



**The Court of JM 1<sup>st</sup> Class, Ramgarh**  
**Present: Smriti Tripathi**  
**Judicial Magistrate**  
**30<sup>th</sup> June, 2023**  
**District: Ramgarh**  
**G.R. Case No. 273/2020**  
**CNR No. JHRG030010532020**  
**Patratu (Bhadaninagar) PS Case No. 16/2020**

Informant	State (through Dilip Kumar Dangi)
Represented By	<i>Smt. Manju Kachchap, Id. APP</i>
Accused	Javed Akhtar s/o Md. Kalamuddin
Represented By	<i>Sri Ramdeo Choudhary, Ld.Adv.</i>

Date(s) of Offence	27.01.2020
Date of FIR	27.01.2020
Date of Chargesheet	25.03.2020
Date of framing of charge	07.02.2022
Date of Commencement of evidence	23.02.2022
Date when Judgment is reserved	21.06.2023
Date of Judgment	30.06.2023
Date of Sentencing Order, if any	N/A

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of detention undergone during trial for purpose of s. 428, CrPC
A1	Javed Akhtar	28.01.2020	22.04.2020	s. 153A & 295A of IPC	Acquitted	None	N/A

**J U D G M E N T**

1. The aforementioned accused person (hereinafter referred to as "**A1**") is facing trial for charge framed u/s. 153A and 295A of The Indian Penal Code, 1860 (Hereinafter referred to as the "IPC").

**PROSECUTION CASE**

2. The compendious case of the prosecution, as sourced from the written application of Dilip Kumar Dangi (hereinafter referred to as the "informant"), on which several people residing in CCL quarters made their signatures as informer is that A1 one other Barikh Sah

r/o Bhawaninagar, Glass Factory had shared a post hurting the sentiments of Hindus through their Facebook ID. They have attached the slogan 'Ghar Ghar Bhagwa Chaayega' with objectionable images to depict that Bhagwadharis are adulterous and rapists. The informant states that this post has caused him and others mental agony and if A1 and the other person is not stopped from doing such acts then they will post more provocative posts in the future which may lead to Hindu-Muslim riots in the area.

#### **FROM INVESTIGATION TILL TRIAL**

3. After investigation, the Investigating Officer submitted **charge-sheet** bearing no. 25/2020 dated 25.03.2020 against only A1 for the offence u/s. 153A and 295 of IPC and thereafter, **cognizance** was taken under the same sections by the then court on 18.04.2020. O/C was directed to open supplementary record against the other accused Barik Sah as investigation was still going on against him.
4. After supplying police papers to A1, on 07.02.2022 **charges were framed** for the offence u/s. 153A and 295A of IPC and explained to him in simple Hindi to which he pleaded not guilty and claimed to be tried.
5. After closing the prosecution evidence on 19.06.2023, the material against A1 was put to him and his **statement** was recorded u/s. 313 of CrPC on 19.06.2023 in which he denied the material available against him and claimed to be innocent.
6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that he does not want to adduce any evidence. Upon his prayer, the defence evidence was closed and the matter was posted for arguments.

#### **ARGUMENTS ADVANCES**

7. The prosecution submitted that as the guilt of A1 is well established in this case and the fact has also been supported by the witnesses in their deposition, prayer was made to convict A1.
8. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out from the deposition of the witnesses. It was also submitted that the prosecution has failed to prove the guilt of A1 beyond reasonable doubt, and thus, he deserves to be acquitted.

#### **POINTS FOR CONSIDERATION**

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charge levelled against A1 beyond reasonable doubt or not.

*9.1 Whether A1, by his Facebook post, promoted or attempted to promote, on*

*grounds of religion, disharmony or feelings of enmity, hatred or ill-will between Hindus and Muslims, as u/s. 153A, IPC?*

*9.2 Whether A1, with deliberate and malicious intention of outraging the religious feelings of Hindus, by words, written, or by signs or by visible representations or otherwise, insulted or attempted to insult the religion or the religious beliefs of Hindus, as u/s. 295A, IPC?*

10. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 beyond reasonable doubt or not but before the court dwells to consider that, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference.

### **EVIDENCES**

#### **List of Prosecution/Defence Witnesses**

**A. Prosecution:**

<b>Rank</b>	<b>Name</b>	<b>Nature of Evidence</b>
PW01	Dilip Kumar Dangi	Interested Witness [Informant]
PW02	Nitesh Kumar Ojha	Interested Witness
PW03	Yogesh Kumar Dangi	Interested Witness

**B. Defence:**

<b>Rank</b>	<b>Name</b>	<b>Nature of Evidence</b>
--- nil ---		

#### **List of Prosecution/Defence/Material Exhibits**

**A. Prosecution:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Ext.P1/PW01	Coloured photograph of objectionable post
2	Ext.P2/PW01	Typed application
3	Ext.P2/1/PW02	Signature of PW02 on typed application
4	Ext.P2/2/PW03	Signature OF PW03 on typed application

**B. Defence:**

<b>Sr. No.</b>	<b>Exhibit Number</b>	<b>Description</b>
--- nil ---		

### **FINDINGS**

11. *Whether A1, by his Facebook post, promoted or attempted to promote, on grounds of religion, disharmony or feelings of enmity, hatred or ill-will between Hindus and Muslims, as u/s. 153A, IPC?; Whether A1, with deliberate and malicious intention of outraging the*

*religious feelings of Hindus, by words, written, or by signs or by visible representations or otherwise, insulted or attempted to insult the religion or the religious beliefs of Hindus, as u/s. 295A, IPC?*

11.1 For the sake of brevity and better appreciation of evidences, these points are taken up together.

11.2 PW01 deposed in his examination-in-chief that the alleged incident is of 21.07.2020 when a post on the Facebook ID of Barik Sah was shared by A1 which showed obscene pictures with the caption *Har Ghar Bhagwa Chaayega* and called all *Bhagwadharis* rapists. As this was likely to trigger communal riots in the society, they reported the matter in Bhadaninagar OP, on the typed application and informers namely Yogesh Dangi, Nitesh Ojha, Jivan Kumar Kushwaha, Rajesh Soni and 15-16 other persons put their signatures on it and went to the police station. He deposed that he doesn't know who printed the post. That post shared on 22<sup>nd</sup> January at 9:41 AM stated "*Bhakto Ki Maa Bahan Yaha Khush Hai, Isliye Bhakto ko Bhagwa Hi Chahiye*" and was shared by A1 and was circulated on social media by A1, and the coloured print of both the posts were identified by him and were exhibited as P1/PW1. He further deposed that the written complaint was typed on computer but he does not know by whom it was typed. He affixed his signature after reading the same, which has been exhibited as P2/PW1. Further, that he was shown the alleged post by someone from their ID but he was unable to disclose the name of that person. He claimed to identify the accused persons. In his cross-examination, he deposed that has no information about the said incident and learnt about it from someone else and then he lodged the instant case and has no knowledge by whom the written application was typed. He is a social activist and thus, he signed the application. The said post was shared through Pramod Kumar but he does not know his number. Finally, that a compromise petition has been filed in this case, on which he has affixed his signature and that the police did not take his statement in this regard.

11.3 PW02 deposed in his examination-in-chief that the alleged incident is of the year 2020. He supported the said incident and corroborated the evidence of PW1. He identified his signature on written application, which was exhibited as P2/1/PW2. Further, that the printout of the alleged post was enclosed with the written application and submitted to the police station. He identified A1. In his cross-examination, he deposed that he has no information about the alleged and he was informed about it by someone. Further, that the said post does not contain picture of any Hindu god, goddess or popular person of the nation. Further, he deposed that he has no issues with that post and they have forgiven

A1. Also, that he is a social activist and thus, he made his signature on the said application. Finally, that a compromise petition has been filed with this record on which he affixed his signature and that the police did not take his statement in this regard.

11.4 PW03 has deposed in his examination-in-chief that the alleged incident occurred in January, 2020 when posts were shared through Facebook containing obscene and objectionable photos mentioning with the caption "*Bhakto Ki Maa Bahan Yeha Khush Hai, Isliye Bhakto ko Bhagwa Hi Chahiye*" by A1 and Javed Akhtar which is capable of creating rift in the society between Hindus and Muslims. Thereafter, they reported the matter to the police. He deposed that he saw that post on his facebook account but presently they are unavailable in his account. He, alongwith Dilip Dangi, Nitesh Ojha and others went to the police station and gave a computer-typed application to them bearing their signatures, of which, upon his identification, his signature was exhibited as P2/2/PW3. They then lodged the instant case against A1 and Javed Akhtar and he claimed to identify them. In his cross-examination, he deposed that said post was sent by Pramod Kumar and was shared by Javed Akhtar. Further, he deposed that he has no objection with that post and accepted that it was mistakenly shared and that he has pardoned him. that, he is a social worker and thus, he affixed his signature on the application. Finally, that a compromise petition has been filed with this record on which he affixed his signature and that the police did not take his statement in this regard.

11.5 It is evident that the prosecution has produced three witnesses who have somewhat supported the factum of the alleged social media post being shared by A1, and upon their identification it has been exhibited and it shows that it contains certain objectionable pictures and caption. However, the Investigating Officer has not been produced to show that it was indeed A1 who was operating said ID or made the said post. Other details of his investigation have also not been brought on record.

11.6 Therefore, the prosecution has failed to prove both the charges and shift the burden of proof upon the defence.

11.7 A1 thus, stands acquitted of charges u/s. 153A and 295A, IPC.

12 Thus, regard had to the materials placed before this court and the discussion made above, this court is of the considered opinion that the prosecution has failed to establish beyond reasonable doubt that A1 committed the alleged offence and has thereby failed to substantiate the accusation u/s. 153A and 295A of IPC. Hence, A1 is hereby **acquitted**

in this case. A1 as well as his respective bailors stand discharged from the liabilities of their respective bail bonds.

(Dictated and corrected)

Pronounced by me in open court

Sd/-

Sd/-

**(Smriti Tripathi)**

**JO Code: JH02021**

JM 1<sup>st</sup> Class, Ramgarh

*Ramgarh, dated the 30<sup>th</sup> June, 2023*

**(Smriti Tripathi)**

**JO Code: JH02021**

JM 1<sup>st</sup> Class, Ramgarh

*Ramgarh, dated the 30<sup>th</sup> June, 2023*