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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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JAVED AHMAD HAJAM V. STATE OF MAHARASHTRA (2024): CASE ANALYSIS

AUTHORED BY- KARANVEER SINGH

Introduction

Javed Ahmad Hajam v. State of Maharashtra¹ stands as a bulwark judgment that redefines the constitutional dissent in the digital age. Adjudicated by the Supreme Court on March 7, 2024, the bench quashed charges under Section 153-A IPC² against a Kashmiri professor for labelling August 5 a “Black Day” and wishing Pakistan on their Independence Day. The judgement marked a critical juncture for the right to dissent that neutral criticism of government’s actions or wishing Pakistan on Independence Day in goodwill is no offence and does not cause enmity among the masses. This comment analyses the case through its facts, issues raised, arguments and ratio, highlighting the role of mens rea evolving from Balwant Singh (1995)³ and the extent of legal restraint on free speech under Article 19(2)⁴. Ultimately, the case reaffirms Article 19(1)(a)⁵ of the Constitution, ensuring that the democracy tolerates an individual’s unhappiness with government decisions.

Details of the Case

Let us take a look at the details involving the case.

Full Case Name - Javed Ahmad Hajam v. State of Maharashtra and Ors.

Citation - 2024 INSC 187

Parties to the case

- Appellant: Javed Ahmad Hajam
- Respondent: State of Maharashtra

Bench/Coram

- Hon’ble Justice Abhay S. Oka
- Hon’ble Justice Ujjal Bhuyan

Counsel for both sides

¹Javed Ahmad Hajam v. State of Maharashtra and Ors. [2024] 3 S.C.R. 317

²The Indian Penal Code 1860, s 153-A

³Balwant Singh and Ors. vs. State of Punjab [1995] 2 S.C.R 411

⁴The constitution of India, art 19(2)

⁵The constitution of India, art 19(1)(a)

- Appellant: Adv. Javed R. Shaikh
- Respondent: AoR Aaditya Aniruddha Pande

Decided On: 07.03.2024

Facts of the Case

In August 2022, Javed Ahmad Hajam (the appellant) was a Professor at Sanjay Ghodawat College in the district of Kolhapur, Maharashtra. Earlier, he was a permanent resident of Baramulla, Kashmir and shifted to Kolhapur for employment. Being a Professor, he was a member of a WhatsApp group consisting of parents and teachers. Between August 13, 2022, to August 15, 2022, the appellant posted two messages as his status:

1. "August 5 – Black Day Jammu & Kashmir."
2. "14th August - Happy Independence Day Pakistan."

Furthermore, alleged that below the first message included "Article 370⁶ was abrogated, we are not happy." was written on the appellant's phone. Based upon these allegations, a First Information Report (FIR) was filed by Mr Sangram Pandit Patil against the appellant registered under Section 153A of the Indian Penal Code (IPC), 1860⁷, by the Hatkanangale Police Station in Kolhapur.

Javed Ahmad Hajam challenged the FIR in the Bombay High Court via a writ petition under Article 226⁸ to quash the FIR filed against him. The challenge was dismissed by the Division Bench presided over by Hon'ble Justice Sunil B. Shukre and Hon'ble Justice M.M. Sathaye in their judgment on April 10, 2023. Followed by the unfavourable judgment, he appealed to the Supreme Court under Article 136⁹.

Issues Raised

The main issue before the Apex Court was "Whether the WhatsApp statuses posted by the appellant constitute an offence under Section 153-A of the IPC, 1860¹⁰. The court examined it by dividing it into the following issues:

⁶ The constitution of India, art 370

⁷ The Indian Penal Code 1860, s 153-A

⁸ The constitution of India, art 226

⁹ The constitution of India, art 136

¹⁰ The Indian Penal Code 1860, s 153-A

1. Does neutral criticism of government actions fall within the reasonable restrictions of Article 19(2)¹¹ regarding the status message “August 5 – Black Day Jammu & Kashmir.” and “Article 370 was abrogated, we are not happy.” and is “tendency to incite” sufficient for FIR registration, or mens rea must be established?
2. Whether the status message "14th August - Happy Independence Day Pakistan." Could it be interpreted to promote enmity or disharmony between different groups?

Arguments of the parties

Appellant’s Arguments

The learned counsel representing the appellant asserted that the WhatsApp status of the appellant by no means promotes feelings of enmity, disharmony, hatred or ill-will between different groups and exist no mens rea or intent, and the posts were just a mere expression of dissent by the appellant to the government’s actions. The appellant relied upon *Manzar Sayeed Khan v. State of Maharashtra & Anr.*¹² and claimed that the criminal prosecution against the appellant is a complete abuse of legal process as no prima facie case exists.

Respondent’s Arguments

The learned counsel representing the respondent asserted that whether the intent to promote feelings of enmity, disharmony, hatred or ill-will between different groups is a matter of evidence that should be established during the trial of the case in the examination of witnesses. The counsel urged the court that the trial should be permitted to proceed, as no conclusion regarding the impact of the posts written by the appellant on the minds of members of the group could be drawn at the preliminary stage.

Judgment (Ratio Decidendi)

Hon’ble Supreme Court in a unanimous opinion authored by Justice Abhay S. Oka quashed the FIR and all related proceedings against the appellant. The court’s decision was based on an analysis of constitutional provisions, statutory law and precedents to set a precedent for the Right to Freedom of Speech and Expression under Article 19(1)(a)¹³ and interpret Section 153-A of IPC,1860¹⁴.

¹¹ The constitution of India, art 19(2)

¹² *Manzar Sayeed Khan v. State of Maharashtra & Anr.* [2007] 4 S.C.R. 907

¹³ The constitution of India, art 19(1)(a)

¹⁴ The Indian Penal Code 1860, s 153-A

The court, while interpreting Section 153-A¹⁵ and the presence of mens rea, the bench emphasised that “The intention to cause disorder or incite the people to violence is the sine qua non (essential condition) of the offence under Section 153-A IPC” relying on *Manzar Sayeed Khan v. State of Maharashtra and Anr.*¹⁶ The court additionally cited *Balwant Singh v. State of Punjab (1995)*¹⁷ to reinforce the principle that the prosecution must prove the presence of mens rea, and that intention to cause disharmony is essential to sustain the charge under Section 153-A of the IPC, 1860.

The court, analysing the issue on Article 370 abrogation, ruled that the WhatsApp status “August 5 – Black Day Jammu & Kashmir.” and “Article 370 was abrogated, we are not happy.” do not constitute an offence under Section 153-A of the Indian Penal Code. The court found these messages calling abrogation a “Black Day” to be a form of protest or unhappiness with the government’s actions, and it is an essential part of a democracy. The mentioned words do not refer to any specific religion, race, place of birth, residence, language or other group which is essential to attract the charges. It is merely the individual’s view on political decisions and opposes the abrogation of Article 370. Such criticism is a fundamental right protected under the Right to Freedom of Speech and Expression guaranteed under Article 19(1)(a), and the Right to Dissent in a legitimate and lawful manner must be treated as a part of the Right to lead a dignified and meaningful life under Article 21¹⁸ of the Constitution and must be within the reasonable restriction mentioned under Article 19(2) of the Constitution. ‘Reference to *Patricia Mukhim v. State of Meghalaya & Ors. (2021)* underscores the value of free speech, and the law should only step in when the words have a clear tendency to cause public tranquillity.’¹⁹

The court, analysing the second issue, ruled regarding the WhatsApp status, “14th August - Happy Independence Day Pakistan.”, also did not attract any offence under Section 153-A of IPC, 1860, as also highlighted by the High Court in its judgment. The court characterised this message as a gesture of goodwill and not enmity. Extending good wishes to citizens of another country on their Independence Day is not a crime. The court also noted that motives cannot be attributed to the appellant because he belongs to a specific religion. Such gestures cannot create

¹⁵ The Indian Penal Code 1860, s 153-A

¹⁶ *Manzar Sayeed Khan v. State of Maharashtra & Anr.* [2007] 4 S.C.R. 907

¹⁷ *Balwant Singh and Ors. vs. State of Punjab* [1995] 2 S.C.R 411

¹⁸ The constitution of India, art 21

¹⁹ *Patricia Mukhim v. State of Meghalaya & Ors.* [2021] 7 S.C.R. 65

disharmony or enmity, the court cautioned against attributing malicious motives to the appellant solely based on his religion.

In this regard, the court referred to the view taken by Justice Vivian Bose in *Bhagwati Charan Shukla v. Provincial Government*²⁰ and approved in *Ramesh v. Union of India* that “the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of having weak and vacillating minds, who see danger in every opposing viewpoint”²¹

Obiter Dicta: The court also stated that the police machinery must be educated and sensitised on constitutional values, including Article 19(1)(a) and the extent of reasonable restraints on freedom of speech and expression to protect the democratic values enshrined by the Constitution of India. The criminal prosecution must not be misused to suppress legitimate criticism.

Overall, the court concluded that neither of the appellants' WhatsApp statuses falls under either clause (a) or (b) of Section 153-A IPC²². Therefore, the continuation of prosecution against the appellant would be a gross abuse of the process of law. The Supreme Court set aside the High Court's judgment and quashed the FIR against the appellant.

Analysis

The case strength lies in its doctrinal precision, mandating mens rea for Section 153-A of the IPC, now replaced by Section 196 of Bharatiya Nyaya Sanhita (BNS)²³, adding the word “or through electronic communication” as modes of spreading disharmony²⁴. It is a direct evolution from Balwant Singh's (1995) slogan, Safeguard in the digital era. It shields personal liberty from hurt sentiment and safeguards people against the misuse of provisions in volatile regions. The court aligned its views with precedents (though not explicitly cited) like the *Amish Devgan Case* (2020), stating the importance of the “tendency to incite”²⁵ and the ‘*Shreya Singhal Case*, which is a cornerstone judgment in protecting freedom of speech and expression to protect the

²⁰ *Bhagwati Charan Shukla v. Provincial Government* AIR 1947 Nag 1

²¹ *Ramesh v. Union of India and Ors.* [1988] 2 S.C.R. 1011

²² The Indian Penal Code 1860, s 153-A(a) and (b)

²³ The Bharatiya Nyaya Sanhita 2023, s 196

²⁴ Bureau of Police Research and Development, COMPARISON SUMMARY BNS to IPC .pdf <

<https://share.google/Z11Os76zDYbDqb8Mr> > accessed 7 November, 2025

²⁵ *Amish Devgan v. Union of India (UOI)* [2020] 14 S.C.R. 198

unpopular speech'²⁶ as well as fortifying online expression for millions of users. Yet the harmony threshold remains vague, risking subjective misuse of hurt sentiment, as to date, no explicit guidelines exist in this context.

With a 7.2% increase in the number of cases being registered in India as per the NCRB's Crime in India 2023 report, there's a need for specific policies that address this issue, such as the Online Hate Speech (Prevention) Bill, 2024, which curbs hate speech. The private member's bill awaits legislative action. Integrating AI tools to analyse the pre-FIR checklist for police, managed by the National Crime Records Bureau (NCRB), to track the quashing cases.

Conclusion

The judgment in the Javed Ahmad Hajam Case emerges as an important precedent in relation to the Right to dissent and acknowledging it as a fundamental right under the Right to lead a dignified and meaningful life under Article 21 of the Indian Constitution. It laid the foundation for subsequent cases that strengthen the Right to Dissent and limit the misuse of FIR. By quashing the FIR, the Supreme Court has drawn a red line that what amounts to promoting enmity or disharmony under Section 153-A of IPC, now by Section 196 of Bharatiya Nyaya Sanhita (BNS).

²⁶ Shreya Singhal v. Union of India (UOI) [2015] 5 S.C.R. 963