

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
IMPHAL EAST AT LAMPHEL PAT



CRIL MISC (Bail) Case No. 201 of 2022

Ref:- FIR No. 111 (11) 2022 HNG PS
U/s 295-A/298/500/505/506 IPC

State of Manipur

~Vs~

Laishram Malemnganba aged about 22 years S/o L. Herojit
Singh of Waiton Mamang Leikai, PO. & PS- Heingang, Imphal
East District.

.....Accused Person

EXTRACT COPY OF THE ORDER PASSED ON 09-11-2022

The accused person namely Laishram Malemnganba is produced before me by the IO of the referred FIR No. namely SI G. Meichanglung of HNG PS along with a prayer for remanding the said accused into J/C for a period of 15 days i.e. W.e.f. 09-11-2022 to 23-11-2022.

Ld. APP for the State and Ld. Counsel for the accused person is present. Heard the submission of Ld. APP and Ld. Counsel for the accused person.

Ld. APP submitted that 2 days police custody/remand was taken, for the accused person and submitted that on examination of the complainant by the IO, it is learnt that his sentiment & religious feelings are immensely hurt and to pass necessary order considering the submission made yesterday.

Ld. Counsel for the accused informed that during the police custody period, a photograph of the accused was taken and widely circulated in FB from one account with the name MK Asker Ali. The information is noted by this court.

Contd.....2/-



Upon further hearing from both Ld. APP and Ld. Counsel for the accused and perusing the record at hand, no doubt an FIR has been registered upon a complaint by one Barish Sharma before the OC/HNG PS that one derogatory / hate speech commenting "**4 Yonninglaga Yonni, Chaning Laga Chani, Nawa Loude, Sanyung Thakpa BJP Party**" has been found in the FB which has brought the BJP into wrong light of being Hindu Centric and directly hurt the feeling of BJP functionaries. The accused was then arrested on the pretext that he had hurt the religious sentiments of the Hindu community by mentioning "San Yung Thakpa" as cow is considered a sacred animal for the Hindus.

The accused was alleged of the offences U/s 295-A/298/500/505/506 IPC.

The offences U/s 295-A IPC & 505 IPC are cognizable and non-bailable offences and as per the Armesh Kumar Vs State of Bihar, a checklist was also submitted by the IO mentioning the reason of the arrest. Coming to the offences U/s 295-A IPC, alleged against the accused person, the particular comment as alleged is reproduced as follows:- "**4 Yonninglaga Yonni, Chaninglaga Chani, Nawa Loude, Sanyung Thakpa BJP Party**".

Sec 295-A IPC is also reproduced as follows:- Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizen of India, by words, either spoken or written, or by signs or by visible representations or otherwise, insults or attempts to insult the religion or the religious belief 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.

Upon perusal of the statement/ comment made by the accused and the provision laid above, this court is of the view that it appears that there was no deliberate and malicious intention on the part of accused, which needs to be proved at the course of trial and he had merely expressed his opinion / disagreement casually. Further he is not a habitual offender, who had repeatedly commit such act. It has been opined by the Tripura HC that "**Insults to religion made unwittingly or carelessly or without deliberated or malicious intention will not attract the offence U/s 295-A IPC**".

Contd..3/-



India is a democratic country where people have the right to express their views and opinion freely. Article 25 of the constitution express the right to freely profess, practice and propagate religion. Nowadays, there has been many instances of casually, using the Cow/Sanyung Thakpa or whatsoever if they disagree/hate the BJP as it appears to them/presume that BJP is Hindu Centric. But the same does not always attract Sec 295-A IPC.

In the facts and circumstances, this court is of the view to release the accused on bail, on the conditions that -

1. He shall furnish bail bond of Rs. 30,000 /- and a surety bond like amount;
2. He shall not indulge in commission of any such act in future;
3. He shall not hamper and temper the prosecution witness and evidence;
4. he shall not leave the State without prior permission of this court.

Further, this court has taken/noted seriously as to the photograph of the accused circulated when he was in police custody. The accused was authorized for detention in the custody of IO only for 2 days and hence remanded yesterday but when enquired by this court to the IO as to who has taken the photograph, he has no knowledge. However, the accused stated that the Photograph was taken by the complainant's group. This court wants to question as to who is in charge of the police station. Is it the Officer-in-Charge or someone else who can do whatever they wanted inside a police station.

Send a copy of this order to SP/IE for information and do the needful, by inquiring about the matter. With this, bail application is disposed of.

Sd/-

(Ashem Tarunakumari Devi)
Chief Judicial Magistrate
Imphal East

Dated the 9th November, 2022

Memo No. CJM/IE/2022/920

Copy to:-

1. **Superintendent of Police (SP), Imphal East.**

..... for information and compliances.

Bench Reader

to

**Chief Judicial Magistrate
Imphal East**

Bench Reader
Court of Chief Judicial Magistrate,
Imphal East