

**CASE COMMENTARY: KEERTHAN KUMAR V. STATE OF KARNATAKA:  
FREEDOM OF SPEECH & RELIGIOUS SENTIMENTS**

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**INTRODUCTION**

*“The destruction of spaces for questioning and dissent destroys the basis of all growth—political, economic, cultural and social. In this sense, dissent is the safety valve of democracy.”*

-DY Chandrachud<sup>1</sup>.

Religion plays a significant role in the lives of the people as per the divine theory, the sovereign derives its authority from the divine and that is what the major religions taught their followers morality and ethics are a must to adhere. Morality needs to emerge from oneself and thus is required to be followed up by ethics. In a religion, Morality refers to the idea of Physical and Moral purity to approach the higher realm of wisdom which was offered by the divine. To prevent the wisdom from misinterpretations, it is often prescribed by the religion to maintain the sacred discipline of adhering to religious duties in its authorized prescribed format. But human conscience is always led with questions of the unknown or unaware ingredients of the religion which initially turn into religious debates that are participated in and well contested by our ancestors which is a healthy approach to new thought and interpreting a concept. But the present scenario is different, society at present has come up with new cults and religions and new concepts of religions which are led by not one but hundreds of religious schools running across the globe. Sudden exposure to multiple thoughts and ideals often leads to mischief which raises a small oral critique of serious communal violence, and this is what happens in India. As a diverse nation, catering to major religions of the world, It is historically been a challenge for the Sovereign to balance and prevent the tensions between the right to speak freely and the ethical responsibilities that come with it. The diverse religious system of the nation mandates serious care to consider how one’s speech affects communal harmony. For example, during the events of communal unrest, the government has at periods necessary to take major actions under criminal law and the constitution of India, Like earlier criminal law IPC sec 153A which

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<sup>1</sup> Press Trust of India, ‘Dissent is the safest valve of democracy: Justice Chandrachud’ Hindustan Times Ahmedabad, 15<sup>th</sup> February 2020. <https://www.hindustantimes.com>.

penalizes speech that promotes enmity in religious communities. Now the critiques argue that it suppresses the voices of dissent and eradication freedom of speech. On the Opposite, unrestricted speech argues that ethical considerations are not deemed to be breached upon the right to express.

The debate reflects the broader viewpoint of the ambit of truth and justice which needs to coexist with the imperatives of social harmony. At the same right to dissent also needs to be interpreted in a proper manner when it is about the dilemmas arising from offensives or controversial expressions. The present case of Keerthan Kumar V. State of Karnataka presents an important examination of the intersection between individual expression and religious sentiments in relation to criminal law and the use of fundamental rights. The case decided by the Karnataka High Court, involved the petitioners entering a mosque and shouting the slogan of a religion which led to the filing of an FIR, This case navigates the concerns by carefully interpreting the grounds of each offence and applying precedents to ensure that criminal law provisions are not used to stifle individual expression or peaceful religious interactions, unless there is a clear intent to cause harm or disturbance.

## **BACKGROUND AND FACT**

A writ petition no.25591 of 2023 was submitted by petitioners Keerthan Kumar and Sachin Kumar N.M. under Art. 226 of the constitution of India in conjunction with sec.482 of the Criminal Procedure Code 1973. The petitioners target to nullify the FIR lodged against them in crime no.86 of 2023, which is set before the 2<sup>nd</sup> Additional Civil Judge and Judicial Magistrate 1<sup>st</sup> class in Puttur, Dakshina Kannada District. The FIR accused the petitioners of the offences in IPC U/S- 447(Criminal Trespass), 295A(intentional acts to provoke religious sentiments), 505statements leading to public mischief), 506 (criminal intimidation), and 34(join acts done for a common purpose).

The incident resulting in the FIR occurred on the night of September 24, 2023. It was alleged that the petitioners alongside other unidentified individuals, entered a local mosque in Kadaba Taluk, Dakshina Kannada District of Karnataka, shouting the slogan “JAY SHRI RAM” which reportedly led to disruptions in community peace. The complainant, Haydhar Ali C.M., filed a report with the Kadaba Police Station the following day, September 2023, resulting in the FIR’s registration.

## ISSUES

1. Whether the FIR filed under sections 447, 295A, 505, 506, and 34 of the IPC against the petitioners can be sustained in the absence of sufficient material to establish the elements of the alleged offences.
2. Does shouting "Jai Sriram" in a public mosque represent a deliberate act aimed at provoking religious sentiments under Section 295A of the IPC?
3. Is entering a public mosque deemed criminal trespass under Section 447 of the IPC?
4. Were the petitioners' actions intended to instigate communal discord and public mischief, warranting the application of Section 505 of the IPC?

## PETITIONER'S ARGUMENT

Represented by counsel Sri B.S. Sachin, the petitioners contended that the complaint and FIR did not substantiate the essential elements of the alleged offences. Their key arguments included:

The petitioners asserted that Section 447, concerning criminal trespass, was not applicable, as a mosque is a public worship facility. Entering a mosque does not constitute criminal trespass without unlawful intent, and since they entered without malicious intent, they could not be charged with trespassing.

They maintained that to establish an offence under Section 295A, there must be proof of deliberate and malicious intent to offend religious feelings. The petitioners argued that their shout of "Jai Sriram" was not intended to insult any religion, and the local peaceful coexistence of Hindus and Muslims indicated that their actions were non-provocative. The petitioners denied the charges under Sections 505 and 506, arguing that there was no evidence their actions aimed to incite public disorder or intimidate anyone. Their slogans were not directed at specific individuals or groups and, hence could not be classified as intimidation or public mischief. They claimed the FIR was based on vague assumptions without concrete evidence linking them to the offences and requested the court to quash it to avoid further harassment.<sup>2</sup>

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<sup>2</sup> Sri. Keerthan Kumar vs. State of Karnataka, Writ Petition No. 25591 of 2023, Karnataka High Court, judgment delivered on 13th September 2024.

## JUDGMENT

The Court passed a judgment quashing the FIR which was filed against the petitioner with an observation made to the grounds to satisfy sec. 447, 259A, 505, 506, and 34 of the IPC with a common base as the lack of evidence to establish the grounds under this offence. The mere shouting of a slogan was not found to be a deliberate attempt to incite religious discord or hurt religious sentiments. Moreover, there is no credible evidence to prove that the petitioners' actions were meant to incite communal violence or disturb public order. The court also found that there was no indication from the petitioner's actions amounting to criminal intimidation

## ANALYSIS

The court carried out a legal assessment by examining the relevant laws under which the petitioners were charged. It began with Section 447 of the IPC, which outlines criminal trespass he unlawful entry into someone else's property with the intent to commit an offence or intimidate, insult, or annoy the property owner. The court noted that mosques are generally open for public worship and found insufficient evidence to show that the petitioners entered with any malicious intent, indicating that the criteria for Section 447 were not met.

Next, the court reviewed Section 295A, which penalizes acts done with the intention to insult religious feelings. The court emphasized that not all perceived offences against religion qualify as criminal; clear malicious intent must be demonstrated. Citing the case of Mahendra Singh Dhoni v. Yerraguntla Shyamsundar<sup>3</sup> (2017), the court affirmed that casual or unintentional actions cannot be categorized as offences under Section 295A without proven intent to incite religious conflict. The court determined that shouting "Jai Sriram" did not meet the requirements for an offence under Section 295A, as there was no evidence of malicious intent.

In relation to claims under Sections 505 and 506, the court found no credible evidence indicating that the petitioners sought to incite public disorder or intimidation. The vague claims in the complaint, alongside the absence of solid evidence, could not support the application of these legal provisions.

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<sup>3</sup> Mahendra Singh Dhoni v. Yerraguntla Shyamsundar (2017) 7 SCC 760

## PRECEDENT ANALYSIS

To support its findings, the court cited the following precedents:

1. **Mahendra Singh Dhoni v. Yerraguntla Shyamsundar (2017)**: The Supreme Court clarified that only intentional and malicious actions aimed at offending religious sentiments are punishable under Section 295A, thus excluding any insults made without such intent.

2. **State of Haryana v. Bhajan Lal**<sup>4</sup>(1992): The court referenced this case to determine if the FIR could be dismissed at an early stage. It identified conditions under which this could occur, such as when the allegations do not constitute a crime or are made in bad faith. The court found that the present case fell under these conditions due to the FIR being based on vague presumptions and lacking the necessary evidence.

3. **Manzar Sayeed Khan v. State of Maharashtra**<sup>5</sup>(2007): Regarding Section 505, the court examined whether remarks lacking significant public order implications could trigger this section. It concluded that the slogans used by the petitioners did not amount to public mischief under Section 505<sup>6</sup>, as there was insufficient evidence of any genuine threat to community harmony.

After reviewing the law and related case precedents, the court determined that the prosecution could not establish a prima facie case against the petitioners under Sections 447, 295A, 505, 506<sup>7</sup>, and 34<sup>8</sup> of the IPC. The rationale for this decision was that the fundamental elements of these offences were lacking, and the FIR seemed based on speculation rather than solid evidence. 1. The court confirmed that actions perceived as offensive to religious sentiments do not automatically invoke Section 295A<sup>9</sup>. There must be concrete evidence of intentional and malicious intent to provoke outrage among religious feelings for the section to apply. In this instance, the mere shouting of slogans lacked the necessary intent to trigger Section 295A. The ruling clarified that entering a public space such as a mosque is not automatically criminal trespass without evidence of unlawful intent. The intent to commit an offence or cause annoyance must be clear for Section 447<sup>10</sup> to be applicable, which was not demonstrated in this

<sup>4</sup> State of Haryana v. Bhajan Lal (1992 Supp (1) SCC 335).

<sup>5</sup> Manzar Sayeed Khan v. State of Maharashtra (2007) 5 SCC 1.

<sup>6</sup> Indian Penal Code 1860, s 505 (Public Mischief).

<sup>7</sup> Indian Penal Code 1860, s 506 (criminal intimidation).

<sup>8</sup> Indian Penal Code 1860, s 34 (join acts done for a common purpose).

<sup>9</sup> Indian Penal Code 1860, s295A

<sup>10</sup> Indian Penal Code 1860, s 447

case.

## AFTERMATH

- a) **Protection of Free Speech:** The court's decision emphasizes safeguarding controversial speech as long as it does not incite violence or malicious intent regarding religious sentiments. The interpretation of Section 295A protects against misuse of the law to suppress free expression, especially when there is no evidence of ill intent.
- b) **Balancing Public Order and Rights:** The judgment balances individual rights with public order, acknowledging the sensitivities in communal relations while quashing the FIR. The court's remarks highlight the need for responsible behaviour in potentially volatile situations.
- c) **Impact on Future FIRs:** This ruling may shape future cases filed on ambiguous claims of religious offences or public disturbance. It establishes that FIRs based on assumptions or without sufficient evidence can be quashed early in proceedings.
- d) **Deterrence Against Frivolous Complaints:** By dismissing the FIR, the court sends a message against using criminal law to intimidate individuals based on baseless accusations. This can deter frivolous complaints aimed at silencing dissent or targeting non-criminal actions.

## CONCLUSION

The Karnataka High Court's ruling in Sri. Keerthan Kumar vs State Of Karnataka reaffirms the principles of free expression and the limitations of criminal law concerning speech. By quashing the FIR, the court upheld the petitioners' rights while advising caution to avoid actions that could imperil communal peace. The judgment underlines the need for careful application of criminal law, ensuring prosecution only for actions that undeniably meet legal criteria. This ruling may serve as a significant reference for future cases involving allegations of religious insult and public disturbance, fostering a deeper understanding of these legal provisions in India.