshan de. Har patni ka dharam hota hai ki wo pati ke anushasan ko sweekar kare.

Agar rajneeti par dharam ka ankush na ho toh woh magan-mast haathi ki tarah... ho jaati hai (The control of dharma over politics is essential. Dharma is the husband, politics is the wife. It is the duty of every husband to protect his wife. It is the duty of every wife to accept the discipline of her husband. If there is no control of dharma over politics, it will be like an elephant out of control)."

Sagar identified female foeticide as a "big problem" that was disturbing the balance of society, leading to more crimes and rapes, and said that he had come up with a formula to tackle it at three levels political, social and religious.

"At the political level, the government should decide that those who do not have daughters should not have the right to contest Lok Sabha and Vidhan Sabha elections. At the level of society, people should not marry their daughters into families that do not have daughters. At the religious level, saints should decide that they will accept the alms from houses where there are no daughters. The result will exceed expectations if this formula is followed. We are living in the 21st century. Even today, when boys and girls are differentiated, I feel we are living in the 14th century," he said.

At this juncture, Sagar took a dig at Haryana Chief Minister Manohar Lal Khattar who is a bachelor, saying, "Khattar sahib ko is mense bahar kar do (Khattar should be kept out of this)."

Taking on politicians, Sagar said that the Parliament, which was set up to solve

the country's problems, has become the biggest problem. He claimed that according to a survey, 160 MPs have criminal cases registered against them and said that efforts should be made to ensure that criminal elements are "not able to climb the stairs of Lok Sabha and Vidhan Sabha"

Terming terrorism as a major issue, Sagar said that no religion promotes terror. If the amount of government money that is spent on weapons is used for education, employment and healthcare, there would be a transformation, he said.

Taking potshots at Pakistan he said, "Humara padosi desh, sab ko maloom h atankvaad ko aasan de raha hai....bhasmasur paida kar raha hai. Bharat ko Preshan karne ke liye. Mujhe lagta hat aaj nahi toh kal bhasmasur tayyar kar raha hai apne liye. Ek baar galti kare woh agyan hai, do baar galti kare woh nadaan hai, teen baar galti kare woh shaitan hai aur jo baar baar galti kare woh Pakistan hai. Jo har baar shama kar de, woh Hindustan hai (Everyone knows that the neighbouring country is harbouring terrorism creating Bhasmasurs to trouble India. If someone makes a mistake once he is ignorant, if someone makes a mistake twice he is innocent, if someone makes a mistake thrice he is the devil, and if someone makes a mistake repeatedly, that is Pakistan. And the one who forgives repeatedly is India)."

Sagar also praised the Narendra Modi government for prescribing a retirement age of active politicians, and had a word of advice for the Khattar government."Agar humne Rishikesh mein Ganga ka shuddhikaran kar liya, toh Haridwar aur uske neeche ke tamaam ghat apne aap shudh hote chale jayenge. Agar satra ke pehle hi din aapne dharam ko apne yahan pe baitha liya, rajneeti ke tamaam ghaat apne aap shudh hote chale jayenge. Khattar sarkar par yeh aarop lag sakta hai ke ihno ne rajneeti ka bhagwakaran kar diya, par main aap se nivedan karna chahunga, yeh rajneeti ka bhagwakaran nahi hai balki rajneeti ka shuddhikaran hai (If we manage to purify Ganges in Rishikesh, then Haridwar and all its ghats will automatically keep getting purified. If on first day of this session you place Dharma in the assembly, all the ghats of politics will automatically keep getting purified on their own. There may be allegations against the Khattar government that they have saffronised politics, but I would request you that it is not saffronisation of politics rather it is the cleansing of politics)," he said."

Counsel for the petitioner - Vishal Dadlani has also argued that respondent No.2/ complainant has no locus standi to file the impugned FIR. It is further submitted that the aforesaid FIR is registered under Sections 295-A, 153-A and 509 IPC and from the bare perusal of the same, none of the aforesaid Sections are made out against the petitioners.

For a ready reference, Sections 295-A, 153-A and 509 IPC are reproduced as follows:-

"Section 295-A

295-A. 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.

Section 153-A

153-A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.-(1) Whoever-

(a) 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, or

(b) commits 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 tranquillity, [or]

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,] shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Section 509 IPC

509. Word, gesture or act intended to insult the modesty of a woman.-Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine].

Counsel for the petitioner has further submitted that a rational criticism of religious tenants, pounded in restraint language do not amount to an offence

either under Sections 153-A or under Section 295-A IPC.

Counsel for the petitioner has relied upon the judgment "Lalai Singh Yadava and another vs State of Uttar Pradesh", 1971 Criminal Law Journal 1773, wherein the Hon'ble Full Bench of Allahabad High Court has held as under:-

"....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 Under Section 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). xxxx xxxx xxxx (reproduced above)

295-A. xxxxxxxx xxxx (reproduced above)"

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 Under Section 153-A or Under Section 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.

xxxx xxxx xxxx xxxx xxxx

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 Under Section 153A or Under Section 295-A of the Penal Code. The impugned order of forfeiture was wholly unjustified and cannot be sustained.

Counsel for the petitioner has also relied upon the judgment "Bilal Ahmed Kaloo vs State of Andhra Pradesh", 1997 (7) SCC 431, wherein the Hon'ble Supreme Court has held as under:-

"10. Section 153A was amended by the Criminal and Election Laws (Amendment) Act 1969 (Act No.35 of 1996). It consists of three clauses of which clauses (a) and (b) alone are material now. By the same amending Act sub-section (2) was added to Section 505 of the Indian Penal Code. Clauses (a) & (b) of Section 153A and Section 505(2) are extracted below:

"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.- (1) Whoever

(a) 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, or

(b) commits 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 tranquillity, or

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

505(2) Statements creating or promoting enmity, hatred or ill- will between classes.- Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, 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 three years, or with fine, or with both."

The common ingredient in both the offences is promoting feeling of enmity, hatred or ill-will between different religious or racial or linguistic or regional groups or castes or communities. Section 153A covers a case where a person by "words, either spoken or written, or by signs or by visible representations" promotes or attempts to promote such feeling. Under Section 505(2), promotion of such feeling should have been done by making and publishing or circulating any statement or report containing rumour or alarming news.

11. This Court has held in *Balwant Singh and another vs. State of Punjab* (1995 3 SCC 214) that mens rea is a necessary ingredient for the offence under Section 153A. Mens rea is an equally necessary postulate for the offence under Section 505(2) also as could be discerned from the words "with intent to create or promote or which is likely to create or promote" as used in that sub-section.

12. The main distinction between the two offences is that publication of the word or representation is not necessary under the former, such publication is sine qua non under Section 505. The words "whoever makes, publishes or circulates" used in the setting of Section 505(2) cannot be interpreted disjunctively but only as supplementary to each other. If it is construed disjunctively, any one who makes a statement falling within the meaning of Section 505 would, without publication or circulation, be liable to conviction. But the same is the effect with Section 153A also and then that Section would have been bad for redundancy. The intention of the legislature in providing two different sections on the same subject would have been to cover two different fields of similar colour. The fact that both sections were included as a package in the same amending enactment lends further support to the said construction.

13. Yet another support to the above interpretation can be gathered from almost similar words used in Section 199 of the Penal Code as "whoever by words.....makes or publishes any imputation....."

14. In *Sunilakhya Chowdhury vs. H.M. Jadwet and another* (AIR 1968 Calcutta 266) it has been held that the words "makes or publishes any imputation" should be interpreted as words supplementing to each other. A maker of imputation without publication is not liable to be punished under that section. We are of the view that the same interpretation is warranted in respect of the words "makes, publishes or circulates" in Section 505 IPC also.

15. The common feature in both sections being promotion of feeling of enmity,

hatred or ill-will "between different" religious or racial or language or regional groups or castes and communities it is necessary that atleast two such groups or communities should be involved. Merely inciting the felling of one community or group without any reference to any other community or group cannot attract either of the two sections."

Counsel for the petitioner has further relied upon the judgment "Manzar Sayeed Khan vs State of Maharashtra and another", 2007(5) SCC 1, wherein again it is held that to make out an offence under Section 153A and 505(2) of IPC, the essential, promotion of enmity or hatred between different groups or grounds of religion, etc. must be proved and the intention/mens rea to cause disorder or to incite the people to resort to violence should be judged to find out if such offence is made out. It is further held that it is necessary that at least 02 groups or communities should be involved as the intention to cause disorder or incite the people to violence is the sine qua non of the offence under Section 153-A IPC and the prosecution has to prove prima facie the existence of mens rea on the part of the accused persons.

Counsel for the petitioner has further submitted that even the offence under Section 295-A IPC is not made out as there is no deliberate or malicious act on the part of the petitioner to outrage the religious feeling of any class.

Counsel for the petitioner has also relied upon the judgment "Mahendra Singh Dhoni vs Yerraguntla Shyamsundar and another", 2017(7) SCC 760, wherein the Hon'ble Supreme Court has held as under:-

"6. Be it noted, the constitutional validity of Section 295A was assailed before this Court in Ramji Lal Modi v. State of U.P., AIR 1957 SC 620 which was eventually decided by a Constitution Bench. The Constitution Bench, advertng to the multiple aspects and various facets of Section 295A I.P.C. held as follows :-

"8. It is pointed out that section 295A has been included in chapter XV of the Indian Penal Code which deals with offences against the public tranquility and from this circumstance it is faintly sought to be urged, therefore, that offences relating to religion have no bearing on the maintenance of public order, or tranquillity and, consequently, a law creating an offence relating to religion and imposing restrictions on the right to freedom of speech and expression cannot claim the protection of el. (2) of Article 19. A reference to Articles 25 and 26 of the Constitution, which guarantee the right to freedom of religion, will show that the argument is utterly untenable. The right to freedom of religion assured by those Articles is expressly made subject to public order, morality and health. Therefore, it cannot be predicated that freedom of religion can have no bearing whatever on the maintenance of public order or that a law creating an offence relating to religion cannot under any circumstances be said to have been enacted in the interests of public order. These two Articles in terms contemplate that restrictions may be imposed on the rights guaranteed by them in the interests of public order.

9. Learned counsel then shifted his ground and formulated his objection in a slightly different way. Insults to the religion or the religious beliefs of a class of citizens of India may, says learned counsel, lead to public disorders in some cases, but in many cases they may not do so and,, therefore, a law which imposes restrictions on the citizens' freedom of speech and expression by simply making insult to religion an offence will cover both varieties of insults, i.e., those which may lead to public disorders as well as those which may not. The law in so far as it covers the first variety may be said to have been enacted in the interests of public order within the meaning of cl. (2) of Article 19, but in so far as it covers the remaining variety will not fall within that clause. The argument then concludes that so long as the possibility of the law being applied for purposes not sanctioned by the Constitution cannot be ruled out, the entire law should be held to be unconstitutional and void. We are unable, in view of the language used in the impugned section, to accede to this argument. In the first place cl. (2) of Article 19 protects a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression "in the interests of" public order, which is much wider than "for maintenance of" public order. If, therefore, certain activities have a tendency to cause public disorder, a law penalising such activities as an offence cannot but be held to be a law imposing reasonable restriction "in the interests of public order" although in some cases those activities may not actually lead to a breach of public order. In the next place section 295A does not penalise any and every act of insult to or attempt to insult the religion or the religious beliefs of a class of citizens but it penalises only those acts of insults to or those varieties of attempts to insult the religion or the religious beliefs of a class of citizens, which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section. It only Punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. The calculated tendency of this aggravated form of insult is clearly to disrupt the public order and the section, which penalises such activities, is well within the protection of clause (2) of Article 19 as being a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression guaranteed by Article 19(1)(a). Having regard to the ingredients of the offence created by the impugned section, there cannot, in our opinion, be any possibility of this law being applied for purposes not sanctioned by the Constitution. In other words, the language employed in the section is not wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative action affecting the fundamental right guaranteed by Article 19(1)(s) and consequently, the question of severability does not arise and the decisions relied upon by learned counsel for the petitioner have no application to this case."

7. On a perusal of the aforesaid passages, it is clear as crystal that Section 295A

does not stipulate everything to be penalised and any and every act would tantamount to insult or attempt to insult the religion or the religious beliefs of class of citizens. It penalise only those acts of insults to or those varieties of attempts to insult the religion or religious belief of a class of citizens which are perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class of citizens. Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the Section. The Constitution Bench has further clarified that the said provision only punishes the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class. Emphasis has been laid on the calculated tendency of the said aggravated form of insult and also to disrupt the public order to invite the penalty."

Counsel for the petitioner has further submitted that there was no mens rea on the part of the petitioner to commit any offence and even the petitioner has tendered his apology to the Jain Muni Tarun Sagar, which was accepted by him by way of print media. It is also submitted that even the petitioner - Vishal Dadlani personally appeared before Jain Muni Tarun Sagar and tendered his apology in person, which was also accepted by him.

Counsel for the petitioner - Vishal Dadlani has, lastly, argued that the Jain Monk (Muni) Tarun Sagar remained alive for a period of 02 years after the registration of the FIR and since he did not want to take any action, he never approached the police authorities for recording his statement in support of the FIR as he has accepted the apology tendered by the petitioner. It is further argued that nothing has come on record that the complainant is a follower of Jainism and there are lakhs of followers of Jain religion and none has come forward in the intervening period of 02 years to support the allegations in the FIR as all the followers of late Jain Muni have also accepted his dictum vide which he has forgiven the petitioner - Vishal Dadlani.

Learned Senior counsel for the petitioner appearing for the petitioner - Tehseen Poonawala (in CRM-M No.32226 of 2016), has submitted that the petitioner has no regret of the tweets made by him and he knows that he has made the tweets as no offence under Section 153-A, 295-A and 509 IPC is made out. The summary of arguments submitted by the petitioner, reads as under:-

"a) That the subject FIR ex-facie shows that the offences cited therein being Section 153A, 295A and 509 IPC are not made out and that indeed nothing said by the Petitioner promotes enmity between religious groups or is prejudicial to maintenance of harmony ("Public Order"). The judgments of the Apex court are clear on the following:

(i) Speech must be seen in context and the present context discloses a legitimate exercise of political critique protected by the Constitution of India under Article 19(1) (a); that without incitement of one community without reference to

another community section 153A Indian Penal Code, 1860 is not attracted.

(ii) Section 295 A of the Indian Penal Code, 1860 has been read down by the Supreme Court and for speech to be impugned under the section a "calculated tendency to disrupt public order" is required. Indeed, as a Constitution Bench of the Supreme Court has directed, where such "Insults to religion offered unwittingly or carelessly or without any deliberate or malicious intention to outrage the religious feelings of that class do not come within the section".

(iii) No women have been mentioned by the Petitioner in the impugned tweets, the allegations concerning Section 509 of the Indian Penal Code pertains to the other accused in the FIR. It is stated that the Petitioner herein has never met or spoken to Mr. Tehseen Poonawalla and has no connection with his whatsoever.

b) The impugned tweets concerned a speech by a religious figure in an official session of a legislative assembly. This was a first in the country's history, as such there was widespread debate on this. The Petitioner held the view that religion and governance should be separate. However, acknowledging that some of those tweets were inadvertently impolite, the Petitioner apologized for the impoliteness in the same series of tweets.

c) That the FIR discloses perceived insults to the Haryana Government, and it is respectfully submitted are complaining therefore of speech that is not an offence and does not fall within the sections cited.

Separate reply on behalf of the State of Haryana as well as respondent No.2 are on record. In the reply filed by the Deputy Superintendent of Police, Amabala Cantt., it is stated that there are serious allegations against the petitioners for hurting the religious feelings of the complainant and the followers of the Jain Saints. The entire Jain fraternity is defamed before public in large by using electronic media, to spread the religious discontent and hurt their sentiments and therefore, the FIR was rightly registered.

It is also stated that during the course of investigation, Section 66E (c) of the Information Technology Act has been added and the investigation is still pending and, therefore at this stage, the FIR cannot be quashed.

Counsel appearing for the respondent No.2/complainant has submitted that the petitioners i.e. Vishal Dadlani and Tehseen Poonawala, have hurt the belief, religious feelings of the followers of Jain Community and Jain Monk Tarun Sagar. It is further stated that Jain Muni, had gone to Haryana State Legislative Assembly during the celebration of Golden Jubilee Year of its establishment, on an invitation extended by the Haryana Government and he had given the speech, which was made in presence of the Chief Minister of Haryana and other members of the Legislative Assembly, which also include the lady members and all of them knew about the fact that the Jain Monks remained naked and it is part of their religious culture. It is also stated in the reply that the apology tendered by the petitioner - Vishal Dadlani was only after the time when he was criticized

nationwide by many persons and the same has not come out of his own volition or guilt as is apparent from his tweets pleading for apology.

Counsel for the complainant/respondent No.2 has relied upon the judgment "Central Bureau of Investigation vs Ravi Shankar Srivastava, IAS and another", 2006 Criminal Law Journal 4050, to submit that the powers of the High Court under Section 482 is an exceptional power and not a Rule and should be exercised as per the settled test laid down by the Hon'ble Supreme Court.

Counsel for the complainant/respondent No.2 has further relied upon the judgment "Vinod Raghuvanshi vs Ajay Arora and others" 2013(10) SCC 581, wherein similar view has been taken by the Hon'ble Supreme Court.

Counsel for respondent No.2/complainant has submitted that since the investigation is going on, the FIR should not be quashed and relied upon the judgment "Sanapareddy Maheedhar Seshagiri vs State of Andhra Pradesh", 2007(13) SCC 165, wherein the Hon'ble Supreme Court has held that the High Court should refrain from quashing the FIR if the investigation is pending and allow the investigating agency to complete the investigation.

Counsel for respondent No.2 has further submitted that the freedom to speak one's mind is inherent in any democracy and, therefore, it is protected by the Constitution but such freedom is not absolute and is subject to provisions like Section 295-A of IPC and, therefore, such freedom of speech is subject to the consideration of the sentiments of the communities, who are likely to be affected.

During the course of arguments, the Court has appointed Mr. Sandeep Jain, Advocate, a member of Punjab and Haryana High Court Bar Association, as an intervener to assist the Court about the followers of Jain Muni Tarun Sagar.

Mr. Sandeep Jain, Advocate is an ace follower of Jainism as well as Jain Muni Tarun Sagar. He belongs to a law office i.e. "Jain and Jain, Advocates", having its head office in Nawanshahar, Punjab and the members of the law office are active follower of Jainism, not only in preaching of the Lord Mahavir, the founder of Jain religion but are also founder of setting up educational and other social institutions in their area, which are imparting education to poor, upliftment of girl child, and are performing various other social functions like mass marriages of poor girls, etc.

On a Court query, Mr. Sandeep Jain, Advocate, has informed that after the petitioner - Vishal Dadlani, had appeared before the Jain Muni Tarun Sagar, he had forgiven him, so was the dictum issued by him for his followers and therefore, none of his follower has come forward to lodge any complaint before any Court of law or to appear before any police authorities in support of the impugned FIR as they believe in Jainism, which is spreading message of non-violence, peace and harmony in the society and preaches forgiveness to all the members of their community.

Mr. Sandeep Jain, Advocate has further stated that Jain Muni Tarun Sagar was

famous for his "Kadve Vachan" i.e. delivering speech on bitter truths of life and preaching his followers how to lead a simple, non-violent and a life full of sacrifices for other people. He further stated that Jain Muni has also published certain books on his preachings and on accepting the invitation of Government of Haryana, he had gone to deliver the speech "How to maintain an equilibrium between the politics and religion."

However, it was suggested by Mr. Sandeep Jain, Advocate that lest the petitioners repeat such offence, some deterrent action be taken against them so that they may not offend the other Jain Munis, who are following the similar lifestyle as of Jain Muni Tarun Sagar and may not mock at them in future.

In reply, learned Senior Counsel for the petitioner - Tehseen Poonawala has relied upon the judgment "Priya Prakash Varrier and others vs State of Telangana and another", 2018(4) RCR (Criminal) 176, wherein the Hon'ble Supreme Court has held as under:-

"10. On a keen scrutiny of Section 295A and the view expressed by the Constitution Bench in Ramji Lal Modi (supra), we do not find that the said provision would be attracted in the present case. We are inclined to think so, for the picturization of the said song solely because of the 'wink' would not tantamount to an insult or attempt to insult the religion or the religious beliefs of a class of citizens. The said song has been on Youtube since February, 2018. We do not perceive that any calculated tendency is adopted by the petitioners to insult or to disturb public order to invite the wrath of Section 295A of the IPC. In this regard, we may refer to a three-Judge Bench decision in Manohar Lal Sharma vs. Sanjay Leela Bhansali and Others (2018) 1 SCC 770, wherein the Court observed thus:-

"A story told on celluloid or a play enacted on a stage or a novel articulated in a broad and large canvas or epic spoken with eloquence or a poem sung with passion or recited with rhythm has many a layer of freedom of expression of thought that requires innovation, skill, craftsmanship and, above all, individual originality founded on the gift of imagination or reality transformed into imagination or vice versa. The platform can be different and that is why, the creative instinct is respected and has the inherent protective right from within which is called artistic license."

11. In Mahendra Singh Dhoni vs. Yerraguntla Shyamsundar and Another (2017) 7 SCC 760, the justification for the registration of an F.I.R. under Section 295A had come up for consideration before this Court. Appreciating the act done by the petitioner therein, the Court quashed the F.I.R. for an offence under Section 295A I.P.C.

12. If the ratio of the Constitution Bench is appropriately appreciated, the said provision was saved with certain riders, inasmuch as the larger Bench had observed that the language employed in the section is not wide enough to cover restrictions, both within and without the limits of constitutionally permissible

legislative action affecting the fundamental right guaranteed by Article 19(1)(a) of the Constitution. The emphasis was laid on the aggravated form of insult to religion when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of that class.

13. As we perceive, the intervenor, who was an informant in F.I.R. No.34 of 2018, in all possibility has been an enthusiast to gain a mileage from the F.I.R., though the same was really not warranted. What is urged before us is that picturization which involves the actress with a wink is blasphemous. Barring that there is no other allegation. Such an allegation, even if it is true, would not come within the ambit and sweep of Section 295A I.P.C., as has been explained in *Ramji Lal Modi* (supra).

14. In view of the aforesaid, we allow the writ petition and quash the F.I.R. No.34 of 2018. We also direct that no F.I.R. under Section 154 or any complaint under Section 200 of the Code of Criminal Procedure should be entertained against the petitioners because of the picturization of the song. However, there shall be no order as to costs.

Learned Senior counsel has further relied upon "*S. Khushboo vs Kanniammal and another*", 2010(2) RCR (Criminal) 793 wherein the Hon'ble Supreme Court has held as under:-

"28. We are of the view that the institution of the numerous criminal complaints against the appellant was done in a mala fide manner. In order to prevent the abuse of the criminal law machinery, we are therefore inclined to grant the relief sought by the appellant. In such cases, the proper course for Magistrates is to use their statutory powers to direct an investigation into the allegations before taking cognizance of the offences alleged. "It is not the task of the criminal law to punish individuals merely for expressing unpopular views." The threshold for placing reasonable restrictions on the freedom of speech and expression' is indeed a very high one and there should be a presumption in favour of the accused in such cases. It is only when the complainants produce materials that support a prima facie case for a statutory offence that Magistrates can proceed to take cognizance of the same. We must be mindful that the initiation of a criminal trial is a process which carries an implicit degree of coercion and it should not be triggered by false and frivolous complaints, amounting to harassment and humiliation to the accused."

After hearing the counsel for the parties, the following undisputed facts emerges:-

(a) On 26.08.2016, on an invitation extended by Government of Haryana, Jain Muni Sh. Tarun Sagar, delivered a speech in Haryana State Legislative Assembly at Chandigarh on social and political issues and gave his advises to the Members to the Legislative Assembly which included lady members and as reported by e-media, he had given certain advises to the Government regarding female foeticide, cleanliness of river Ganga and the conclusion of his speech was that

there should be some restrictions on Dharma (the duties) over the politics.

(b) On the very next day, both the petitioners started tweeting about Jain Muni Sh. Tarun Sagar, as noticed in the earlier part of the judgment, and the petitioner - Vishal Dadlani criticized his lifestyle as Jain Munis' of a particular sect (Digambar Jain) stay nude as a part of their religious belief as well as the action of the Haryana Government in calling a religious Guru in the Legislative Assembly. These tweets started on 27.08.2016 and he called Jain Muni's speech in Legislative Assembly as absurd, non-sence and said that he should have education to have clothes on.

(c) Similar tweets were made by the petitioner - Tehseen Poonawala. This petitioner also started his tweets on 27.08.2016 and continued thereafter. The petitioner - Tehseen Poonawala has even put semi nude photograph of a lady by way of a Photoshop with the Jain Muni Tarun Sagar, on his tweet/page and has raised a finger towards his character by comparing him with a slut.

(d) After some time, realizing that the followers of the petitioner - Vishal Dadlani are showing great resentment, he tweeted a message of regret and thereafter, even personally visited Jain Muni Tarun Sagar to express his regret and his apology was accepted by Jain Muni Tarun Sagar. However, the petitioner - Tehseen Poonawala neither tendered any such apology to Jain Muni Tarun Sager nor met him to offer any such apology.

(e) It is stated in the petition of petitioner - Vishal Dadlani that he is country's prominent singer and composer, who has given music to various Hindi and regional language movies. However, nothing is mentioned in this petition, if this petitioner had done any social work for poor citizens.

(f) In the petition of petitioner - Tehseen Poonawala, it is stated that he has advocated the right of Lesbian, Gay, Bisexuals and Transgender i.e. LGBT, by writing many articles in support of the same. This petitioner is a Political Analyst, who has even written articles on Shiv Sena, the atrocities made by Maharashtra Police in the name of moral policing, on the subject of legalizing marital rape and even criticized the Odd Even Formula for the car owners introduced by Delhi Government. However, again nothing is mentioned in his petition that the petitioner has performed any social work for the upliftment of the poor in society.

(g) The complainant/respondent No.2 - Puneet Arora, in his reply filed by way of an affidavit, has nowhere stated that he is follower of Jain religion and has only stated that the tweets of the petitioners have hurt the religious feelings of the public at large.

(h) As per the submissions made by Mr. Sandeep Jain, Advocate, the Intervener, Jain Muni Tarun Sagar had following of lacs of Jain decipals, who believe in non-violence, sacrifice for other and perform various social services and after Jain Muni has pardoned the petitioner - Vishal Dadlani, his followers like him had also pardoned him by following the dictum of their religious Guru and therefore, none

of the follower has either filed a police complaint or given a statement under Section 161 Cr.P.C. in the investigation of the present FIR, which is pending for the last more than 02 years.

(i) The FIR was registered by respondent No.2 - Puneet Arora and a period of 02 years has lapsed, however, neither the Government has granted any sanction under Section 196 of IPC nor any of the follower of Jain Muni Tarun Sagar has come forward for recording the statement under Section 161 Cr.P.C., in support thereof and the investigation is stand-still.

After hearing the learned counsel for the parties, I find that the present petitions deserves to be allowed, however, with heavy costs for the following reasons:-

(a) Respondent No.2 - Puneet Arora/complainant in the FIR has stated that tweets of both the petitioners has disrespected Jain Muni Tarun Sagar as well as the residents of State of Haryana. Nothing is mentioned in complaint that the complainant is a follower of Jain religion.

As noticed above, Mr. Sandeep Jain, Intervener has informed the Court that when the petitioner - Vishal Dadlani appeared before the Jain Muni Tarun Sagar to obtain his blessings, he forgave him and had issued a similar dictum to his follower and therefore, none of the follower of Jain religion opted to prosecute them, either by way of filing a police complaint or a complaint before the competent Court of Law. It is also stated that none of the follower has made any statement in support of the FIR. However, Mr. Jain, has suggested that since the follower of Jain Sect believe in non-violence, forgiveness and sacrifice to the society and are doing commendable social services, some deterrent action be taken against the petitioners so that they may not mock at the Jain Munis, who are following the similar lifestyle as of Jain Muni Tarun Sagar (since deceased).

(b) In the judgment of the Hon'ble Supreme Court in S. Khusboo's case (supra), it is held that it is not the task of the criminal law to punish individuals merely for expressing unpopular views and the threshold for placing reasonable restrictions on the freedom of speech and expression is indeed a very high one and there should be a presumption in favour of the accused in such cases.

It has been held by the Hon'ble Supreme Court in Mahendra Singh Dhoni's case (supra) and Ramji Lal Modi's case (supra), that the language employed in Section 295-A IPC is not wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative action affecting the fundamental right guaranteed by Article 19(1)(a) of the Constitution.

This view was further reiterated by the Hon'ble Supreme Court in Priya Prakash Varrier's case (supra), while quashing the criminal prosecution that there should be a calculated tendency adopted by the accused to insult or to disturb public order to invite the wreath of Section 295-A of IPC. Therefore, from the bare perusal of the FIR, offence under Section 295-A IPC is not made out.

(c) The Hon'ble Supreme Court in Bilal Ahmed Kaloo's case (supra), has held that

in order to make out an offence under Section 153-A IPC, it is necessary to prove the mens rea as the ingredient of an offence as could be discerned from the words with intent to create or promote or which is likely to create or promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities.

A bare perusal of the FIR, nowhere reflects that there was mens rea on the part of the petitioners to promote any such enmity as defined under Section 153-A IPC.

(d) It has been held by Hon'ble Supreme Court in S. Khushboo's case (supra) that while relying upon the judgment in "M/s Pepsi Foods Ltd. & Anr. Vs. Special Judicial Magistrate & Ors.," AIR 1998 SC 128 and "State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors.," AIR 1992 SC 604 that where the allegations made in the FIR or the complaint even if taken on the face value and accepted in their entirety do not prima facie constitute an offence or make out an offence against the accused, the same can be quashed.

The Hon'ble Supreme Court in S. Khushboo's case (supra) has further held that even though the right to speech is not absolute and can be subjected to regional restrictions on the ground of decency or morality amongst others, the Court should lay stress to tolerate unpopular views in the socio-cultural space and had quashed the criminal prosecution.

(e) From the bare perusal of the FIR, even Section 509 of IPC is not made out as in the tweets of the petitioners, there is no gesture or act intended to insult the modesty of a woman. Though in one of the tweet of the petitioner - Tehseen Poonawala, he has put a photograph of an unknown lady in semi nude condition with the photograph of Jain Muni Tarun Sagar and it is stated that if the Jain Muni can walk naked then why a woman should be called a slut, however, the same is not intended to insult any woman in particular as the offence under Section 509 of IPC referred to intending to insult the modesty of any woman.

(f) Even no offence under Section 66E of the Information Technology Act, 2000 is made out from the bare perusal of the FIR as already held in foregoing paragraph that neither intention nor mens rea is made out from the bare perusal of the FIR as the intention to violate privacy is missing.

(g) The speech of Jain Muni in Haryana State Legislative Assembly, was delivered on an invitation extended by the Government of Haryana and on noticing the tweets of the petitioner, no official of the Government has taken any action against the petitioners for the criticism of the Government i.e. why a religious leader has been called in the Legislative Assembly.

However, from the tweets of the petitioners and the manner in which it was made, it is apparent that the main target of the petitioners was Jain Muni Tarun Sagar (since deceased), especially his lifestyle which he followed as per his religious norms and one of the petitioner has even tried to compare him with a

semi nude woman. Though the petitioner - Vishal Dadlani, personally met Jain Muni Tarun Sagar, to offer his apology, which were accepted by him as well as his followers, however, the petitioner - Tehseen Poonawala, has shown no remorse and never tried to apologize with the Jain Muni, though, at his own, he has forgiven them by saying that the petitioners are not having knowledge about the lifestyle of the Jain Munis, therefore, it is apparent that both the petitioners have not only insulted Jain Muni but have also hurt the sentiments of the followers of Jain religion.

(h) So far as the arguments raised by counsel for the State that the case is still at the stage of investigation is concerned as noticed above, none of the follower of the Jain Muni has come forward to support the FIR and, therefore, the investigation is pending for the last 2½ years and has not proceeded further. It is also not disputed by counsel for the State that no sanction has been granted by State of Haryana under Section 196 Cr.P.C., which is mandatory for prosecution under Section 295-A IPC, which also demonstrates that even the State is not interested in prosecuting the case, therefore, mere fact that the investigation is still pending is not a ground to not to entertain the present petition.

The judgments relied upon by counsel for the respondent/complainant, on this point are not disputed but are distinguishable for the reasons stated above.

However, the question now arises that in view of above, the petitions be simply allowed or in exercise of power under Section 482 Cr.P.C., justice can also be done to the followers of Jain religion. If the contribution made by the petitioners towards poor people is compared to the contribution made by Jain Muni Tarun Sagar, it is apparent that the petitioners have played a mischief to gain publicity without having much to their credit.

In recent years, the country has witnessed large scale violent protest on incitement made by using social media platform, thereby, causing extensive damage to public property.

However, the preachings of Jain Muni Tarun Sagar about non-violence, sacrifices and forgiveness, has avoided repetition of such like protest.

Therefore, it would be appropriate to impose the costs of ` 10 lacs each on the petitioner - Vishal Dadlani and the petitioner - Tehseen Poonawala, so that in future they may not mock at any head of a religious sect, just to gain publicity on social media like Twitter.

Both the petitioners will deposit the costs within a period of 04 months from today.

The petitioner - Tehseen Poonawala will deposit the costs of ` 5 lacs with the Tarun Kranti Manch Trust (Regd.), Defence Colony, Delhi (a Trust created by late Jain Muni Tarun Sagar) and will also deposit a costs of ` 5 lacs with the Poor Patient's Fund (Prabh Aasra) in Post Graduate Institute of Medical Education and Research (P.G.I.M.E.R.) at Chandigarh.

The petitioner - Vishal Dadlani will deposit the costs of `5 lacs with the Shri Digamber Jain Mandir Trust, Sector 27, Chandigarh and `5 lacs with the Punjab and Haryana High Court Advocates Welfare Fund.

Accordingly, the present petitions are allowed; the FIR No.0310 dated 28.08.2016 registered under Sections 295-A, 153-A and 509 IPC (Section 66E of the I.T. Act, added later on) at Police station Ambala Cantt. Haryana, and all other proceedings arising therefrom are ordered to be quashed subject to payment of costs on or before 01.09.2019, failing which these petitions will be deemed to be dismissed.

The petitions are disposed of.