110 Ct. Cases 954/2025
SANDEEP CHAUDHARY Vs. KUNAL KAMRA
(K.N. Katju Marg)

15.09.2025.

Present: Ld. Counsel for the complainant through VC.

Arguments concluded. Put up for orders at 4:30 pm.

HIMANSHU SEHLOTH
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Date: 2025.09.15 17:55:52 +0530

(Himanshu Sehloth)
JMFC-03/North/Rohini/Delhi
15.09.2025

At 4:30 PM
Present: None

ORDER

Vide this order, this court shall decide the application u/s 175(3) BNSS preferred by the complainant.

1. Introduction

1.1. *"A democracy that fears laughter has already begun to fear itself."* This observation, aptly captures the essence of the present matter. The complaint before the Court situates itself at the intersection of individual freedom of expression and the State's duty to ensure public order. At its core is a satirical video, widely disseminated, which lampoons political realignment and leaders in Maharashtra.

1.2. The task of this Court is not to adjudge taste, civility, or artistic merit, but to determine whether the coercive machinery of the State may lawfully intervene. Freedom of speech is the oxygen of democratic life; the law must breathe with it, not smother it.

1.3. Beyond the personal or political, the matter touches on **the role of satire, dissent, and critique in a vibrant democracy**. It compels reflection on whether criminal law may be wielded against speech that is provocative, irreverent, or uncomfortable, yet does not issue a command to violence.

1.4. In approaching this question, this Court must weigh multiple considerations: the statutory provisions invoked, the factual matrix, the threshold of cognizable criminality, and the constitutional protections enshrined in Articles 19(1)(a) and 21 of the Indian Constitution. The challenge is to **balance liberty against order, dissent**

against security, and humor against offense, ensuring that the law remains a guardian, not a predator, of democratic freedom.

1.5 At this stage, it suffices to note that the matter concerns a **satirical expression directed at political conduct**, and the Court must examine the same in light of the law and the duties of a constitutional democracy.

2. Complainant Allegations

2.1. The present application, filed under Section 175(3) BNSS, seeks registration of an FIR against Mr. Kunal Kamra, a comedian, in relation to a satirical video titled *"Naya Bharat"*, posted on or about 23.03.2025. The video contains remarks and musical satire directed, inter alia, at the Deputy Chief Minister of Maharashtra, Mr. Eknath Shinde.

2.2. The complainant, the State Chief, Delhi, of the current faction of the Shiv Sena, alleges that the video employs **provocative language and terminology**, including *"gaddar"*, *"dalbadlu"*, and *"Fadnavis ki godi"*, which, according to the complaint, lampoon not merely the individual but also a political transformation involving shifting allegiances and purported betrayal.

2.3. The video allegedly includes lines such as:

- *"Jis thaali mein khaye usme hi wo chedh kar jaye"*, and
- *"Guwahati mein chup jaaye, meri nazar se tum dekho gaddar nazar aaye"*,

which, the complainant contends, portray Mr. Shinde as a betrayer and someone involved in political horse-trading.

2.4. It is submitted that the video deliberately **distorts facts**, with intent or likelihood to **stir enmity and ill-will** between political, regional, and ideological groups. Further, the video has been widely disseminated across major social media platforms — X (formerly Twitter), Instagram, and YouTube — garnering over a million views and significant engagement.

2.5. The complaint notes that the video has been **reposted and endorsed by a prominent political leader from a rival faction**, amplifying the political edge and contributing to inter-factional tensions.

2.6. Additionally, the complainant orally asserted that the party maintains a functioning office within the jurisdiction of this Court in Delhi, where several party workers were

visibly agitated and humiliated by the content. It is contended that this context — sensitive political environments, factional tensions, and prior history of clashes in Maharashtra — is crucial to understanding the alleged intent and likely effect of the video.

2.7. The complainant argues that **actual rioting or breach of public peace is not a prerequisite under Section 353(2) BNS**. The statutory language, as per the complaint, contemplates that the **existence of intent or likelihood to promote enmity, hatred, or ill-will** between groups constitutes sufficient grounds to invoke the provision.

2.8. In sum, the complaint alleges that the acts of the accused were performed with intent, or in an attempt, to cause mischief, disorder, hatred, and public provocation between political, regional, and ideological factions. The complainant submits that these allegations must be examined against the backdrop of Maharashtra's volatile political environment, where political rivalries have historically triggered clashes, outrage, and other unpleasant incidents.

3. Action Taken Report (ATR)

3.1. An Action Taken Report dated 19.05.2025 has been filed under the signatures of the ACP/Prashant Vihar.

3.2. As per the report, the impugned footage was recorded in Maharashtra. A complaint regarding the same video had already been lodged by one MLA, Andheri West, namely Murji Kanji Patel, at PS Khar, Mumbai. On that complaint, **FIR No. 194/2025** under Sections 353(1)(b)/ 353(2)/356(2) BNS has been registered and is presently under investigation.

3.3. It is further stated that the accused, Mr. Kunal Kamra, has been granted anticipatory bail by the Hon'ble Bombay High Court in connection with the said FIR. Accordingly, the ATR concludes that no further action is required at PS KNK Marg in Delhi.

4. Issues for Determination

Upon careful consideration of the complaint, the Action Taken Report, and the submissions, the following questions arise for adjudication:

4.1. *Multiplicity of FIRs* — Whether, in light of the admitted fact that an FIR has already been registered in Mumbai concerning the same impugned video, a second or subsequent FIR on identical allegations can lawfully be directed in Delhi.

4.2. *Existence of Cognizable Offence* — Whether the allegations in the complaint and the content of the impugned footage, taken at their face value, disclose the commission of any cognizable offence so as to justify the registration of a fresh FIR.

4.3. *Free Speech and Constitutional Guardrails* — Whether the allegations, even if accepted at their highest, fall within the permissible limits of satire, dissent and political expression protected under Articles 19 and 21 of the Constitution, thereby requiring courts to tread with special caution before criminal law is set in motion.

5.1 Issue I — Multiplicity of FIRs: whether, in the face of an admitted FIR already registered in Mumbai in respect of the same impugned video, the law permits registration of a second or subsequent FIR in Delhi arising from the very same transaction.

5.1.1. The first legal threshold presented by this matter is procedural, but its implications are constitutional. The question is not merely one of police practice; it is the question whether the State or an individual may, by multiplying complaints and investigations, subject a citizen to the attrition of repeated criminal process for one act of expression. That prospect, once opened, corrodes the Rule of Law more surely than many administrative misstep, for it converts investigation into persecution and procedure into punishment.

5.1.2. The law on this point has been settled by the highest judicial voice. It is no longer arguable that the police enjoy an unfettered right to investigate ad infinitum. The Hon’ble Supreme Court in *T.T. Antony v. State of Kerala* (2001) 6 SCC 181 put it in plain terms: **there cannot be a second FIR in respect of the same cognizable offence or the same incident or occurrence.** The Court warned that the plenary power of investigation, though indispensable for law and order, is not unlimited; it must be balanced against fundamental rights under Articles 19 and 21. Subjecting a person to repeated investigations on account of successive complaints, would be an abuse of statutory power, and inimical to the guarantee against arbitrary State action.

5.1.3. This principle has since been fleshed out into a judicial test — the test of *"sameness"* — which asks whether the subsequent complaint relates to the same transaction, the same incident, or the same gravamen as the first FIR. The Hon'ble Supreme Court in ***Surender Kaushik vs State of U.P.*** **(Criminal Appeal No. 305 of 2013, Arising out of S.L.P. (Crl) No. 9276of 2012)** and the Hon'ble Andhra Pradesh High Court in ***Akbaruddin Owaisi vs State of Andhra Pradesh*** **(2014 Cri. LJ 2199)** have emphasised that *sameness* is not a metaphysical identity of words but a practical inquiry into mixed question of law and facts depending on the merits of a given case. If the subsequent complaint merely rehashes the original allegations, or seeks to "improve" upon them, it is impermissible; if, however, it pleads a distinct occurrence, or new and materially different facts, it may be maintainable.

5.1.4. The test articulated with salutary realism, notes that modern communication means a single utterance may reach many places and many ears; yet a single transmitted message does not become many offences simply because many felt offended. The lesson is plain: in an age of viral speech, the law must resist a multiplication of prosecutions that would otherwise reduce every nationwide expression to a hundred local causes of action.

5.1.5. The constitutional stakes are reinforced by ***Amitbhai Anilchandra Shah vs CBI*** **(Writ Pettion (Criminal) No. 149 of 2012)**, where it was held by Hon'ble Supreme Court that a second FIR in respect of the same transaction is not only impermissible as a matter of criminal procedure, but may also violate Article 21 of the Constitution. The point is not mere technicality; it is that liberty is not secured by law that can be worn down by repeated process. Investigations have costs — reputational, financial and psychic. A citizen should not be made to endure a relay of prosecutions in different fora for the identical alleged act.

5.1.6. Applying the test to the facts before this Court is, therefore, necessarily practical and contextual. There are certain immutable facts: the impugned video is the same video; FIR No. 194/2025 has been registered at PS Khar, Mumbai on the complaint of an MLA; that FIR invokes substantially the same offences as are alleged in the present application; an investigation is under way; and anticipatory bail has been obtained by

the accused from the Bombay High Court. The applicant's grievance in Delhi does not point to a separate act, to fresh allegations of a different tenor, or to a distinct transaction occurring in Delhi independent of the original upload and its consequences. The asserted "cause of action" in Delhi — that party workers here were offended upon viewing the video — is evidence of reception, not of a new occurrence.

5.1.7. The law draws a distinction between multiplicity that is warranted and multiplicity that is abusive. A counter-case — a genuinely distinct proceeding based on different facts — is permissible; successive complaints that merely reframe or embellish the original allegations in the hope of obtaining a different forum or favourable policing are not. If the registration of an FIR were permitted each time a video uploaded in State A is viewed in State B, every broadcaster and every comedian would be at the mercy of a thousand simultaneous inquiries. That is not justice; it is harassment.

5.1.8. To permit the registration of another FIR in Delhi under these circumstances would not only offend the decisions cited, but would also be to countenance forum-shopping by complaint. More perniciously, it would convert criminal investigation into a device of competition in grievance. The salutary restraint demanded by *T.T. Antony*, *Surender Kaushik*, *Akbaruddin Owaisi* and *Amitbhai Shah decisions*, is intended to prevent precisely this outcome: a fractured, duplicative, and oppressive criminal process.

5.1.9. This Court therefore holds, for purposes of integrated reasoning, that the registration of a second FIR in Delhi in respect of the identical video and the same core allegations is not permissible under established law. The complaint, insofar as it seeks registration of a fresh FIR in Delhi for the same occurrence, must be declined on grounds of multiplicity and abuse of process; the remedy is coordination with, not duplication of, the existing investigation in Mumbai.

5.1.10. That conclusion is neither technical nor harsh; it is a vindication of a citizen's right against being hounded by multiple processes and a reaffirmation that the criminal law is not intended to be fragmented by the vagaries of offended sensibilities across

jurisdictions. The law, in short, requires that one incident give rise to one investigation — substantial, focused and fair — not to many.

5.2 Issue II — Whether the complaint and the impugned footage disclose the commission of any cognizable offence

5.2.1. The jurisdiction of this Court under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita is not a mechanical one. It is hedged by a solemn responsibility — to ensure that the criminal process, once set in motion, does not become an instrument of political score-settling or suppression of dissent. The law requires not only that allegations be made, but that they disclose the commission of a cognizable offence. Anything less is an invitation to abuse.

5.2.2. The complaint before this Court revolves around a satirical video that caricatures political realignments and calling into question the conduct of a constitutional functionary. Words such as “gaddar” or “dalbadlu” may well sound harsh and offensive to some, but the task of this Court is not to sit in judgment over taste or civility. It is to decide whether such expressions, taken at their highest, cross the legal threshold of cognizable criminality.

5.2.3. A cognizable offence, by its very nature, must threaten public order, social harmony, or the individuals in a manner so grave as to justify immediate state intervention. It is not enough that speech embarrasses, unsettles, or even deeply offends. If offence alone were the test, democracy would soon become monochrome, bereft of the hues of criticism, parody, and satire that animate public discourse.

5.2.4. Tested on this plane, the allegations in the complaint do not pass muster. The video in question, though distasteful, does not contain a call to violence, nor does it exhibit an imminent tendency to disturb public tranquillity to cause/promote enmity, hatred or ill will among different groups. It reflects, at best, the ordinary rhetoric of political contest — where metaphors of betrayal, loyalty, and opportunism are freely employed across party lines. To criminalise such rhetoric is to conflate political contestation with public mischief.

5.2.5. Equally, the suggestion that the video has “distorted facts” or “humiliated workers” cannot, by itself, amount to a cognizable offence. The law does not recognise

a right against humiliation in political life. Public figures, by virtue of their position, must endure a degree of scrutiny, satire, and parody greater than ordinary citizens. *Those who stand tallest in public life must learn to stand thickest in public ridicule*.

5.2.6. The danger of expanding the contours of criminal law to cover such expression is not merely theoretical. It risks creating a precedent where every parody, every cartoon, every biting remark becomes the subject of an FIR. That would chill the spirit of Article 19(1)(a), and cast a long shadow over the rights guaranteed under Article 21. In such an environment, the citizen would speak not with liberty but with fear, measuring every word against the prospect of prosecution. Such a result is foreign to our Constitution.

5.2.7. Therefore, this Court finds that, even taking the complaint and the video at their highest, the essential ingredients of any cognizable offence are absent. The alleged satire may sting, it may provoke indignation, but indignation is not the test of criminality. What the complaint discloses is speech, however unpalatable to some — not a crime inviting the coercive machinery of the State.

5.2.8 The Court is mindful that speech can at times be distasteful. But the Constitution protects not only agreeable speech, but also that which irritates, unsettles, or even shocks. The test is not whether we agree with the speech, but whether we permit freedom for the thought that we dislike. To allow registration of an FIR on such facts would be to weaponize the criminal law against free expression. That, this Court cannot permit. For in the final analysis, democracy is not imperilled by satire — it is imperilled by intolerance of satire.

5.3 Issue III — On Dissent, Democracy, and the Constitutional Spirit

5.3.1. This Court cannot approach the complaint merely as a question of statutory construction. When political satire is sought to be met with the blunt force of criminal law, the issue assumes a larger dimension. It is not only about the proposed accused comedian or the aggrieved political leader. It is about the *terms of engagement* between citizen and State in a constitutional democracy.

5.3.2. The Constitution of India was not drafted to secure the comfort of those in power. It was framed to ensure that the governed could speak to their governors without fear. Article 19(1)(a) guarantees that right in the widest terms; Article 21 secures liberty

against arbitrary intrusion. Our founding fathers, having themselves faced imprisonment for their words under colonial rule, knew too well that democracy without free speech is a shell without life.

5.3.3. Dissent, even when barbed, is not disorder; it is the music of democracy. The framers did not create a Republic of silence but a Republic of debate, disagreement and, yes, satire. To laugh and question at one's rulers, to mock their choices, to call out betrayal real or imagined — these are not vices, they are the constitutional virtues that distinguish free citizens from subjects.

5.3.4. The complainant urges that such satire distorts facts, insults leaders, and causes party workers to feel humiliated. That may well be so. But the Constitution does not promise freedom from discomfort or indignation; it promises freedom of expression. What is wounded in such cases is pride, not peace. Pride may bristle, but it is not a cognizable injury under the law.

5.3.5. The real danger lies elsewhere. If every lampoon or parody were to invite the coercive machinery of the State, citizens would soon whisper in private what they once declared in public. Fear would replace candour, and conformity would strangle creativity. As history teaches us, liberty seldom dies in one stroke; it is eroded when small freedoms are curbed in the name of order, until silence becomes the only safe speech.

5.3.6. This Court is not blind to the discomfort satire can cause. It may sting, sometimes it may cross lines of taste or decorum. **But the remedy for bad speech is not the policeman's knock; it is better speech, sharper rebuttal, stronger argument.** Leaders who command public power must cultivate a thicker skin, for they govern not a court of praise but a society of free citizens.

5.3.7. The judiciary, in such moments, is called upon to stand as sentinel. The task of this Court is not to assess the merits or propriety of satire directed at political figures, but to ensure that criminal law is not weaponised to silence dissent. A criminal court cannot be converted into a forum for the vindication of personal or political sensitivities. To allow that would be to place liberty at the mercy of power — the very inversion the Constitution was designed to prevent.

5.3.8. This Court therefore is of the view that the satire in question, however uncharitable in tone, falls within the protective embrace of Article 19(1)(a). It does not incite violence, it does not threaten public tranquillity, and it does not step across the boundary into criminality. To prosecute such speech would not be an act of justice but of intolerance.

5.3.9. Democracy does not perish because a citizen alleges betrayal or questions the loyalty of those in office. Democracy perishes when such expression is met, not with debate, but with the summoning of criminal law to silence it. Liberty is not lost in the noise of criticism; it is lost in the silence that follows enforced conformity.

6. Conclusion

6.1 Satire may sting, and speech may often bruise the sentiments of those in public life. The statements in the impugned video may not be civil in tone, they may even be in bad taste, and they may well cause political discomfort or unease. But criminal law does not exist to soothe the itch of political sensitivities; its concern is with conduct that crosses the threshold of public mischief or unlawful harm. What is unpleasant or offensive is not necessarily criminal.

6.2 Liberty, as Justice Khanna reminded us, is not the gift of the State but the birthright of the individual. Article 21 demands that liberty cannot be sacrificed at the altar of political discomfort. Article 19(1)(a) ensures that satire, parody and criticism — even when distasteful — remain protected, save when they spill over into the narrow bands of incitement, public order or defamation recognised by Article 19(2).

6.3. It must be emphasised that the constitutional promise of freedom is not tested in the times of consensus but in the seasons of discord. The complainant here is a political functionary; the subject of the satire is a high constitutional functionary. It is precisely in such cases that courts must be vigilant, for history teaches us that the **meek citizen armed with wit** is often the first casualty of a State intolerant of criticism. To silence satire is not to protect public order; it is to wound the democratic soul.

6.4 In the quiet light of constitutional reason, the position becomes unmistakably clear. The present complaint, read with the annexed material, does not disclose the commission of any cognizable offence. The attempt to secure a second FIR on the same

foundation is equally barred by settled law. To allow otherwise would be to convert the criminal law from a shield of order into a sword against liberty — a result the Constitution neither contemplates nor permits.

6.5 Democracy does not tremble because of dissent; it trembles only when dissent is silenced. It is the bounden duty of this Court to ensure that the law is not invoked as a tool to stifle voices, however uncomfortable they may sound to some. **Accordingly, both in law and in fact, the present application is found to be devoid of merit and stands dismissed.** Freedom is the first condition of democracy; its negation is the first step to tyranny.

6.6 Before parting, it is apt to remind ourselves of the words of Mahatma Gandhi, spoken in 1922: *'Liberty of speech means that it is unassailed even when speech hurts.'* Let this order be read in that spirit — as an affirmation that the freedoms and liberty guaranteed under Articles 19 and 21 are not concessions granted by the State, but the birthright of every individual under our constitutional order.

Put up for PSE on **30.01.2026**.

HIMANSHU SEHLOTH

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Announced in open court
on 15.09.2025

(Himanshu Sehloth)
JMFC-03/ North/ Rohini/ Delhi
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