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IMRAN PRATAPGADHI VS. STATE OF GUJARAT AND ORS.

SAMEEKSHA KHANDELWAL

CITATION: MANU/SC/0408/2025

COURT: IN THE SUPREME COURT OF INDIA

CRIMINAL APPEAL NO. 1545 OF 2025

DECIDED ON: 28.03.2025

FACTS

A public event was held on 29 December 2024 in Jamnagar for the birthday of Altaf Ghafarbhai Khafi, a Municipal Corporation member. Imran Pratapgadhi was invited and he posted a video of the event on X from his verified account, with a poem playing in the background.

A complaint was filed alleging that the poem created hatred between communities, hurt religious and social feelings, and threatened national unity. Based on this, an FIR was registered against him at Jamnagar Police Station under Sections 196, 197(1), 299, 302, and 57 of the BNS, 2023.

Imran approached the High Court under Section 528 BNSS and Article 226, saying the FIR violated his freedom of speech under Article 19(1)(a). He argued that the poem spoke of peace, sacrifice, and non-violence, and that social media content is open to different interpretations. The High Court refused to quash the FIR, saying courts should not interfere early in investigations.¹

¹ *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, 2021 INSC 253.

The Solicitor General supported this view, stating that police must register an FIR when a complaint is made. Imran then appealed to the Supreme Court.

ISSUES

- I. Whether the recitation and posting of the poem attracted criminal liability under Sections 196, 197(1), 299, 302 and 57 of the Bharatiya Nyaya Sanhita, 2023.
- II. Whether the police are obligated to register an FIR immediately upon receiving information disclosing a cognizable offence under Section 173 of BNSS, or can they first do a preliminary inquiry under Section 173(3)? How should this be done while protecting the right to free speech under Article 19(1)(a) of the Constitution?

RULES

SECTION 196

Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony²

SECTION 197(1)

Anyone who uses words, signs, or online messages to spread hatred, mistrust, or false information against any group, based on religion, caste, language, region, or community or who threatens India's unity and integrity, can be punished with up to three years in jail, a fine, or both.³

SECTION 299

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 through electronic means or otherwise, insults or attempts to insult the religion or the religious

² § 196 Bharatiya Nyaya Sanhita, No. 45 of 2023.

³ § 197(1) Bharatiya Nyaya Sanhita, No. 45 of 2023.

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.⁴

SECTION 302

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both⁵

SECTION 57

Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to seven years and with fine.⁶

SECTION 173, BNSS

(1) Any person can report a cognizable offence to the police orally or electronically. If oral, the officer must write it down, read it to the informant, and get it signed. If electronic, it must be signed within three days and the substance recorded in a police register.⁷

(3) When the police receive information about a cognizable offence that is punishable with 3 to 7 years, the officer in charge, with the prior permission from a Deputy Superintendent of Police or higher, can either conduct a preliminary enquiry within 14 days to check if a prima facie case exists, or begin with a full investigation if such a case is found.⁸

ARTICLE 19(1)(A)

Freedom of speech and expression.⁹

⁴ § 299 Bharatiya Nyaya Sanhita, No. 45 of 2023.

⁵ § 302 Bharatiya Nyaya Sanhita, No. 45 of 2023.

⁶ § 57 Bharatiya Nyaya Sanhita, No. 45 of 2023.

⁷ § 173 (1) Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023.

⁸ § 173(3) Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023.

⁹ Article 19(1)(a) of the *Constitution of India*, 1950. Government of India. <https://legislative.gov.in/constitution-of-india>

ARTICLE 51-A(A) Duty to abide by the Constitution and respect its ideals and institutions.¹⁰

APPLICATION

The Court begins by examining the FIR, where Imran Pratapgadhi, posted video on “X” with a caption “Jamnagar Gujarat Ke Ek Samuhik Vivah Program Me Shirkat Thi.” Alongside the video, he recited a poem that included lines such as:

“Khun ke pyaso baat suno agar haq ki jabhanda zulm sa hi, Hum zulm se ishq nibha denge, Gar laash hamare apno ki khatra hai tumari masnad ka, Us Rab ki kasam haste haste kitni laashe dafna denge”

The FIR alleged that these lines were provocative, meant to promote violence and enmity as well as harm national unity and religious feelings of the people. Therefore, offences were alleged under Sections 196, 197(1), 299, 302, 57 of the Bharatiya Nyaya Sanhita (BNS) 2023.

Court’s Observation (Issue I)

The court examined all of these sections and **denied** their applicability:

Section 196:

The Court held that

- a) The poem has no reference to religion, caste or community
- b) It does not promote hatred or disharmony
- c) There is a legitimate criticism of the ruler
- d) There is no disturbance to public tranquility or incitement of violence, involvement in any violent or training activity or utterance of words in religious place or ceremony.

Section 197:

The court held that

¹⁰Article 51-A(a) of the *Constitution of India*, 1950. Government of India. <https://legislative.gov.in/constitution-of-india>

- a) The poem doesn't attack any religion, caste, or community nor does it claim that any group cannot be loyal to the Constitution.
- b) It also does not ask to take away anyone's rights and contain false or misleading statements about India's sovereignty

Section 299:

The Court stated that the poem expresses how the rulers' injustice will be met with resilience which is a political statement not a religious insult.

Section 302:

The Court held that clearly there is no deliberate intention to wound any person's religious feelings which makes this section clearly inapplicable.

Section 57:

The Court held that even if we assume the appellant has committed some offence (which it didn't find), there is no evidence of abetment i.e. no instigation or encouragement to commit the crime.

Therefore, the Court found that none of the alleged offences are applicable

Court's Observation (Issue II)

For the second issue, the SC examined Section 173 of BNSS, focusing on the duty of police when they get information about cognizable offence. The Court applied the *Lalita Kumari v. Government of Uttar Pradesh (2013)* precedent that if the information clearly shows a cognizable offence, the police must register an FIR immediately, they cannot refuse to register it.¹¹ They can do preliminary inquiry only if the information is unclear or does not clearly show an offence.

However, Section 173 (3) of the BNSS adds a new rule which is a statutory exception. It allows police with prior permission from a senior officer such as **Deputy Superintendent of Police**, to first do a preliminary inquiry for offences punishable with 3-7 years of jail, even if the information seems to show a cognizable offence. The purpose is to stop false or unnecessary FIRs, especially

¹¹ *Lalita Kumari v. Government of Uttar Pradesh*, 2014 2 SCC 1.

in the cases related to speech or expression, where the right to free speech under Article 19(1)(a) must be protected.

The Court observed that Police did not use the option which was available to them under Section 173 (3). It said that if a case involves speech or expression, the police should normally seek prior approval from a senior officer and conduct a preliminary inquiry to determine whether a prima facie case exists before registering an FIR. This helps make sure that right to free speech is not wrongly restricted and that people are not put through unnecessary criminal cases.

To assess speech related allegations, the Court followed reasonable and strong-minded person test¹² which was also followed in later cases ¹³. According to this test, merely harsh, critical or poetic language does not amount to an offence unless there is mens rea. The words must be read as whole, and individual lines cannot be treated as an offence.

Since the Court noted that poem did not disclose any offence under BNS, the need to register immediate FIR was not warranted, and the police's failure to use the statutory safeguard under Section 173(3) was a procedural lapse.

The Court again stressed that **free speech is protected by Article 19(1)(a)** of the Constitution, and that the **police have a duty under Article 51-A(a)** to respect and follow the Constitution. The Court said the **FIR was filed wrongly** because the police did not follow the proper legal safeguards, so it **quashed the FIR**.

¹² *Bhagwati Charan Shukla v. Provincial Government*, [MANU/NA/0057/1946].

¹³ *Javed Ahmad Hajam v. State of Maharashtra*, (2024) 4 SCC 156.

CONCLUSION

The Supreme Court closely looked at the alleged BNS offenses and ruled that the appellant's actions didn't amount to hatred, incitement, abetment, or any crime. It held that artistic or political views criticizing the government are protected under free speech, unless they promote hatred or violence.¹⁴

The judgment stressed procedural safeguards, like the preliminary inquiry under BNSS Section 173(3). Police must get senior approval and check for a prima facie case before filing an FIR in free speech cases. This stops law misuse and shields people from needless criminal proceedings.

Court acknowledged the Scholars' concern about misuse of Article 19 and people being punished or harassed for criticizing religious groups¹⁵ and notes that the Law Commission's 267th Report similarly emphasized that restrictions on speech should only prevent genuinely harmful effects, without curtailing lawful expression.¹⁶

The case spotlights the "chilling effect," where vague laws scare people from using their rights. By quashing the FIR, the Court safeguarded free speech, letting people share art, politics, or social views without fear.

Overall, it balances state power with personal freedoms, ensuring laws don't quietly silence voices.

The ruling highlights the need to balance government power with individual freedoms and prevent laws from indirectly stopping people from speaking freely.

¹⁴ Bishnoi, N.K., & Chaudhary, P. (2024). Freedom of expression and censorship in performing arts: A legal and ethical perspective. *Shodhkosh: Journal of Visual and Performing Arts*, 5(3), 600-606.

<https://doi.org/10.29121/shodhkosh.v5.i3.2024.2587>

¹⁵ Basu, S., & Sen, S. (2024). Silenced voices: Unravelling India's dissent crisis through historical and contemporary analysis of free speech and suppression. *Information & Communications Technology Law*, 33(1), 42-65.

<https://doi.org/10.1080/13600834.2023.2249780>

¹⁶ Law Commission of India. (2017). *267th report on hate speech*. Ministry of Law and Justice, Government of India. <https://lawcommissionofindia.nic.in/reports/Report267>