BLOGS

CLAT Legal News: Supreme Court to Hear PIL on Hate Speech

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Introduction and Background

In mid-December (17-19) 2021, religious gatherings in Delhi and Haridwar saw calls for Muslim genocide. These calls are legally categorized as “hate speech” and are punishable under the Indian Penal Code, specifically Sections 153A and 295A.

F.I.R.s were also registered under these provisions by the Uttarakhand police (and not Delhi police) but since no arrests were made, the petitioners approached the Supreme Court for relief.

Talking about the definition of hate speech, the Supreme Court recently tried to define it but “was of the opinion that a universal definition of ‘hate speech’ remains difficult, except for one commonality that ‘incitement to violence’ is punishable”[i].

CLAT PG focuses on legal news that is in sync with day-to-day affairs in the country and the 2021 Question Paper is a testament to that. In that context, studying hate speech laws is important to face upcoming examinations.

Hate Speech Matter at the Supreme Court

The petitioners, who are a journalist and a senior advocate, have sought from the apex Court an “independent, credible and impartial investigation” into the aforementioned incident by a SIT.

Heavy reference was made to the case of ***Tehseen Poonawalla*** **v.** ***Union of India[ii]***, and the guidelines laid down therein were referred to by the petitioners to make their case. It was also the case of the petitioners that offences under Section 120B, 121A and 153B of the Indian Penal Code must also have been included.

Reportedly, it was argued by the petitioners that the test of anticipated danger laid down in ***Ragarajan*** **v.** ***P. Jagjeevan Ram and Ors.[iii]*** was also satisfied in the present case. They have also called into question the constitutional and statutory duty of care of the police/investigating officers.

It is claimed that despite the pictures of offenders widely available on the web, the F.I.R. has been lodged against unidentifiable persons, and this inaction is arbitrary and violative of the statutory protections granted to the citizens.

Strong arguments were also made establishing a right against hate speech as a constitutional right. [iv]

The Chief Justice of India agreed to take up the matter.

Additional Reading Material

A. LAWS

While studying hate speech, in addition to the aforementioned, the following provisions must also be kept in mind.

1. Section 153B: Imputation, assertions prejudicial to national-integration.
2. Chapter XV: "Of Offences Relating to Religion"

The Chapter contains a list of offences in that regard, from Sections 295-298, designating as punishable offences acts like: *injuring or defiling place of worship with intent to insult the religion of any class**[v]**, outraging the religious feelings of any class by insulting its religion or religious beliefs**[vi]**, disturbing religious assembly**[vii]**, trespassing on burial places**[viii]** and uttering words to wound religious feelings**[ix]**.*

B. CASE LAW: Recently, hate speech was discussed by the apex Court in the case of***Amish Devgan** v. **Union of India***[x].

To avoid common mistakes while preparing for CLAT, read our cautionary post here.

[i] *Available at* https://www.scconline.com/blog/post/2020/12/08/freedom-rights-cannot-armour-those-who-promote-incite-violence-15-notable-excerpts-on-hate-speech-from-supreme-courts-verdict-in-amish-devgan-case/ (last visited 12.01.2021)

[ii] (2018) 9 SCC 501

[iii] (1989) 2 SCC 574

[iv] *Pravasi Bhalai Sangathan* v. *Union of India*, (2014) 11 SCC 477

[v] Section 295, IPC

[vi] Section 295A, IPC

[vii] Section 296, IPC

[viii] Section 297, IPC

[ix] Section 298, IPC

[x] 2020 SCC OnLine SC 994