

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>C482No. 706 of 2023</p> <p><u>Hon'bleSharad Kumar Sharma, J.</u></p> <p>Mr. Harshpal Sekhon, learned counsel for the applicant.</p> <p>Mr. Amit Bhatt, learned Deputy Advocate General for the State.</p> <p>Mr. Jasmeet Sahota, learned counsel for private respondent.</p> <p>The basic fabric of the Indian Constitution is "secularism", which has been added by the Constitution's 42nd Amendment, thereby making a country, as a socialist, secular and democratic republic. The wider reason, why these words 'socialist', 'secular' and 'democratic republic' have been introduced in the Constitution are to inculcate in each and every citizen of this country, to have reciprocal respect and regards to the other religion. In the absence of the same, if this act of derogating the other's religious sentiments is permitted to be continue, it rather acts as a parasite, which eats the society itself and creates an uncalled for animosity resulting into public disorder and unrest.</p> <p>The constitution in its own wisdom, has provided under Section 295A of I.P.C., to deal with such type of situation, where an attempt is made by a person belonging to a specific community to outrage the respect, which other religion equally enjoys under the basic secular concept of this country that is why Section 295A uses the words 'deliberate' and 'malicious' act.</p>

Deliberate means, it is a conscious act, made by a person belonging to a particular community to outrage the respect, which other religion equally enjoys in this country.

In the instant case, the present applicant, who claims himself to be the Deputy District Secretary of so called Rashtriya Hindu Vahini, Udham Singh Nagar, it was a complaint registered by respondent no. 2 on 22.10.2019. The aforesaid accused person is said to have used derogatory remarks towards other religion and has posted the same on WhatsApp status.

The C482 Application is being sought to be compounded, under the terms of settlement, which has been referred to in the compounding application and, in fact, during the course of arguments, learned counsel for the applicant appearing on behalf of the applicant himself has prayed for forgiveness for the offence, which has been committed by the applicant. This pray for forgiveness itself amounts to be an admission of guilt. Besides this, the ground taken for amicable settlement, this Court, which exercises its inherent power under Section 482 of Cr.P.C. will have to be conscious, as to whether, the offences, which are attempted to be compounded under Section 320 of Cr.P.C.. Do they carry a very wider social impact, which disturb the basic secular fabric of the country, that cannot be permitted to be compounded and that is why, Section 295A is excluded from the list of offences, which could be compounded under Section 320 of the Code of Criminal Procedure.

The criminal law of the country is

deterrent in nature. Deterrent in the sense that punishment contemplated in relation to the offences provided under the Indian Penal Code are not basically intended to punish an accused person, but rather to create an example for the others to learn a lesson not to engage themselves in commission of such type of offences. If being a citizen under Article 5 of the Constitution of India, if a person does not carry respect for other religion, it may lead to a certain catastrophic situation which at time becomes uncontrollable by the administration and particularly so called constructed religious groups of the country.

Apparently, the offence might seem to be quite simple in nature carrying a sentence of maximum period of three years, but looking to its wider social effect on the public and community at large, this Court is not inclined to compound the offence under Section 295A of I.P.C., hence, while rejecting the compounding application coupled with the fact that since the counsel himself has admitted the commission of offence, for which, he sought an apology before this Court will amount to be an admission of guilt, hence, the offence is required to be tried by the learned trial Court, as per the prescribed criminal procedural law. Hence, while rejecting the compounding application, **C482 Application would too stand rejected.**

(Sharad Kumar Sharma, J.)

17.04.2023

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