

**Date: April 18, 2022**

To,

Mr. Mukul Goel,  
Director General of Police (DGP)  
Uttar Pradesh Police Headquarters,  
Gomti Nagar, Uttar Pradesh 226002  
Tel: 02390240 (O)/ 2724009 (F), 9454400101 (F)  
Email- [digcomplaint-up@nic.in](mailto:digcomplaint-up@nic.in) / [dgpcntrol-up@nic.in](mailto:dgpcntrol-up@nic.in)

**Subject: Complaint against Mahant Bajrang Muni Das for making rape threats to Muslim women in Khairabad, Uttar Pradesh on April 2, 2022**

Dear Sir,

We at Citizens for Justice and Peace (CJP) Mumbai, a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the speech made by 'Mahant' and 'Hindutva' leader Bajrang Muni Das from Khairabad, Uttar Pradesh outside a mosque in Sitapur on Hindu New Year in April. We would like to bring your attention to this hate instigating video of Bajrang Muni Das taken on April 2, 2022. We would like to stress at the outset that **key relevant sections of Indian criminal law and other statutes are missing from the police-registered complaint and hence this communication.**

As observed and noted from the video, Bajrang Muni, the head of Maharshi Shri Lakshman Das Udasin Ashram, was seen openly threatening Muslim women with sexual assault while addressing supporters from his vehicle parked outside a mosque in Sitapur. Das's audience comprised people who were part of a procession on the occasion of Hindu New Year. Much like many such processions being taken out recently, they made it a point to halt outside a mosque where Das spoke into a microphone connected to loudspeaker and said, "If you tease a single [Hindu] girl, I will abduct your daughters and daughters-in-law from your house, and rape them in public." The vile rape threat was filmed on video and went viral online shortly thereafter.

**The video has been downloaded by CJP from Twitter website dated 02.04.2022 and is annexed hereto as Annexure A**

We are aware that Uttar Pradesh police has arrested Das after filing a First Information Report (FIR) against him charged with sections 298 (utterance or gesture in the sight of that person or places with the deliberate intention of wounding the religious feelings of any person), 354 (sexual harassment, making sexually-coloured remarks) and 509 (using word, gesture or act intended to insult the modesty of a woman) of the Indian Penal Code (IPC). However, (to emphasise), we wish to bring to your attention several, relevant and serious sections of the law that are not included in the FIR which will impact the quality and thoroughness of the investigation but also the gravity with which these are taken by law enforcement (police) and thereafter the judiciary. We urge a course correction, therefore.

To emphasise at the outset, we are shocked that key sections of the Indian Penal Code (IPC) like Sections 153, 153A, 153B, 295A, 354A, 503, 504 and 505 have not been applied to the hate offender. Besides Section 67 of the Information Technology Act, 2000 and Sections 3 and 4 of the Indecent Representation of Women (Prohibition) Act, 1986 are missing in the police registered FIR

The abovementioned provisions, detailed below, should be included in the FIR and read as follows:

Sec. 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 persons 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.**

Section 354: Assault or criminal force to woman with intent to outrage her modesty.

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty; shall **be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.**

Section 509: Word, gesture or act intended to insult the modesty of a woman.

Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman; **shall be punished with simple**

**imprisonment for a term which may extend to three years, and also with fine.**

However, we believe that the following provisions under the Indian Penal Code should also be invoked along with certain provisions from the Information Technology Act, 2000 and the Indecent Representation of Women (Prohibition) Act, 1986 for causing such targeted, communal and gender hate both offline and online:

**Violations of Indian Penal Code 1860:**

S. 153. Wantonly giving provocation with intent to cause riot—if rioting be committed; if not committed. –

Whoever malignantly, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be **punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.**

S.153A. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony–

(1) Whoever–

- a) by words, either spoken or written, or by signs or by visible representation or otherwise, promotes, or attempts to promote on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feeling of enmity, hatred or ill-will between different religious, racial, language or regional groups castes or communities, or
- b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language, or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquillity,

.....

**shall be punished with imprisonment which may extend to three years, or with fine or with both.**

S.153B. Imputations, assertions prejudicial to national integration.—

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise, -

- (a) makes or publishes any imputation that any class of person cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or
- (b) asserts, counsels, advises, propagates or publishes that any class of person shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religions, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

**shall be punished with imprisonment which may extend to three years, or with fine, or with both.**

Sec. 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.**"

Sect 354A. Sexual harassment and punishment for sexual harassment.

- (1) Aman committing any of the following acts—
- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
  - (ii) a demand or request for sexual favours; or
  - (iii) showing pornography against the will of a woman; or
  - (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.
- (2) Any man who **commits the offence** specified in **clause (i) or clause (ii) or clause (iii) of sub-section (1)** shall **be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.**

(3) Any man who **commits the offence** specified in **clause (iv) of sub-section (1)** shall **be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.**

Sec 503. Criminal intimidation.—

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Sec 506. Punishment for criminal intimidation.—

Whoever commits the offence of criminal intimidation shall **be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;**

**If threat be to cause death or grievous hurt, etc.—**and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 8 [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be **punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.**

S.504. Intentional insult with intent to provoke breach of the peace:

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall **be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.**

S.505. Statements conducing to public mischief:

- (1) Whoever makes, publishes or circulates any statement, rumour or report,-
- a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community;

**shall be punished with imprisonment which may extend to three years, or with fine, or with both.**

### **Violations of Information Technology Act, 2000**

Section 67: Punishment for publishing or transmitting obscene material in electronic form.

Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall **be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.**

### **Violations of Indecent Representation of Women (Prohibition) Act, 1986**

Section 3: Prohibition of advertisements containing indecent representation of women.

No person shall publish, or cause to be published, or arrange or take part in the publication or exhibition of, any advertisement which contains indecent representation of women in any form.

Section 4: Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women.

No person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure which contains indecent representation of women in any form:

Provided that nothing in this section shall apply to—

(a) any book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure—

- (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, slide, film, writing, drawing, painting, photograph, representation or figure is in the interest of science, literature, art, or learning or other objects of general concern; or
- (ii) which is kept or used bona fide for religious purposes;
- (b) any representation sculptured, engraved, painted or otherwise represented on or in—
  - (i) any ancient monument within the meaning of the Ancient Monument and Archaeological Sites and Remains Act, 1958 (24 of 1958); or
  - (ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose;
- (c) any film in respect of which the provisions of Part II of the Cinematograph Act, 1952 (37 of 1952), will be applicable.

#### Sec 6. Penalty.—

Any person who contravenes the provisions of section 3 or section 4 shall **be punishable on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for a term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees**

We write to you because we are deeply concerned that mere arrest will not be enough to blow off the heat he has created in the minds of the people. We would like to bring your attention to the fact that Das was arrested 11 days after the said incident. The delay in his arrests and the fact that he is seen to be repeatedly making hate speech in the presence of a police officer sets a wrong precedent to his followers. We believe that he shouldn't be let off easily and urge you to make a strong case against him.

As a citizens civil rights group concerned with the equality and dignity of *all Indians*, we are also concerned that such repeated offenders who enjoy protection and impunity from powerful political forces are also released easily on bail after the arrest. We urge that this case be considered with the seriousness of the offence as done by the Uttarakhand High Court (March 2022) in the case of *Jitendra Narayan Tyagi alias Waseem Rizvi vs. State of Uttarakhand*.

In that case, the Hon'ble Uttarakhand High Court rejecting the bail application of serial hate offender, Jitendra Tyagi, held that Hate Speech didn't fall under the purview of the fundamental Right to Freedom of Speech and Expression granted under Article 19(1(a) of the Indian Constitution. The Court insisted moreover that "a balance has



to be struck between the right to individual liberty and the interest of society," the Uttarakhand High Court overturned an earlier order by a Sessions Court. Examining closely the balancing rights available under the Indian Constitution, the Court further held, "No right can be absolute, and reasonable restrictions can be placed on them."

**The copy of order dated 08.03.2022 has been annexed hereto as Annexure B**

The vile sexual threats are made by Das target Muslim women, both for their gender and religion. Such verbalised gender violence and abuse creates a hostile environment for women where they are shamed, intimidated, degraded, belittled and silenced. This sexually driven propaganda creates a band of men who view women of a particular community as targets for mass gendered/sexual violence and in every instance of mass violence, women are attacked to insult and attack as symbols of the honour of a community.

In another shocking video on twitter, Das is seen to be threatening violence against Muslims in the presence of a police officer. Openly intimidating them he says, "*Jo bhi Hindu ki taraf aankh uthaakar dekha toh har Hindu ke ghar se laathi nikalne chahiye.....agar humlog baithe rahenge toh yeh humko kaat te rahenge.*" (Anyone who looks defiantly at Hindus will find sticks in every Hindu home; if we stay silent, they will cut us up). He claims that he has been reincarnated by God only for the destruction of Muslims. He firmly states that he will exhort Hindus to a point where even if he is killed by the 'Jihadis', the Hindus will remain riled up for the next 50 years so much so that Muslims won't even be able to raise their eyes at Hindus. He encourages the crowd to commit violence if there is any brawl with the Muslims. He is also caught saying "*Har mulle ko ghar se aur uske masjid se kheench ke maarunga*" (He will pull out such Muslims (derogatory term used) from their homes and mosques and physically assault them).

**The video has been downloaded by CJP from Twitter website uploaded on 13.04.2022 and is annexed hereto as Annexure C**

The statements made by Das are a grave threat to peace, unity and integrity of India. Especially so, in view of the sensitive atmosphere today when aggression is being unleashed on sections of our population. It is quite clear so far that the minority community in various parts of India already feels insecure and threatened. Such statements are bound to generate communal disharmony or feelings of ill will, enmity and hatred between the people of different communities. It is an act which is prejudicial to the maintenance of harmony between different groups and is likely to disturb the public tranquillity. Most importantly, such open intimidation only makes the targeted group more vulnerable to violent acts.



What concerning is that this blatantly abusive behaviour is spearheaded with impunity by right-wing extremists and socio-culturally influential members of the majority community. Muslim women in particular are subject to an orchestrated right-wing campaign which is made worse with the tacit complicity of the government of the day that harbours a hate-filled ideology and holds undisputed sway and power. For instance, in another viral video, saffron clad Swami Anand Swaroop is seen to be defending Bajrang Muni, shows his support to the rape threats made by him and threatens the Sitapur police of the repercussions to be faced if Das was to be arrested. In the said video, he even urges UP Chief Minister Yogi Adityanath to protect hate offender Bajrang Muni at all costs.

**The video has been downloaded by CJP from Facebook website uploaded on 09.04.2022 and is annexed hereto as Annexure D**

This example of explicit and abusive online intimidation is part of a worldwide trend and needs to be taken with the seriousness that repeated such public offences deserve. It is not an isolated act. Besides, the violence and abuse many women experience online has a detrimental effect on their right to express themselves equally, freely and without fear. A December 2021 survey commissioned by Amnesty International also shows that women who are more active on the platform were more likely to report experiencing online abuse, compared to those less active – 40 per cent of women who use the platform more than once a day report experiencing abuse, compared to thirteen per cent who use the platform less than once a week.

Bajrang Muni Das has been repeatedly making such hate speeches while addressing hundreds of supporters. In another undated video, Bajrang Das can be seen outrightly claiming, “Even if I die, I will leave so much heat in the Hindus of this place that they will turn Khairabad into Sri Ramnagar. And I say this openly, if you kill one Hindu, I will kill 10 Muslims.” He further adds, “If you trap one Hindu girl in ‘Love Jihaad’ then we will trap 10 Muslim girls in “Love Sanatan”. He claims to abduct them in broad daylight. Acknowledging the presence of the Police present at the said event he said, “There are people from the law and administration present here but I want to say this openly – if any wrong is done to our women then just like they (Muslims) don’t follow the constitution and follow Quran, we will also not follow the constitution.” Each of these incidents reveal grievous offences and each need to be prosecuted thereof.

Besides, the individual concerned clearly enjoys the patronage of sections of the political executive as also some organisations. These linkages that guarantee habitual offenders immunity also need to be thoroughly investigated and thereafter prosecuted.

**The video has been downloaded by CJP from Twitter website uploaded on 08.04.2022 and is annexed hereto as Annexure E**

In another video that seems to be captured on the same day, Bajrang Das is seen to be openly threatening “Mullas” and has raised the slogan of “*Jab Mulle kaate jayenge, Ram Ram chillaenge*”.

**The video has been downloaded by CJP from Facebook website uploaded on 09.04.2022 and is annexed hereto as Annexure F**

In *Pravasi Bhalai Sangathan v. Union of India, 2014 11 SCC 477*, the Supreme Court has unambiguously stated that hate speech is an effort to marginalise individuals based on their membership to a group, that can have a social impact. Moreover, the Court stated that hate speech lays the groundwork for broad attacks on the vulnerable that can range from discrimination, to ostracism, deportation, violence, and even to genocide.

In the same case, the Supreme Court cited *Canada (Human Rights Commission) v. Taylor, (1990) 3 SCR 892*, stating, “Three main prescriptions must be followed while interpreting the word “hatred” as is used in legislative provisions prohibiting hate speech. First, courts must apply the hate speech prohibition objectively. The question courts must ask is whether a reasonable person, aware of the context and circumstances, would view the expression as exposing the protected group to hatred. Second, the legislative term “hatred” or “hatred or contempt” must be interpreted as being restricted to those extreme manifestations of the emotion described by the words, “detestation” and “vilification”. This filter out expression which, while repugnant and offensive, does not incite the level of abhorrence, delegitimization and rejection that risks causing discrimination or other harmful effects. Third, tribunals must focus their analysis on the effect of the expression at issue, namely whether it is likely to expose the targeted person or group to hatred by others. The repugnancy of the ideas being expressed is not sufficient to justify restricting the expression, and whether or not the author of the expression intended to incite hatred or discriminatory treatment is irrelevant. The key is to determine the likely effect of the expression on its audience, keeping in mind the legislative objectives to reduce or eliminate discrimination.”

In the case of *Amish Devgan vs Union Of India 2021 1 SCC 1*, the Supreme Court quoted Benjamin Franklin, “It remains difficult in law to draw the outmost bounds of freedom of speech and expression, the limit beyond which the right would fall foul and can be subordinated to other democratic values and public law considerations, so as to constitute a criminal offence. The difficulty arises in ascertaining the legitimate countervailing public duty, and in proportionality and reasonableness of the restriction which criminalises written or spoken words. Further, criminalisation of speech is often demarcated and delineated by the past and recent significant events affecting the

nation including explanation of their causes. Therefore, constitutional and statutory treatment of 'hate speech' depends on the values sought to be promoted, perceived harm involved and the importance of these harms. 57 Consequently, a universal definition of 'hate speech' remains difficult, except for one commonality that 'incitement to violence' is punishable."

In that judgement, the Hon'ble Supreme Court elaborated on the concept of Hate Speech by identifying three elements:

- **Content-based:** Open use of words and phrases generally considered to be offensive to a particular community and objectively offensive to the society.
- **Intent-based:** Speaker's message to intend only to promote hatred, violence or resentment against a particular class or group.
- **Harm-based/ impact-based:** There is an element of harm to the victim which can be violent or such as loss of self-esteem, economic or social subordination, physical and mental stress, silencing of the victim and effective exclusion from the political arena.

In the same case, the Apex court also cited Andre Sellars from his essay 'Defining Hate Speech' where he examined the concept of hate speech in different democratic jurisdictions and formulated common traits in defining 'hate speech'. He says:

- Hate speech targets a group, or an individual as a member of the group
- One should be able to objectively identify the speech as an insult or threat to the members of the targeted group, including stigmatising the targeted group by ascribing to it qualities widely disregarded as undesirable
- Speech should cause harm, which can be physical harm such as violence or incitement and true threats of violence
- Speech should have no redeeming purpose, which means that 'the speech primarily carries no meaning other than hatred towards a particular group'

In the case of *State of Karnataka and anr vs. Dr Pravinbhai Togadia (2004) 4 SCC 684*, the Supreme Court held, "Communal harmony should not be made to suffer and be made dependent upon the will of an individual or a group of individuals whatever be their religion bit of a minority or that of the majority... the valuable and cherished right of freedom of expression and speech may at times have to be subjected to reasonable subordination to social interests needs and necessities to preserve the very core of democratic life preservation of public order and rule of law. At some such grave situation at least the decision as to the need and necessity to take private reactions must be left to the discretion of those entrusted with the duty of maintaining law and order and interposition of courts..."

The National Commission for Women (NCW) has already taken cognizance of the offence. Talking to ANI, NCW Chairperson Rekha Sharma said, "People talking like this in public about raping women of a certain community is not acceptable. We have written today itself to UP DGP and I'm going to take up this matter personally with him; whether they are religious godmen or anybody, they should be taken to task".

**The copy of the news report by ANI dated 13.04.2022 is annexed hereto as Annexure G**

We, therefore, urge your Hon'ble authorities to take cognizance of the matter in its entirety applying full proof and adequate sections of the law and ensure that a proper inquiry is instituted and concluded in this matter. If such open intimidation and instigating speeches are allowed to continue unabated, such miscreants will only be encouraged to create such tension and cause mischief that disturb public order not just in those areas but in many other areas across the state. The importance to act strictly and earnestly in this matter cannot be stressed upon enough and we are certain that in your experience as an officer, you understand the magnitude of the situation. We thus, humbly urge you to take necessary action to ensure that effective investigation is carried out in this regard and the miscreant is brought to book so as not to encourage such incidents in any other areas of the state in order to maintain public order and communal harmony.

Callous and brazen statements such as this one, made by political leaders at public platforms have far reaching impact and rather perilous repercussions. It is to avoid communal clashes such as these in the near future, that the Police needs to take cognizance and reprimand people, especially those who have a following and influence, to refrain from making comments that would shake the secular fabric of the country.

**Prayers:**

Sir, the extent of hate and anti-minority sentiment is on the rise all over the country, more so in the State of Uttar Pradesh where public figures such as Bajrang Muni Das openly target certain groups. This needs your immediate attention and rapid action.

We urge that the Uttar Pradesh Police:

1. To immediately investigate, in a time-bound fashion, the claims made by Bajrang Muni Das, under the Indian Penal Code, the Police Act, in order to maintain peace and order and make the investigations public.

2. To further strengthen the FIR registered by the UP police against Bajrang Muni Das and ensure that relevant sections of the Information Technology Act and Indian Penal Code and others that are conspicuous by their absence are included.
3. For the Uttar Pradesh police to further investigate organisational linkages and political connections of the individual involved.
4. For the Uttar Pradesh Police to closely monitor online and offline intimidation and abuse especially directed by persons in positions of social, economic and political power against all marginalised sections of Indians, including religious minorities.
5. For the Uttar Pradesh police to ensure that data on such monitoring is made public digitally and that progress in this case is also visible and made public electronically and digitally.
6. To take any other action as you may deem fit.

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

### **Annexures**

- Annexure A Video dated 02.04.2022
- Annexure B Copy of Order dated 08.03.2022
- Annexure C Video uploaded on 09.04.2022
- Annexure D Video uploaded on 09.04.2022
- Annexure E Video uploaded on 08.04.2022
- Annexure F Video uploaded on 02.04.2022
- Annexure G News report by ANI dated 13.04.2022