

STUDY ON OFFENCES RELATING T. TO RELIGION:

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ABSTRACT:

Religion plays an important role in the society creating a bond that binds the individuals together. the term religion is not defined in the constitution and indeed it is a term which is hardly susceptible to any rigid definition. The supreme court has defined it broadly. Religion is a matter of faith with individuals or communities and it is not necessarily. The state can have no religion of its own. It should treat all religions equally. The state must extend similar treatment to the church, the mosque, the temple. In a secular state, the state is only concerned with the relation between man and man. An India is a home of different religious having large number of world famous pilgrimage site. Religion is thus essentially a matter of personal faith and belief. Every person has right not only to entertain such religious belief and ideas as may be approved by his judgment or conscience but also exhibit his belief and ideas as such overt acts which are sanctioned by his religion. The Constitution of India grants freedom of religion and the Indian Penal Code lays down provisions for offences relating to religion. These offences can be classified into three broad categories: defilement of places of worship or objects of veneration, outraging or wounding the religious feelings of persons, disturbing religious assemblies. This paper discusses the various offences defined under these categories.”“It is the cardinal principle of good government that every man should be suffered to profess his own religion and that no man should be suffered to insult the religion of another.”

INTRODUCTION:

Articles 25-30 guarantee citizens freedom of conscience and free profession, practice and propagation of religion. They also guarantee freedom to manage religious affairs, monetarily contribute to promotion of any religion, and to set up and administer educational institutions. These laws made forced conversion a cognisable offence under sections 295 A and 298 of the Indian Penal Code, which pertain to malicious and deliberate intention to hurt the religious sentiments of

others. They attract a prison term of up to three years and fine. The punishment, in some cases, is harsher if the offence is committed against a minor, a woman or an SC or ST person. If the Constitution upholds equality, that means every citizen of the country is equal. If he chooses to be a Muslim or Hindu or Christian, the law has to treat him the same because religious belief is a fundamental human right and one cannot be discriminated on the basis of one's choice of religion. This is exactly the principle upon which of the Indian Penal Code is framed. It makes any deliberate acts perpetrated by persons of one religious persuasion for the insult or annoyance of persons of another persuasion punishable. This adheres to the principle of secularism which falls in line with the Preamble of the Constitution of India along with Articles 25 to 30. Article 25 of the Indian Constitution guarantees the right to freedom of religion. All persons are thereby entitled to practice, profess and propagate a religion of their choice. This freedom, though quite vast, is not an unlimited one. It is one that is subject to public order, morality and health. Simultaneously, the State has to ensure that the religious beliefs of individuals do not become causes of hostility, tensions, controversies or violence of any manner amongst the people of the Indian Penal Code ostensibly helps the State in maintenance and continuation of religious harmony in the country.

AIM OF STUDY:

1. To study on defilement of places of worship .
2. To study on outraging or wounding religious feelings.
3. To enumerate disturbing religious assemblies.

MATERIAL AND METHODS:

The study is collected from the international and the nation journal, book and publication from various website which gives important On offence relating to religion.

OBSERVATION:**TO STUDY ON DEFILEMENT OF PLACES OF WORSHIP:****Section 295. Injuring or defiling place of worship with intent to insult the religion of any class:**

Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 297. Trespassing on burial places, etc

Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sculpture, or any place set apart from the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Ingrediens:

Section 295 compels people to respect the religious susceptibilities of persons of different religious persuasions or creeds by making destruction, damage or defilement of a place of worship or an object held sacred, with the intent to insult the religion, by a class of persons, punishable. Section 297 extends the principle in Section 295 to places which are treated as sacred. It punishes a person who, with the intent to insult the religion of another or hurt the religious feelings of a person, commits trespass in any place of worship or of sepulture, or any place of burial or place set apart for burial rites.

CASE LAW:**Shimbhu & Anr vs State Of Haryana**

Thus, the law on the issue can be summarized to the effect that punishment should always be proportionate/commensurate to the gravity of offence. Religion, race, caste, economic or social status of the accused or victim or the long pendency of the criminal trial or offer of the rapist to marry the victim or the victim is married and settled in life cannot be construed as special factors for reducing the sentence prescribed by the statute. The power under the proviso should not be used indiscriminately in a routine, casual and cavalier manner for the reason that an exception clause requires strict interpretation. Further, a compromise entered into between the parties [14] cannot be construed as a leading factor based on which lesser punishment can be awarded. Rape is a non-compoundable offence and it is an offence against the society and is not a matter to be left for the parties to compromise and settle. Since the Court cannot always be assured that the consent given by the victim in compromising the case is a genuine consent, there is every chance that she might have been pressurized by the convicts or the trauma undergone by her all the years might have

compelled her to opt for a compromise. In fact, accepting this proposition will put an additional burden on the victim. The accused may use all his influence to pressurize her for a compromise. [15] So, in the interest of justice and to avoid unnecessary pressure/harassment to the victim, it would not be safe in considering the compromise arrived at between the parties in rape cases to be a ground for the Court to exercise the discretionary power under the proviso of Section 376(2) of IPC.

TO STUDY ON OUTRAGING OR WOUNDING RELIGIOUS FEELINGS:

Section 295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs:

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens 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 beliefs 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.

Section 298. Uttering, words, etc., with deliberate intent to wound the religious feelings of any person:

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Ingrediens:

These sections of the Indian Penal Code relate to acts done deliberately with an intent to outrage, wound or insult the religious feelings or sentiments of any persons. Section 295A deals with actions intended to outrage the religious feelings or insult the religious beliefs or the religion of a particular class of persons that can be termed as 'deliberate and malicious'; whereas Section 298 makes punishable those 'deliberate' acts of verbal or visible representation that intend to wound the religious feelings of another. The difference in the two sections can be seen from the way they have been worded. Section 295A refers to 'deliberate and malicious intention' of 'outraging' the religious feelings of a 'class of citizens of India'. Section 298 makes any utterances done or gestures made with 'deliberate intention' of 'wounding' religious feelings of a 'person'

punishable. When contrasted, it is seen that the word 'outraging' is much stronger than the word 'wounding' and hence the offence under Section 295A is more serious than the offence under Section 298. As a result, it is observed that the punishment under Section 295A is simple or rigorous imprisonment extending up to three years whereas that under Section 298 is either type of imprisonment which may extend to a term of one year or with a fine or both.

TO ENUMERATE DISTURBING RELIGIOUS ASSEMBLIES:

Section 296. Disturbing religious assembly

Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Ingredients:

The essential ingredients of this section are:

- 1 There must be an assembly which is engaged in the performance of religious worship or religious ceremony
- 2 Such assembly and performance of such ceremony should be lawful
- 3 The accused must cause disturbance to such assembly
- 4 The accused must do so voluntarily

This section affords special protection to congregational worship. It does not cover individual worship. A religious procession is regarded as a lawful assembly unless it interferes with the ordinary use of the streets by the public or contravenes any rules or regulations.

CASE LAW:

Parminder @ Ladka Pola vs State Of Delhi:

Thus, the law on the issue can be summarized to the effect that punishment should always be proportionate/ commensurate to the gravity of offence. Religion, race, caste, economic or social status of the accused or victim are not the relevant factors for determining the quantum of punishment. The court has to decide the punishment after considering all aggravating and mitigating factors and the circumstances in which the crime has been committed. Conduct and state of mind of the accused and age of the sexually assaulted victim and the gravity of the criminal act are the factors of paramount importance. The court must exercise its discretion in imposing the punishment objectively considering the facts and circumstances of the case. The power under the proviso is not to be used indiscriminately in a routine, casual and cavalier manner for the reason

that an exception clause requires strict interpretation. The legislature introduced the imposition of minimum sentence by amendment in IPC . therefore, the courts are bound to bear in mind the effect thereof. The court while exercising the discretion in the exception clause has to record “exceptional reasons” for resorting to the proviso. Recording of such reasons is sine qua non for granting the extraordinary relief. What is adequate and special would depend upon several factors and no straitjacket formula can be laid down.”

RECOMMENDATION AND CONCLUSION:

As it was explained, secularism, as a term rooted within religion, not only has not been against religion but it has come to create equality amongst religious groups. However, even when it gradually receded from its primary concept, it couldn't separate religion from politics. This became evident in the way that in most secular States, religious groups have had their freedom and pursued their rights as a group in society. In India, this concept of secularism, namely equality between religions and religious freedom, was accepted. Indeed, whether in British India with a politics of 'religious neutrality' or in independent India with 'impartial secular state', according to the constitution of India, an important secularist movement to marginalise religion and separating religion from politics has not been seen. Hence, religious groups in the past and until now have continued to exist in Indian society and religion, as a social structure, has played important role and also has been used in politics. Accordingly, in relation to the problem of this study and the questions raised, the political functions of the two major religions in India, i.e., Islam and Hinduism were examined.

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