

**Court No. - 33**

**Case :-** APPLICATION U/S 482 No. - 12837 of 2023

**Applicant :-** Sahil Mehra

**Opposite Party :-** State Of U.P. And 2 Others

**Counsel for Applicant :-** Satendra Tirpathi,Adeeb Anwar,Priyanka Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble J.J. Munir,J.**

This application under Section 482 Cr.P.C. prays that the proceedings of Criminal Case No.1592 of 2023, State v. Sahil Mehra (arising out of Case Crime No.60 of 2019), under Section 505 IPC and Section 66 of the IT Act, P.S. Kiratpur, District Bijnor as well as the impugned charge-sheet dated 08.05.2019 pending before the Court of the Judicial Magistrate, Najibabad, District Bijnor be quashed.

The First Information Report giving rise to the impugned proceedings was lodged by opposite party No.3 with allegations that the informant was a native of Kiratpur and that a man named Sahil Mehra, that is to say, the applicant, also a native of Kiratpur and a resident of Mohalla Chauhanan, had for the past few days posting disrespectful words against the Indian Army on his facebook account, which would have the effect of demoralizing the Army, besides addressing the Prime Minister in disrespectful words. This had led to tension between two areas in the town. According to the informant, the applicant was fomenting enmity in the society.

After investigation into the FIR, that was initially lodged under Section 505 IPC and Section 66A of the IT Act, the Police submitted a charge-sheet under Section 505 of the Penal Code and Section 66 of the IT Act. The learned Magistrate has taken

cognizance and summoned the applicant to stand his trial *vide* order dated 20.02.2023.

Heard Ms. Priyanka Singh, learned Counsel for the applicant and Mr. Shashi Shekhar Tiwari, learned A.G.A. on behalf of the State.

This Court summoned the case diary *vide* order dated 20.04.2023, which we have perused.

We have looked into the contents of the case diary, which includes printouts of the screenshots relating to the offending facebook posts. These, indeed, appear to be publication and circulation of statements made with an intent to incite one class or community of persons to commit an offence against another class or community. *Prima facie*, given the totality of the context, the statements are divisive of the community and tend to promote insecurity in the minds of one community against another. These also tend to create fear or alarm amongst the public that may induce one Section of the public to commit offences against public tranquility or the State.

These remarks are based on *prima facie* impression on a reading of the statement and are in no way a finding or expression of opinion on the merits of the matter, which must be tried in accordance with law. There is one statement relating to some dead bodies etc., which may have some kind of bearing on the morale of the Armed Forces, but that would require a more detailed probe. It is only *prima facie* that we are convinced that an offence not worth quashing the impugned charge-sheet in the exercise of our jurisdiction under Section 482 Cr.P.C. is made out insofar as the case under Section 505 IPC is concerned.

To the above extent, accordingly, we decline to quash the charge-sheet and direct the trial to proceed.

However, so far as the offence under Section 66 of the IT Act is concerned, that case does not appear to be *prima facie* made out, because none of the acts in relation to a computer or computer system, like damaging it, disrupting it or causing denial of access to any person etc., as envisaged under Section 43 of the I.T. Act, is *prima facie* disclosed.

Therefore, let notice limited to the offence charged under Section 66 of the Information Technology Act, 2000 issue to the opposite parties returnable on **14.12.2023**.

List before the appropriate Bench on 14.12.2023.

This matter shall not be treated as part heard or tied up to this Bench.

Let this order be communicated to the Judicial Magistrate, Najibabad, District Bijnor, where the impugned proceedings are pending by the Registrar (Compliance).

**Order Date :- 24.11.2023**

Anoop