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TALKING POINT ON POLICE ACTION

WA display pic of Aurangzeb illegal?

URVI MAHAJANI, MUMBAI

On Sunday afternoon, Navi Mumbai Police swooped down on a mobile phone gallery in Sector 17 of Vashi and picked up an employee, Mohammad Ali Hussain, 29, and took him to the police station. They registered an FIR, arrested him and later released him with a notice that asked him to be available for questioning.

What was his crime? He had used a picture of Mughal emperor Au-

rangzeb as his WhatsApp display picture. He was booked under IPC sections 298 (uttering words etc deliberately to wound religious feelings) and 153A (promoting enmity between different groups on grounds of religion, race etc.). He was arrested though there is no law prohibiting the use of pictures of Mughal emperors.

He was arrested on the complaint of a Hindu activist. The FPJ spoke to several advocates to ascertain the legality of the police's action.

**Pradeep Gharat, Special Public Prosecutor**

Ingredients of section 153A are not satisfied in this case. If there are provocative writings then it's a different thing. If there is no ban on posting pictures of Aurangzeb then it is not illegal to do so. One can post anyone's picture.

Siddh Vidya, Advocate

The arrest is not at all justified unless the police can prove that the youth had the intention of breaking the peace. If the intention is proved, then IPC section 504 can be applied. But, in this case, police do not appear to have proved the intention.

**Rizwan Merchant, Advocate**

The police are within their powers to take action if they apprehend breach of peace. One cannot raise the issue of fundamental rights here because these rights are not absolute. They come with certain conditions.

Mihir Desai, Senior Advocate

It is ridiculous to invoke 153A in this case. Our Constitution gives us the right to freedom of speech and expression. There are various interpretations of history. Nobody is saying Aurangzeb is great. But unless one goes on propagating about Aurangzeb, it is improper to invoke 153A. Tomorrow, someone could put up pictures of Tipu Sultan or Nathuram Godse. Then what? In such a case, come out with a list of names of people whose pictures should not be posted. India espouses itself as a symbol of tolerance, so then show tolerance in such cases.

**Aniket Nikam, Advocate**

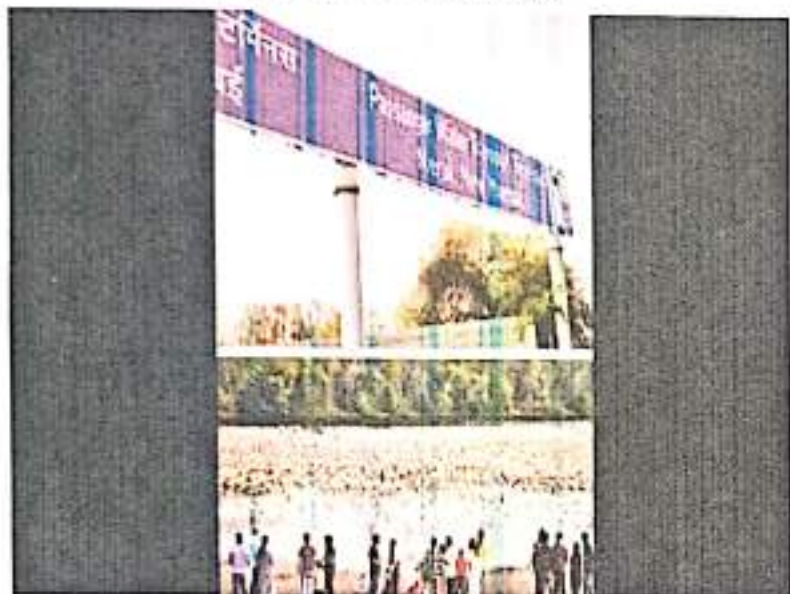
Whoever, with the deliberate intention of wounding the religious feelings of any person does anything, then the Indian Penal Code provides for the prosecution of such a person. But the mens rea (criminal intent) is essential before invoking such sections.

Mahesh Menon, Advocate

People have the right to post anyone's picture as their WhatsApp DP. It does not amount to an offence. The action of the police is most unjustified.

Towering signboard at defunct Nerul jetty a hazard for flamingos

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MUMBAI: A 20-ft tall signboard at the defunct Nerul jetty is proving to be hazardous for flamingos that take off and land at the nearby Talawe wetland in Seawoods. Of late, there have been a few incidents of the pink-feathered birds suffering serious injuries, and even succumbing to them, after accidentally ramming into the 'Passenger Water Transport Terminus' signboard at the jetty.

Advocate Siddh Vidya, who lives at NRI Complex in Seawoods, said on Wednesday morning, a flamingo flying with a flock over the wetland hit the signboard at the jetty and was grievously injured. It died after writhing in pain for more than two hours. "A few locals

found the badly injured flamingo near the signboard. They informed the forest authorities and a wildlife activists' group, but as help did not arrive for over two hours, the bird died," Vidya said. "A few weeks ago, I found another injured flamingo near the same signboard. That bird died too. The residents have decided to dash off a letter to the state authorities, including the chief minister's office to remove this signboard as it is in the flight-path of the flamingos."

Wildlife official from the state mangrove cell, Deepak Chavan, said: "Our team had visited the site at Nerul jetty