



Date: May 30, 2022

To,

Dr. Devendra Singh Chauhan
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Subject: Complaint against Pandit Ravi Sonkar for making death threats to those worshipping at the Gyanvapi mosque, Varanasi

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 on an online platform by Pandit Ravi Sonkar from Kanpur, Uttar Pradesh where he openly threatens to kill members of the Muslim community for worshipping at the Gyanvapi mosque.

As observed and noted from the video, Pandit Ravi Sonkar, a man identified from his Facebook profile, who is reportedly a Bajrang Dal member, can be seen threatening to kill Muslims who have offered prayers at Gyanvapi Mosque. In the video, he claims, “*We will behead them.*” Sonkar, in his video clip which has been made public, is acting like Hindutva leaders he probably idolises, and says that Muslims had washed “dirty, hands and feet” and “washed mouths” above “the shivling”. He is referring to the structure found in the wazu area or pre prayer ablution tank. He then says in an attempted dramatic voice that “we will chop off those hands, feet, and necks.” Ravi Sonkar has removed the video from his Facebook wall, perhaps fearing police action, after it was exposed on Twitter and has now locked his profile which was open to public earlier. However, we have come across a screen recording of his profile along with the video on Twitter.

The video dated 17.05.2022 has been downloaded by CJP from Twitter website and is annexed hereto as Annexure A

Even though the video may be taken down from his profile presently, we strongly feel that stringent action must be taken against him so that it sets a precedent for like-minded people who brazenly make such incriminatory statements online that have far reaching impact.

The statements made by a figure like Pandit Ravi Sonkar are extreme, divisive and also, by provoking violence, a grave threat to peace, unity and integrity of India. Especially so, in view of the sensitive atmosphere today when everyday verbal and physical aggression is being unleashed on certain sections of our population. It is quite clear so far that the minority community in various parts of India already feels insecure and threatened. The perils of being targeted as a Muslim (in this instance, or a Christian, or Dalit in others) has been devastating for many Muslims (and

Christians and Dalits) who as a community feel a shared anxiety about their socio-political position in the society being deliberately and repeatedly undermined. The role of such brazen speeches and provocative actions act like a trigger and hence are a further damage to the overall fabric of Indian society.

We believe that besides charging him under the provisions of the Indian Penal Code, 1860 for making derogatory statements with the potential to rile up communal harmony, he must also be charged under the Information Technology Act, 2000 for posting such hateful content online. This example of explicit and abusive online intimidation is part of a worldwide trend and needs to be taken with the seriousness such repeated public offences deserve. It is not an isolated act.

Such kind of derogatory and incriminating speech that is illegal and unconstitutional violates the following provisions of the law:

Indian Penal Code, 1860:

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

Whoever maliciously, 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.**”

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 tranquillity; 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.**

Judicial precedent:

We believe that such incriminatory 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.

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.”

In the case of *Amish Deygan 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. 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...”

In the case of *Firoz Iqbal Khan vs Union of India [W.P (Civ.) No. 956 of 2020]*, the Supreme Court had held, “..the edifice of a democratic society committed to the rule of law under a regime of constitutional rights, values and duties is founded on the co-existence of communities. India is a melting pot of civilizations, cultures, religions and languages. Any attempt to vilify a religious community must be viewed with grave disfavour by this Court as the custodian of constitutional values.”

In the case of *Pravasi Bhalai Sangathan v. Union of India, (Ref: AIR 2014 SC 1591, at para. 7.)* 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. Therefore, the aforementioned news items are tantamount to the perpetration of genocide, and must be considered to be in violation of Article 21 of the Constitution.

What is concerning is that this blatantly abusive behaviour is spearheaded with impunity by right-wing extremists and socio-culturally influential members of the majority community. Muslims 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.

We believe that India’s principle of secularism and plurality must help strengthen the fraternity among different groups, both majority and minority, but instead an environment of tension and violence has prevailed in India over the past few years. The Justice Rajinder Sachar Committee Report 2005, had stated:

“While Muslims need to prove on a daily basis that they are not ‘anti-national’ and ‘terrorists’, it is not recognised that the alleged ‘appeasement’ has not resulted in the desired level of socio-economic development of the community. In general, Muslims complained that they are constantly looked upon with a great degree of suspicion not only by certain sections of society but also by public institutions and governance structures. This has a depressing effect on their psyche.”

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.

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 the minority groups are openly targeted. We believe that the Police needs to take cognizance and actually prosecute such persons, who are acting with an entitled sense of immunity, especially those who have a following on social media and influence. Such prompt and stringent actions by the police and administration will promote the rule of law laid down under the Indian Constitution and work to refrain them from making comments that would seriously affect social harmony and are a threat to public peace. This needs your immediate attention and rapid action. We urge your Hon'ble authorities:

1. To immediately investigate, in a time-bound fashion, the threats made by Pandit Ravi Sonkar, under the Indian Penal Code, the Police Act, in order to maintain peace and order and make the investigations public.
2. To register an FIR against Pandit Ravi Sonkar 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. Is Pandit Ravi Sonkar acting on his own or is he part of a sustained and organised group (he is reportedly a member of the Bajrang Dal) using such divisive hate speech to provoke violence against a section of Indians?
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 Malsute, President

Teesta Setalvad, Secretary

Annexure:

Annexure A Video dated 17.05.2022 downloaded from Twitter website