

**IN THE SPECIAL COURT UNDER THE SCHEDULED CASTES AND
SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT/
PRINCIPAL SESSIONS JUDGE, CHENNAI**

Present : Thiru.S.Karthikeyan, M.A., M.L., M.Sc., P.G.D.C.F.Sc., P.G.D.D.F.,

Special Judge/Principal Sessions Judge.

Tuesday, the 7th day of April, 2026.

Special Sessions Case No: 100 / 2024
(TNCH01-041447-2024)

1. Name of the Accused	:	Balavenkata Subramanian @ RBVS Manian, S/o.Ramanathan.
2. Name of the Complainant	:	The Assistant Commissioner of Police, T.Nagar Range, Chennai-600017.
3. Charges Framed	:	U/s.505(1)(b), 505(2), 153, 153A(1)(a) and u/s 3(1)(r), 3(1)(u) and 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
4. Plea of Accused	:	The Accused has pleaded not guilty.
5. Finding of the Court	:	The Accused is found not guilty of the offences punishable U/s 505(1)(b), 505(2), 153, 153A (1) (a) and under Sections 3(1)(r), 3(1)(u) and 3(1) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
6. Sentence or Order	:	In the result, the Accused is found not guilty of the offences punishable U/s 505(1)(b), 505(2), 153, 153A(1)(a) and u/s 3(1)(r), 3(1)(u) and 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and he is acquitted from the said charges. The said acquittal is recorded u/s 235(1) of Cr.P.C. (i) The bail bond executed by the Accused is discharged. (ii) No material objects produced and marked and therefore, no property order is passed.
7. Crime Number and Police Station	:	Cr.No.208/2023 of R-1, Mambalam Police Station, Chennai.
8. Counsel for the complainant	:	M/s.D.Parventhan, Special Public Prosecutor.
9. Accused defended by	:	M/s.R.C.Paul Kanagaraj, M.Soundar Vijay Arul Ram and K.Udayakumar, the counsel for the Accused.

This case came up on 26.03.2026 before this court for final hearing in the presence of M/s.D.Parventhan, the Special Public Prosecutor for the complainant and of M/s.R.C.Paul Kanagaraj, M.Soundar Vijay Arul Ram and K.Udayakumar, the counsel for the Accused and upon hearing both sides and upon perusing the documents and material papers of this case, having stood over for consideration till this day for consideration, this Court has delivered the following:-

JUDGMENT

The Assistant Commissioner of Police, T.Nagar Range has filed Final Report before this Court stating that the defacto complainant is one Mr.R.Selvam, who is serving as District Secretary, Chennai West in Viduthalai Chiruthaigal Party and he belongs to Hindu Adi Dravidar Community. On 11.09.2023, at Door No.12, Barathya Vidya Bhavan, Thanikachalam Road, T.Nagar, Chennai-18, the Accused herein has delivered a lecture in the title "Bharathiyum Vivekanandarum". But, in the said lecture, he had degraded the birth of Thiruvalluvar, Members of Islam community, Dr.B.R.Ambedkar. He has spoken that Dr.B.R.Ambedkar was working only as a Steno. Further, he abused the State President Mr.Thol Thirumavalavan, Viduthalai Chiruthaigal Party. Further, he made derogatory remarks against the members of Scheduled Caste and Scheduled Tribes. Further, he incited violence between two communities. The said lecture was uploaded in <https://youtu.be/13D431x5NRg>. The said video runs for about 52 minutes and 51 seconds. In that, between 00.00 and 01.08 he has spoken about Dr.Ambedkar and the State President of Viduthalai Chiruthaigal Party Mr.Thol Thirumavalavan. Further, he has spoken about scheduled caste community, Paraiyar and Sakkiliyar between 01.09 and 01.57. He has spoken

about Thiruvalluvar and Dravidar between 02.28 and 03.47. He has spoken about the people living in colony and about members of Islamic Community between 03.48 and 04.06. He has spoken about Christian God between 26.42 and 28.04. Between 34.18 and 36.28, he has spoken about the religious faith, Patriotism, Christian Religion and Islamic Religion. Between 45.56 and 46.37 he has spoken about the investment in L.I.C and he has spoken about Bhagawath Geetha, Quran and Bible. Further, in the video uploaded in <https://youtu.be/OCR0PQiKe01>, he has spoken about 1 hour and 11 minutes and 42 second, in which, he has spoken about Thiruvalluvar between 45.33 and 46.55. Between 52.56 and 55.19, he has spoken about the religious faith, patriotism, Christian and Islamic religious. Between 01.02.10 and 01.03.56 hours, he has spoken about Dr.Ambedkar, the State President of Viduthalai Chiruthai Party Mr.Thol Thirumavalavan and he has spoken about the members of Adi Dravidar Community, like Parayar, Sakkiliyar and Pallar. Between 01.04.47 and 01.05.29, he has spoken about the money invested in L.I.C., Bhagavath Geetha, Quran and Bible. The Accused, who is in higher strata of society, abused and degraded the leaders held in high esteem by the members of the Scheduled Castes and thereby incited violence between the religious and communal groups. Therefore, the action of the Accused herein is punishable u/s 153, 153A(1)(a), 505(1)(b) and 505(2) of IPC and u/s 3(1)(r), 3(1)(u) and 3(1)(v) of Scheduled Castes and Scheduled Tribes (PoA) Act.

2. This court has taken cognizance of the said Final Report and issued summons to the Accused. On appearance of the Accused, copies of the documents relied on by the prosecution are furnished to the Accused u/s 207 of Cr.P.C.

3. When the case was posted for hearing on both sides for charges, the Accused has come up with an application for discharge and the same was dismissed on merits. Thereafter, charges were framed against the Accused for the offences punishable u/s.505(1)(b), 505(2), 153, 153A(1)(a) and u/s 3(1)(r), 3(1)(u) and 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The said charges were read over and explained to the Accused. The Accused denied them as false and claimed to be tried by this court. Therefore, the case is posted for fixing trial and the trial date was fixed on 07.11.2025.

4. On the side of the prosecution, P.Ws.1 to 8 were examined and Exs.P1 to P14 were exhibited. On the side of the defence, Ex.D1 was marked. With the evidence of the Investigating Officer, the prosecution has closed its evidence.

5. The Accused was examined under Section 313(1)(b) of Cr.P.C. with regard to the incriminating materials appeared against him in the prosecution evidences. The Accused given explanation and denied the incriminating materials. The Accused has reported that he has witness on his side and therefore, the case was posted for defence side evidence. However, no witness was examined on the defence side and the defence side evidence was closed.

6. Both sides heard. Evidence, oral and documentary are perused and considered.

7. Points for determination :

(i) Whether the prosecution has proved the charges levelled against the Accused beyond all reasonable doubt or not?

(ii) If yes, what sentence to be imposed on the Accused.

ANSWER :

8. The learned Special Public Prosecutor, in his oral as well as written submissions, submitted as follows :

i. It is the case of the prosecution that the Accused had spoken defamatory imputations against the VCK Party leader Mr. Thol. Thirumavalavan and also against Dr. B.R. Ambedkar, renowned activists known for the upliftment of the Scheduled caste and Scheduled community people. Hence, the complaint and FIR in Cr.No.208 of 2023 was registered on the file of Mambalam Police Station and Chargesheet was laid down in Spl.SC. No.100 of 2024 on the file of this Hon'ble Court for the offences under Sections 153, 153A(1)(A), 505(2), 505(1)(b) of IPC and Sections 3(1)(r), 3(1)(u), 3(1)(v) of SC/ST (PoA) Act.

ARGUMENT ADVANCED

ii. It is submitted that PW1 has clearly deposed that he belongs to the Adi Dravidar community and has produced his caste certificate before the Investigating Officer.

Once the victim is shown to belong to a Scheduled Caste and the evidence discloses caste-based insult in public view, the statutory presumption under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act arises. The presumption is not merely procedural but substantive in nature, shifting the burden onto the Accused to disprove intentional insult. In the present case, the foundational facts are clearly established, and therefore, the presumption operates fully against the Accused.

iii. It is further submitted that the nature of presumption under the SC/ST Act is stringent, inasmuch as once the act of caste-based insult in public view is proved, the Court is not required to independently prove mens rea in the conventional sense. The intention to humiliate is inferred from the very nature of the words used. The burden lies on the Accused to show absence of such intention, which has not been done in the present case.

iv. It is submitted that the words used by the Accused, as spoken to by PW3, are not casual or stray remarks but are deliberate and repeated caste-based expressions. The deposition records:

"அம்பேத்கர்.. சக்கிலியர்.. திருமாவளவன் பறையர்.. பறையர் சக்கிலியர் வீட்டில் கல்யாணம் பண்ணுவாரா. இவனுங்கெல்லாம் அடிச்சி திங்கிற ஜாதி.."

These statements directly attribute caste identity in a derogatory manner and portray Scheduled Caste communities as inferior and socially unacceptable.

v. It is submitted that the speech goes beyond mere reference to caste and enters the realm of humiliation and social degradation. By stating that members of such communities are "அடிச்சி திங்கிற ஜாதி", the Accused has portrayed them as violent and uncivilized, thereby attacking their dignity and social standing.

vi. It is further submitted that the Accused has questioned inter-caste relationships in a derogatory manner by stating "பறையர் சக்கிலியர் வீட்டில் கல்யாணம் பண்ணுவாரா", thereby reinforcing caste hierarchy and discrimination. Such statements are inherently humiliating and strike at the core of equality and dignity protected under law.

vii. It is submitted that the speech also contains elements of defamation of revered leaders belonging to Scheduled Caste communities. By stating that Dr. Ambedkar did not write the Constitution and was merely a clerk, the Accused has not only made a false statement but has also used caste identity to diminish his stature. This aggravates the offence under the SC/ST Act.

viii. It is submitted that the cumulative effect of the statements must be considered. The speech is not an isolated remark but a continuous narrative targeting Scheduled Caste communities, their leaders, and their social identity. The repeated use of caste names in a derogatory tone clearly establishes intention to humiliate.

ix. It is submitted that PW3, being the eyewitness and recorder of the speech, has clearly established these statements. He has deposed that he recorded the speech and uploaded it on YouTube:

"நானும், எனது கேமராமேன்.. நிகழ்ச்சியை பதிவு செய்தோம்... அதை நான் எனது Tribes Tamil Youtube Channel ல் பதிவேற்றம் செய்தேன்."

Thus, the content of the speech stands proved through direct evidence.

x. It is submitted that PW1 has corroborated the same by stating that he viewed the video and was affected by the caste-based insults:

"Youtube Tribe Channel ல்... வீடியோ பார்த்தேன்... அம்பேத்கரை.. சாதி ரீதியாக இழிவாக பேசி..."

This establishes not only the content but also the impact of the speech.

xi. It is submitted that once such explicit caste-based abusive content is proved, the presumption under the SC/ST Act becomes stronger. The very use of caste names in a derogatory manner in a public speech is sufficient to infer intention, and no further proof of motive is required.

xii. It is further submitted that the Accused has failed to discharge the burden cast upon him by law. No evidence has been produced to show that the statements were not made or that they were taken out of context. No alternate version of the speech has been placed before Court.

xiii. It is submitted that the defence suggestion that the video is fabricated or manipulated is specifically denied by PW1:

"AI தொழில்நுட்ப உதவியோடு... குரல் மாற்றம் செய்து... தயாரிக்கப்பட்டது என்றாலும் சரியல்ல."

Thus, the allegation of fabrication stands rejected on oath.

xiv. It is submitted that the Accused has not produced any expert evidence to show that the video is tampered or manipulated. In the absence of such evidence, the presumption of correctness of the electronic record stands.

xv. It is submitted that the speech was delivered in a public gathering attended by 50 to 60 persons, as deposed by PW2, and thereafter circulated through YouTube and social media.

The requirement of public view is therefore fully satisfied.

xvi. It is submitted that the Accused has admitted delivering the speech in his statement under Section 313 CrPC and has only denied the contents. This admission further strengthens the prosecution case and narrows the issue only to the content, which stands proved through unimpeached evidence.

xvii. It is submitted that the electronic evidence has been duly proved through PW5, who downloaded the video from the YouTube link and produced it before Court with

certification. The video having been played in Court, its contents stand conclusively established.

xviii. It is submitted that under the Information Technology Act, electronic records are legally recognized, and the YouTube video, being a digital record identified through a specific URL and produced with certification, is admissible and reliable evidence.

xix. It is submitted that the cumulative effect of the evidence clearly shows that the Accused intentionally used caste-based derogatory language in public view, thereby humiliating Scheduled Caste communities and promoting social disharmony.

xx. It is therefore submitted that the presumption under the SC/ST Act remains unrebutted, the content of the speech is proved beyond doubt, the defence is liable to be rejected, and the Accused is liable to be convicted for the offences charged. The repeated caste-based insults, proved through direct video evidence and supported by statutory presumption, leave no room for doubt therefore conviction must follow. Therefore, it is most humbly submitted that the prosecution has proved all the charges.

xxi. The learned Special Public Prosecutor relied on the judgment of the Hon'ble Madras High Court (Madurai Bench) between State and others -vs- V.P.Pandi @ Attack Pandi and others to say that a bald denial of the contents of a video tape is not adequate to doubt its authenticity; there should be material to show that the video

clippings are doctored or morphed. According to the learned Special Public Prosecutor, the prosecution has proved its case beyond all reasonable doubt and therefore, he prays for conviction of the Accused in the charges levelled against him.

9. The learned counsel for the defence contended that as per the case of the prosecution, the Accused herein had delivered a lecture at Bharathya Vidya Bhavan on 11.09.2023. According to him, 50 to 60 persons attended the said lecture. However, none of them were examined before this court. P.W.2 has not spoken anything about the contents of his speech. The learned counsel for the defence further contended that P.W.3 Kiruba Mohan is running a youtube channel in the name of Tribes Tamil and in the youtube world, in order to attract several subscribers and followers, they used to upload certain controversial videos. So far, he has uploaded 3000 videos in his youtube channel, which is available in the public platform. All the videos are controversial in nature. In the youtube, the youtube channels are getting money from the youtube if they have more subscribers and more views. Therefore, according to the learned counsel for the defence, though P.W.3 claimed that he attended the lecture given by the Accused herein, he, in his cross-examination has admitted that he was not invited by the organizers either to attend the said meeting or to cover the said lecture. P.W.3 has voluntarily attended the said lecture with sinister motive to fish out controversial think from the lecture. P.W.3 is said to have videographed the said lecture. However, the prosecution has not produced the original video recorded by P.W.3. P.W.3, in his cross-examination, has admitted that it

is usual practice to upload a cut video so as to attract the attention of the viewers. P.W.3 has uploaded the cut video in his X account and has given the youtube link. The cut video uploaded by P.W.3 was produced before this court, however, the original video was not produced.

10. The learned counsel for the defence further contended that the prosecution has failed to rule out any tampering of the video. The Investigating Officer in his cross-examination had admitted the said lecture was covered by Dinamalar also. But, he has not investigated Dinamalar and recovered videograph recorded by the Dinamalar. According to the learned counsel for the defence, it is the definite stand of the Accused that in the lecture, he has spoken only about Bharathi and Vivekanandar and he has not made any controversial speech as alleged by the prosecution. The 65B certificate produced is not in conformity with Sec.65 B of Indian Evidence Act and therefore, the entire downloaded video produced before this court is inadmissible. Further, it was not made clear by the prosecution as to how the downloaded video came to the court. Absolutely, there is no corroboration for the evidence of P.W.2 and therefore, he cannot be believed. The Accused in his 313(1)(b) Cr.P.C. examination has clearly denied that he has not spoken anything about Dr.B.R.Ambedkar and State President of Viduthalai Chiruthaigal Party Mr.Thol Thirumavalavan. According to the learned counsel for the defence, the complaint was said to have been given on 13.09.2023 and without conducting any preliminary enquiry, the F.I.R. was registered on the same day at around 21.00 hours. The Accused was arrested at the wee hours at the

house of the Accused, which clearly discloses that the Investigating Officer has acted in hasty due to some pressure from the political parties. The caste status of P.W.3 is also a doubtful one. Therefore, according to the learned counsel for the defence, the evidences projected before the court are very interested witnesses, which do not deserve any credence. The learned counsel for the defence further contended that the prosecution has miserably failed to prove the prosecution case beyond all reasonable doubt and therefore, he prays for acquittal of the Accused from the charges.

11. This court has given its thoughtful consideration to the rival submissions put forth by either side. On careful perusal of the records, it is found that it is the case of the prosecution that on 11.09.2023, at Door No.12, Barathiya Vidya Bhavan, Thanikachalam Road, T.Nagar, Chennai-18, the Accused herein had delivered a lecture in the title "Bharathiyum Vivekanandarum". But, in the said lecture, he had degraded the birth of Thiruvalluvar, Members of Islam community, Dr.B.R.Ambedkar. He has spoken that Dr.B.R.Ambedkar was working only as a Steno. Further, he abused the State President Mr.Thol Thirumavalavan, Viduthalai Chiruthaigal Party. Further, he made derogatory remarks against the members of Scheduled Caste and Scheduled Tribes. Further, he incited violence between two communities. The said lecture was uploaded in <https://youtu.be/13D431x5NRg>. The said video runs for about 52 minutes and 51 seconds. In that, between 00.00 and 01.08 he has spoken about Dr.Ambedkar and the State President of Viduthalai Chiruthaigal Party Mr.Thol Thirumavalavan. Further, he has spoken about scheduled

caste community, Paraiyar and Sakkiliyar and Pallar between 01.09 and 01.57. He has spoken about Thiruvalluvar and Dravidar between 02.28 and 03.47. He has spoken about the people living in colony and about members of Islamic Community between 03.48 and 04.06. He has spoken about Christian God between 26.42 and 28.04. Between 34.18 and 36.28, he has spoken about the religious faith, Patriotism, Christian Religion and Islamic Religion. Between 45.56 and 46.37 he has spoken about the investment in L.I.C and he has spoken about Bhagawath Geetha, Quran and Bible. Further, in the video uploaded in <https://youtu.be/OCR0PQiKe01>, he has spoken about 1 hour and 11 minutes and 42 second, in which, he has spoken about Thiruvalluvar between 45.33 and 46.55. Between 52.56 and 55.19, he has spoken about the religious faith, patriotism, Christian and Islamic religious. Between 01.02.10 and 01.03.56 hours, he has spoken about Dr.Ambedkar, the State President of Viduthalai Chiruthai Party Mr.Thol Thirumavalavan and he has spoken about the members of Adi Dravidar Community, like Parayar, Sakkiliyar and Pallar. Between 01.04.47 and 01.05.29, he has spoken about the money invested in L.I.C., Bhagavath Geetha, Quran and Bible. The Accused, who is in higher strata of society, abused and degraded the leaders held in high esteem by the members of the Scheduled Castes and thereby incited violence between the religious and communal groups.

12. To substantiate its case, the prosecution has projected P.W.1 to P.W.8 and exhibited Ex.P1 to P14. On careful perusal of the prosecution witnesses, it is found that the defacto complainant, the District Secretary, South Chennai West, Viduthalai

Chiruthaigal Party, was examined as P.W.1. He, in his evidence, deposed that at present he is holding the post of District Secretary of Chennai Central. On 13.09.2023, he has seen a video of the Accused herein uploaded in youtube channel, in which, the lecture given by the Accused at Vidya Bhavan, T.Nagar, a week before was uploaded. In the said lecture, the Accused herein had spoken "அம்பேத்கர் சக்கிலி என்றும், திருமாவளவன் பறையர் என்றும் இவர்கள் ஒரு சாதியா, ஒன்னுக்குள் ஒன்னு எப்படி பொண்ணு கட்டிக் கொள்வார்கள். இவங்கெல்லாம் அடிச்சிகிட்டு போறவங்க, அடிச்ச திங்கறவங்க, Constitution ஐ அம்பேத்கர் எழுதினதா சொல்லிகிட்டு திரியுறாங்க, அவர் அங்க கிளர்க் வேலை தான் பார்த்தாரு, இப்ப இருக்குற அராங்கமும் அதையே சொல்லுது. Since he has spoken about Dr.Ambedkar, who was regarded as their family Deity and their State President Thiru.Thol Thirumavalavan and created hatred between two community. In this connection, he has given the complaint to Inspector of Police, Mambalam Police Station, which was identified as Ex.P1.

13. P.W.2 S.Natarajan, in charge of Bharathiya Vidhya Bhavan, T.Nagar, in his evidence deposed that on 11.09.2023, the Accused herein got permission to speak about Bharathi and Vivekanandaar between 05.30 and 08.30 and delivered a lecture, in which, 50 to 60 persons had attended. After few days, Mambalam Police came and enquired him about the said lecture.

14. P.W.3 Kiruba Mohan, who is running Tribes Tamil youtube channel, in his evidence deposed that he belongs to Vanniyar Community, a Most Backward Caste.

In 2023, he started Tribes Tamil youtube channel and running the same till now. On 11.09.2023, at around 7 to 8 hours, he came to know from Dinamani Tamil Daily that an organisation by name Viveka Bharathi is conducting a lecture on Bharathi and Vivekanandar by the Accused herein. Therefore, he has visited the said Bharathiya Vidhya Bhavan at around 05.30 p.m., along with cameraman Aravind. The programme was started at 06.00 p.m., in which 50 to 60 persons have participated.

The Accused herein had started the lecture. In the said lecture, he has spoken as

"அண்ணல் அம்பேத்கர், மகாத்மா காந்தியடிகள், விடுதலை சிறுத்தைகள் கட்சித்தலைவர் திருமாவளவன், இஸ்லாமியர்கள், கிறிஸ்தவர்கள், பட்டியல் சமுதாய மக்களில் குறிப்பாக பறையர், பள்ளர், சக்கிலியர் ஆகியோர்களை இழிவுபடுத்தி. கொச்சைப்படுத்தி பேசினார். அவர் ஒரு மணிநேரம் பேசினார். அதில் அண்ணல் அம்பேத்கர் குறித்து Constitution என்று வந்த உடனே அம்பேத்கர் எழுதுனது என்று எல்லாம் சொல்றான். பைத்தியங்கள். எல்லாம் மடயனுங்க, அம்பேத்கருக்கும் Constitution எழுதுனதுக்கும் என்ன சம்பந்தம். Vote இருக்கு. அம்பேத்கர் உங்க ஜாதி இல்ல அப்படினு சொல்லிட்டா அம்பேத்கரை விட்டுறுவான். திருமாவளவனுக்கும். அம்பேத்கருக்கும் என்ன சம்பந்தம். திருமாவளவன் பறையர், அம்பேத்கர் சக்கிலியர். இரண்டு பேருக்கும் என்ன சம்பந்தம். பறையர், பள்ளர் வீட்டுல பொண்ணு எடுப்பாறா கல்யாணம் பண்ணுவாரா, பறையர் சக்கிலியர் வீட்டுல கல்யாணம் பண்ணுவாரா. இவனுங்கெல்லாம் அடிச்சி திங்கிற ஜாதி. அம்பேத்கர் Constitution எழுதுனதா இங்கு ஆட்சியாளர்கள் சொல்லிட்டு இருக்கான். அம்பேத்காரோட ஒரு Clause கூட சட்டத்துல இல்ல. அம்பேத்கர் மூளையிலிருந்து சட்டம் உருவாகல. எல்லாரும் கூடி பேசுனாங்க. ஒருத்தன் Draft எழுதினான். ஒருத்தன் டைப் அடித்தான், ஒருத்தன் ஸ்டெனோகிராபரா இருந்தான், அந்த டைப் அடிச்சதை Proof பாத்தவன் தான் அம்பேத்கர். சட்டம் உருவாக்கினது யாருன்னு சொல்லனும்னா சேர்மன் ராஜேந்திர பிரசாத் ஐ தான் சொல்லணும். அங்க கிளர்க்கா இருந்தவன் டைப் அடிச்சத verify பண்ணுணதுதான் அம்பேத்கர். திருவள்ளுவரைப் பற்றி பேசும் போது, திருவள்ளுவர்னு ஒரு ஆளே கிடையாது. திருவள்ளுவர்தான் திருக்குறளை எழுதினார் என்பது ஒரு கற்பனை எங்களுக்கு ராமாயணம் இருக்குடா. ராமன் எந்த நட்சத்திரத்திலே பிறந்தான் என்பதற்கு ஆதாரம் இருக்குடா. ராமன், ராமநவமில பிறந்தாரு, கிருஷ்ணாஷ்டமி கடைபிடிக்கிறோம். ராமனோட அப்பன்

பேரு தசரதன். திருவள்ளுவரோட அப்பன் பேரு யாருடா. யாருக்குடா பிறந்தாரு, திருவள்ளுவரோட அம்மா, அப்பா ஆதிபகவனு சில பேரு சொல்றான். ஆதி யாருடா, பகவன் யாருடா, அவன் வாழ்ந்தான் என்பதற்கு என்ன ஆதாரம்டா உங்ககிட்ட இருக்கு என்றும். மகாத்மா காந்தியடிகள் பற்றி சாவர்க்கர் மாதிரி ஒருநாளாவது காந்திஜி ஜெயிலுக்கு போயிருக்கானாடா, பிரிட்டிஷ்காரன் டீ கொடுத்து பாத்துக்கிட்டான். கணக்கு எழுதி வைச்சிருக்கான். ஆதாரம் இருக்கு, இந்த மாதிரி எவன் வேணும்நாலும் ஜெயிலுக்கு போகலாம், சாவர்க்கர் மாதிரி ஜெயிலுக்கு போக முடியுமா. 1967 க்குப் பின்னாடி பிறந்தவர்கள் எல்லாரும் பாவிகள், மகாபாவிகள். திராவிட முன்னேற்ற கழக ஆட்சிக்குப்பிறகு பிறந்தவன் எப்படி நல்லவனா இருக்க முடியும் என்றும். இஸ்லாமியர்கள் மற்றும் கிறிஸ்தவர்கள் பற்றி பேசும் போது, இந்த நாட்டுல ஓட்டு இருக்கிறவன் எல்லாம் இந்த நாட்டுக்கு சொந்தக்காரனு ஒருத்தன் சொல்றான். ஓட்டு மூஸ்லிம்க்கு இருக்கலாம். ஆதார்கார்டு கிறிஸ்தின்ஸ்ட இருக்கலாம். ஆனா அவனுக்கு இந்த நாட்டுக்கும் வேர்ல என்னடா சம்பந்தம் இருக்கு. ராமனை ஏற்றுக் கொள்ளாத துலுக்கனும். கிறிஸ்தவனும் இந்த நாட்டுல வாழ்றதுக்கு அருகதை இல்லாதவர்கள். எங்கயோ பிறந்த ஒளரங்கசீப்பை எங்க சோத்தை திண்ணுட்டு நீ ஏத்துக்கிவியா எங்க சோத்தை திண்ணுட்டு நீ ஓட்டுப் போட மாட்டியா, இது தான் பைனல் மெசேஜ். இப்ப RSS காரங்கூட சனாதன தர்மம்னு சொல்றான். சனாதன தர்மத்துக்கும். உனக்கும் என்னடா சம்பந்தம், எவனோ ஒரு பைத்தியக்காரன் சனாதன தர்மத்தை ஒழிக்கனும்னு சொல்லிட்டா நீ ஏண்டா நானும் சனாதனினு ஏன் போய் சொல்ற. எல்லாறயும் இந்துனு சொல்ல வைக்குறதுக்குதானடா நாங்க 100 வருஷமா போராடிட்டு இருக்கோம். எந்த பிராமிணும் தன்னை இந்துனு சொல்ல மாட்டான். சனாதனினு தான் சொல்லிக்குவான். சனாதனத்தை பற்றி யாராவது பேசுனா நீ ஏன் வந்து கோவப்படுற. நான் பல கிராமங்களுக்கு போயிருக்கேன். அக்ரகாரத்துல பிராமிண் இருக்குறாங்கனு சொல்லுவாங்க, அங்க துலுக்கன் இருக்கானு சொல்லுவான், அங்க காலனிகாரன் இருக்கானு சொல்லுவான். காலனிகாரனா Schedule Caste. யார்யாரா ஒட்டி காலனிகாரன் வந்தான்னு எனக்கு தெரியாது என்றும் Jesus Christ குறித்து பேசும்போது. Jesus Christ டே தன்னை God என்று சொல்லிக் கொள்ளவில்லை. தேவகுமாரன் என்றுதான் சொன்னார். பரலோக மண்டலத்தில் யாரோ பிதானு ஒருத்தரு இருக்குறாரு, அது ஆம்பள ஏன் பொம்பளயா இருக்கு கூடாதா, அமெரிக்காகாரனுக்கு கிறிஸ்தவ மதம் அவனோட சொந்த மதமா, ஆஸ்திரேலியாகாரனுக்கு கிறிஸ்தவ மதம் அவனோட சொந்த மதமா கிறிஸ்தவம் ஒரு வந்தேறி மதம், இஸ்ரேல்காரன் மட்டும்தான் அவன் மண்ணுலேயே அவன் சொந்த மதம் இருக்கு, அதற்கு ஆதாரம் இருக்கு.

அதற்குப்பிறகு நமக்கும் அப்படி ஆதாரம் இருக்கு என்றும் LIC ல் யோக ஷேமம். வகாம்யகம் என்று இருக்கு, என்கிட்ட சரண்டர் ஆயிடு நான் உன்ன பாத்துக்கிறேனு கீதையில் கிருஷ்ணர் சொல்லிருக்கான். இப்படி பைபிள்ல குரான்ல இந்த மாதிரி இருக்கா என்று அண்ணல் அம்பேத்கர். மகாத்மா காந்தியடிகள். விடுதலை சிறுத்தைகள் கட்சித்தலைவர் திருமாவளவன், ஐயன் திருவள்ளுவர். இஸ்லாமியர்கள், கிறிஸ்தவர்கள், பட்டியல் சமுதாயத்தவர்கள் ஆகியோர்களை இழிவுபடுத்தி பேசினார். நான் பாரதியார், விவேகானந்தர் குறித்து பேசுவார் என்று சென்றிருந்தேன், அவர்களைப்பற்றி கொஞ்சம் கொஞ்சம் தான் பேசினார்.”

P.W.3 further deposed that his cameraman Aravind has recorded the said video in his digital camera, which he uploaded in his youtube channel Tribes Tamil. He has given a Thumbnail for the said lecture as "ஆம்பேத்கர் ஒரு சக்கிலியர், திருமாவளவன் ஒரு பறையர், RBVS மணியன் சர்ச்சைப் பேச்சு" and posted in his twitter account and facebook. In this connection, he was examined by the Assistant Commissioner of Police, Mambalam.

15. P.W.4 Suresh, Tahsildar, Guindy, in his evidence, deposed that based on ExP3 application given by the Assistant Commissioner seeking for community certificate of the Accused, he has given Ex.P2 report to the Investigating Officer stating that the Accused belongs to Hindu Brahmin Community and there is no document for the same.

16. P.W.5 Sathish, who downloaded the video uploaded in the inter net from the address <https://youtu.be/13D43ix5NRg> and <https://youtu.be/OCRopQiKeOi>, in his evidence, deposed that on 13.09.2023, the Assistant Commissioner of Police, T.Nagar informed him that a case was registered in Crime No.208/2023 under the

provisions of SC/ST (PoA) Act and instructed him to download the video uploaded in the above video links. He used firefox browser in the CCTNS computer situated at R-1 Police Station and downloaded the said video in Ex.P4 pendrive and handed over the same to the Assistant Commissioner. Further, he has transcribed the speech in Tamil. The transcription is Ex.P5. He has given Ex.P6 65B certificate for the same.

17. P.W.6, the Investigating Officer, in his evidence, deposed that on 13.09.2023, the Deputy Commissioner of Police, T.Nagar appointed him as Investigating Officer in Crime No.208/2023 on the file of the R-2, Mambalam Police Station and issued Ex.P3 proceedings. Based on the said proceedings, he has taken up the investigation of the above case. On 13.09.2023, at around 21.00 hours, the Inspector Mr.Palani has received a written complaint from P.W.1 and registered the same in Crime No.208/2023 u/s 153, 153A(1)(a), 505(1)(b), 505(2) of IPC and Sec.3(1)(r), 3(1)(u) and 3(1)(v) of SC/ST (PoA) Act. On 13.09.2023, at around 22.30 hours, he visited the Bharathiya Vidya Bhavan and prepared Ex.P10 Observation Mahazar and Ex.P11 Rough Sketch in the presence of witnesses Kaliyappan and Manibalan. He instructed the Data Entry Operator Sathish, R-2, Kodambakkam Police Station to download the videos uploaded through Url stated in the complaint. Thereafter, he again examined the defacto complainant and recorded his further statement. He examined the witnesses Kaliyappan and Manibalan and recorded their statements.

18. PW6 further deposed that on 14.09.2023, he arrested the Accused at his house after giving reasons for arrest. His arrest was informed to his daughter Mangayarkarasi. The Accused was brought to Police Station at 05.00 and recorded his confession statement in the presence of witnesses Pandurangan and Janakiraman. He caused the Accused to be remanded in judicial custody on the same day. He examined Mr.Natarajan, who was the Administrator of Bharathiya Vidya Bhavan and recorded his statement. He examined the witnesses Pandurangan and Janakiraman and recorded their statements. He examined witnesses Kiruba Mohan alias Karikalan and Aravindan and recorded their statements. On 20.01.2023, he examined Sathish, Data Entry Operater, R-2 Police Station and received the videograph downloaded from the tribes youtube channel and Dinamalar youtube channel and the transcriptions of the said speech. He has received 65B certificates from him. On 10.10.2023, he obtained Genuineness Certificate for the community certificate of defacto complainant from Tmt.Mythili, Tahsildar, Purasawalkam and recorded her statement. He applied to the Tahsildar, Guindy for the community certificate of the Accused. At this stage, he was transferred and therefore, he handed over the case file to his successor.

19. P.W.7, Thiru.K.N.Sudharsan, the Assistant Commissioner of Police, T.Nagar Range, in his evidence, deposed that as per Ex.P2 Proceedings of the Deputy Commissioner of Police, T.Nagar, he took up the investigation of the Crime No.208/2023 of R1, Mambalam Police Station. He verified the case-records. On

31.10.2023, he examined the Tahsildar, Guindy Mr.Suresh, received the report given by him with regard to the caste status of the Accused and recorded his statement. He completed investigation and prepared draft charge sheet and placed before the Special Public Prosecutor for opinion. As per u/s 196(1)(a) and 1-A, sanction need to be obtained for the offences punishable u/s 153A of IPC and u/s 505(1)(b) & (2) of IPC. Therefore, he has applied for sanction of the Government for prosecuting the Accused for those offences. In the said circumstances, he was transferred and therefore, he has handed over the case diary to his successor.

20. P.W.8, Thiru.Vijayan, the Assistant Commissioner of Police, in his evidence, deposed that on 20.03.2024, as per Ex.P13, Proceedings of the Deputy Commissioner of Police, he has taken up the investigation of the case. He examined the case-diary and found that the earlier Investigating Officer P.W.6 Bharathirajan had examined 10 witnesses and recorded their statements. Further, he found that the succeeding Investigating Officer applied for sanction and the same is pending. He has taken further actions to obtain sanction and on 23.09.2024, he has obtained Ex.P14 sanction for prosecution. In the meantime, he obtained time for investigation and on 27.09.2024, after obtaining opinion from the Special Public Prosecutor, he laid Final Report before this court.

21. On close scrutiny of the above evidences, it is found that on 11.09.2023, between 05.30 p.m. and 08.30 p.m., a lecture was organised by Vivek Bharathi at Bharathiya Vidhya Bhavan, situate at Thanikachalam Street, T.Nagar, Chennai in the

topic of Bharathiyar and Vivekanandar. From the evidence of P.W.2 and P.W.3, it is found that there are about 50 to 60 persons have attended the said meeting. However, it is curious to note that none of the participants of the said lecture was examined either by the Investigating Officer or before this court. The evidence of P.W.2 is to the effect that such a programme was conducted at Bharathiya Vidya Bhavan on 11.09.2023 between 05.30 and 08.30, in which 50 to 60 persons were participated. Therefore, from the evidence of P.W.1, it could not be made out what was spoken by the Accused in the said lecture.

22. The sole evidence projected on the side of the prosecution is P.W.3. P.W.3, in his evidence, has elaborated what was spoken by the Accused herein in the said lecture. For better appreciation, the said evidence is reproduced herein below :

"அண்ணல் அம்பேத்கர், மகாத்மா காந்தியடிகள், விடுதலை சிறுத்தைகள் கட்சித்தலைவர் திருமாவளவன், இஸ்லாமியர்கள், கிறிஸ்தவர்கள், பட்டியல் சமுதாய மக்களில் குறிப்பாக பறையர், பள்ளர், சக்கிலியர் ஆகியோர்களை இழிவுபடுத்தி. கொச்சைப்படுத்தி பேசினார். அவர் ஒரு மணிநேரம் பேசினார். அதில் அண்ணல் அம்பேத்கர் குறித்து Constitution என்று வந்த உடனே அம்பேத்கர் எழுதுனது என்று எல்லாம் சொல்றான். பைத்தியங்கள். எல்லாம் மடயனுங்க, அம்பேத்கருக்கும் Constitution எழுதுனதுக்கும் என்ன சம்பந்தம். Vote இருக்கு. அம்பேத்கர் உங்க ஜாதி இல்ல அப்படினு சொல்லிட்டா அம்பேத்கரை விட்டுறுவான். திருமாவளவனுக்கும். அம்பேத்கருக்கும் என்ன சம்பந்தம். திருமாவளவன் பறையர், அம்பேத்கர் சக்கிலியர். இரண்டு பேருக்கும் என்ன சம்பந்தம். பறையர், பள்ளர் வீட்டுல பொண்ணு எடுப்பாறா கல்யாணம் பண்ணுவாரா, பறையர் சக்கிலியர் வீட்டுல கல்யாணம் பண்ணுவாரா. இவனுங்கெல்லாம் அடிச்சி திங்கிற ஜாதி. அம்பேத்கர் Constitution எழுதுனதா இங்கு ஆட்சியாளர்கள் சொல்லிட்டு இருக்கான். அம்பேத்காரோட ஒரு Clause கூட சட்டத்துல இல்ல. அம்பேத்கர் மூளையிலிருந்து சட்டம் உருவாகல. எல்லாரும் கூடி பேசுனாங்க. ஒருத்தன் Draft எழுதினான். ஒருத்தன் டைப் அடித்தான், ஒருத்தன் ஸ்டெனோகிராபரா இருந்தான், அந்த டைப் அடிச்சதை Proof பாத்தவன் தான் அம்பேத்கர். சட்டம் உருவாக்கினது யாருன்னு சொல்லுமன்னா சேர்மன் ராஜேந்திர பிரசாத் ஐ தான்

சொல்லணும். அங்க கிளர்க்கா இருந்தவன் டைப் அடிச்சத verify பண்ணுணதுதான் அம்பேத்கர். திருவள்ளுவரைப் பற்றி பேசும் போது, திருவள்ளுவர்னு ஒரு ஆளே கிடையாது. திருவள்ளுவர்தான் திருக்குறளை எழுதினார் என்பது ஒரு கற்பனை எங்களுக்கு ராமாயணம் இருக்குடா. ராமன் எந்த நட்சத்திரத்திலே பிறந்தான் என்பதற்கு ஆதாரம் இருக்குடா. ராமன், ராமநவமில பிறந்தாரு, கிருஷ்ணாஷ்டமி கடைபிடிக்கிறோம். ராமனோட அப்பன் பேரு தசரதன். திருவள்ளுவரோட அப்பன் பேரு யாருடா. யாருக்குடா பிறந்தாரு, திருவள்ளுவரோட அம்மா, அப்பா ஆதிபகவனு சில பேரு சொல்றான். ஆதி யாருடா, பகவன் யாருடா, அவன் வாழ்ந்தான் என்பதற்கு என்ன ஆதாரம்டா உங்ககிட்ட இருக்கு என்றும். மகாத்மா காந்தியடிகள் பற்றி சாவர்க்கர் மாதிரி ஒருநாளாவது காந்திஜி ஜெயிலுக்கு போயிருக்கானாடா, பிரிட்டிஷ்காரன் டீ கொடுத்து பாத்துக்கிட்டான். கணக்கு எழுதி வைச்சிருக்கான். ஆதாரம் இருக்கு, இந்த மாதிரி எவன் வேணும்நாலும் ஜெயிலுக்கு போகலாம், சாவர்க்கர் மாதிரி ஜெயிலுக்கு போக முடியுமா. 1967 க்குப் பின்னாடி பிறந்தவர்கள் எல்லாரும் பாவிகள், மகாபாவிகள். திராவிட முன்னேற்ற கழக ஆட்சிக்குப்பிறகு பிறந்தவன் எப்படி நல்லவனா இருக்க முடியும் என்றும். இஸ்லாமியர்கள் மற்றும் கிறிஸ்தவர்கள் பற்றி பேசும் போது, இந்த நாட்டுல ஓட்டு இருக்கிறவன் எல்லாம் இந்த நாட்டுக்கு சொந்தக்காரனு ஒருத்தன் சொல்றான். ஓட்டு மூஸ்லீம்கு இருக்கலாம். ஆதார்கார்டு கிறிஸ்தின்ஸ்ட் இருக்கலாம். ஆனா அவனுக்கு இந்த நாட்டுக்கும் வேர்ல என்னடா சம்பந்தம் இருக்கு. ராமனை ஏற்றுக் கொள்ளாத துலுக்கனும். கிறிஸ்தவனும் இந்த நாட்டுல வாழ்றதுக்கு அருகதை இல்லாதவர்கள். எங்கயோ பிறந்த ஒளரங்கசீபை எங்க சோத்தை திண்ணுட்டு நீ ஏத்துக்கிவியா எங்க சோத்தை திண்ணுட்டு நீ ஓட்டுப் போட மாட்டியா, இது தான் பைனல் மெசேஜ். இப்ப RSS காரங்கூட சனாதன தர்மம்னு சொல்றான். சனாதன தர்மத்துக்கும். உனக்கும் என்னடா சம்பந்தம், எவனோ ஒரு பைத்தியக்காரன் சனாதன தர்மத்தை ஒழிக்கணும்னு சொல்லிட்டா நீ ஏண்டா நானும் சனாதனினு ஏன் போய் சொல்ற. எல்லாறயும் இந்துனு சொல்ல வைக்குறதுக்குதானடா நாங்க 100 வருஷமா போராடிட்டு இருக்கோம். எந்த பிராமிணும் தன்னை இந்துனு சொல்ல மாட்டான். சனாதனினு தான் சொல்லிக்குவான். சனாதனத்தை பற்றி யாராவது பேசுனா நீ ஏன் வந்து கோவப்படுற. நான் பல கிராமங்களுக்கு போயிருக்கேன். அக்ரகாரத்துல பிராமிண் இருக்குறாங்கனு சொல்லுவாங்க, அங்க துலுக்கன் இருக்கானு சொல்லுவான், அங்க காலனிகாரன் இருக்கானு சொல்லுவான். காலனிகாரனா Schedule Caste. யார்யாரா ஓட்டி காலனிகாரன் வந்தானனு எனக்கு தெரியாது என்றும் Jesus Christ குறித்து பேசும்போது. Jesus Christ டே தன்னை God என்று சொல்லிக் கொள்ளவில்லை. தேவகுமாரன் என்றுதான் சொன்னார். பரலோக மண்டலத்தில் யாரோ பிதானு ஒருத்தரு இருக்குறாரு, அது ஆம்பள ஏன் பொம்பளயா இருக்கு கூடாதா, அமெரிக்காகாரனுக்கு கிறிஸ்தவ மதம் அவனோட சொந்த மதமா, ஆஸ்திரேலியாகாரனுக்கு கிறிஸ்தவ மதம் அவனோட சொந்த மதமா கிறிஸ்தவம் ஒரு வந்தேறி மதம், இஸ்ரேல்காரன் மட்டும்தான் அவன் மண்ணுலேயே அவன் சொந்த மதம்

இருக்கு, அதற்கு ஆதாரம் இருக்கு. அதற்குப்பிறகு நமக்கும் அப்படி ஆதாரம் இருக்கு என்றும் LIC ல் யோக ஷேமம். வகாம்பகம் என்று இருக்கு, என்கிட்ட சரண்டர் ஆயிடு நான் உன்ன பாத்துக்கிறேனு கீதையில் கிருஷ்ணர் சொல்லிருக்கான். இப்படி பைபிள்ல குரான்ல இந்த மாதிரி இருக்கா என்று அண்ணல் அம்பேத்கர். மகாத்மா காந்தியடிகள். விடுதலை சிறுத்தைகள் கட்சித்தலைவர் திருமாவளவன், ஐயன் திருவள்ளுவர். இஸ்லாமியர்கள், கிறிஸ்தவர்கள், பட்டியல் சமுதாயத்தவர்கள் ஆகியோர்களை இழிவுபடுத்தி பேசினார். நான் பாரதியார், விவேகானந்தர் குறித்து பேசுவார் என்று சென்றிருந்தேன், அவர்களைப்பற்றி கொஞ்சம் கொஞ்சம் தான் பேசினார்.”

Except the above evidence of P.W.3, no other direct evidence is available on record to show what the Accused spoken on that day. The only question remains is whether this court can act upon the sole testimony of P.W.3 alone. No doubt, as per Sec.135 of Indian Evidence Act, no particular number of witness is necessary to prove a particular fact. It is often said that the court not count but weigh the evidence. Only test prescribed by the Hon'ble Apex Court and various High Courts is that the evidence of solitary witness should inspire confidence of the court.

23. However, through the cross-examination of P.W.3, the defence has brought out that P.W.3 is a youtuber and he is running a youtube channel by name "Tribes Tamil". It is brought out by the defence in the cross-examination of P.W.3 that P.W.3 is in the habit of uploading controversial videos in his youtube channel. According to the defence, almost there are 3000 videos were hosted by P.W.3. In all these videos, P.W.3 has given a Thumbnail in a most controversial manner, so as to attract many viewers and subscribers. Some of the instances were also brought on record in the cross-examination of P.W.3 that he has given a Thumbnail for a video like "ஊளையிட்ட பார்பன நரி, திமுக வெற்றி உறுதி". India Today கருத்துக்கணிப்பு.

Again, in another video, he has given a Thumbnail as "பள்ளப்பயலே உள்ளே வராத, ராமரவிசுமாரின் ஜாதிவெறி, நீதியை மறுக்கும் நீதிபதி. In one another video was given Thumbnail as "குரான்படி தீர்ப்பு சொல்லலாமா? GRS க்கு சரமாரி பதிலடி. Again, another video was given Thumbnail as "போக்சோ குற்றவாளிக்கு ஜாமினா? அல்ஹ.. சில்லறைகள், சீமான்-ராமதாசை சிதைத்த திருமாவளவன்." From all these Thumbnails, the defence wants to display before the court that the witness is in the habit of publishing videos by giving controversial titles, so as to attract viewers and subscribers and thereby enriching himself. Even in this case, P.W.3 has given a Thumbnail for the video uploaded by him in the Youtube as "அம்பேத்கர் ஒரு சக்கிலியர், திருமாவளவன் ஒரு பறையர், RBVS மணியன் சர்ச்சைப் பேச்சு".

24. It is pertinent to note that in this world, a separate world 'virtual world' was created by the technocrats. In this era of social media, a youtube, which was created primarily for entertainment, now gained much popularity and it created a separate class called 'Youtubers' and these Youtubers called themselves as social media influencer and are hosting videos on various topics. Some of the youtubers are using this youtube platform as electronic media to disseminate information and news. These youtube platform and other social media platform has completely changed the way and manner of disseminating information and news and anything uploaded in the social media go viral within a second. At the same time, it cannot be also denied that to attract subscribers and followers or to get likes or views, these 'youtubers' are

ready to do anything under the sky for getting a 'content' or to make their posts 'viral'. It is not out of place to mention that by gaining views and subscribers, these youtubers are getting good sum of money from the social media platform 'youtube'. Therefore, it is also cannot be denied that as like any other platform this media is also misused by some of the unscrupulous people to spread rumours and hate speeches. Therefore, considering the above background of this witness, this court is of the considered view that his evidence need to be scrutinised with great care and caution as so as to get attraction and publicity exaggerating things cannot be ruled out.

25. The lecture was given on 11.09.2023. However, the examination of P.W.3 was done in the court on 2nd February, 2026, nearly after 2 1/2 years. It is observed by this court that the witness is able to depose most of the portions of the lecture said to have been given by the Accused herein without any hiccups. This could be possible only when a person either have strong photographic memory or by remembering the speech by repeatedly reading and memorizing. Even sometimes this free flow can be achieved by fertile imagination. The Higher Courts advised to exercise caution in these kind of evidences. Reliance is placed upon the decision of the Hon'ble High Court, Madras in Mahalingam -vs- State. The relevant portion is extracted herein below :

"19 In the opinion of this Court, witnesses to a crime cannot be expected to depose like trained parrots. There will be some discrepancies in the evidence of eye-witnesses. Only when witnesses depose in a parrot-like fashion, a suspicion may arise in the mind of the Court as to whether they have been tutored."

26. In this connection, it is brought to the notice of this court by the defence through the cross-examination of P.W.3 that P.W.3 was not invited for the said lecture, but, he on his own had visited Bharathiya Vidhya Bhaven and said to have recorded the said lecture through his cameraman Aravind. However, the defence has elicited from the cross-examination of Investigating Officer that the original video, which was said to have recorded by the cameraman of P.W.3 Mr.Aravindan was not recovered and produced before this court. Had it been produced before this court, it would be relevant u/s 7 of the Indian Evidence Act and would have corroborated the evidence of P.W.3. It was not made clear as to why the Investigating Officer has not recovered the said video and produced before this court. Therefore, as per Sec.114(g) of Indian Evidence Act, the court may presume that the evidence, which could be and is not produced would, if produced, be unfavorable to the person who withholds it. Therefore, adverse inference need to be drawn against the prosecution for not producing the original video recorded by P.W.3.

27. The other materials placed before this court to prove the words spoken by the Accused in the said lecture is Ex.P4 pendrive. Ex.P4 pendrive contains two video clippings. One is running about 53 minutes and 42 seconds. The said video is given file name as 'rbvs-manian-latest-castiest-speech-on-dr-ambedkar-thiruvalluvar-thrumavalavan-sanataan-dharma-y2bs.com.mp4'. Another one video is running for about one hour and 12 minutes and 14 seconds, which is given file name as 'விவேகானந்தரும் பாரதியாரும்-y2bs.com.mp4'. In the first video, the name "Tribes"

is embossed on the video indicating the same was published in the Tribes Youtube Channel. In the second video, "Dinamalar" is embossed in the video, indicating the same was published in the Dinamalar Youtube Channel.

28. In this connection, it is to be seen that the said videos were said to have been downloaded by P.W.5, Data Entry Operator, R-2, Kodambakkam Police Station. From the evidence of P.W.5, it is found that the said videos were downloaded from urls <https://youtu.be/13D43ix5NRg> and <https://youtu.be/;OCR0PQiKe01>. According to P.W.5, he has downloaded the above videos from R1 Police Station CCTNS computer by using firefox browser. In this connection, he has issued Ex.P6 65B certificates also. On careful perusal of Ex.P6, it is found that it contains two 65B certificates. The first certificate says that the video was downloaded from url <https://youtu.be/13D43ix5NRg> on 13.09.2023. The other certificate discloses that the said video was downloaded from url <https://youtu.be/13D43ix5NRg> and <https://youtu.be/;OCR0PQiKe01> on 20.09.2023 at 12.00 hours and 17.30 hours respectively. However, if we see the properties of the first video said to have been downloaded from Tribes Youtube channel contained in Ex.P4, it discloses that the said file was modified on Thursday, 14th September, 2023 at 21:58:12 hours. In the second video contained in Ex.P4, its properties discloses that the said video was modified on Thursday, 14th September, 2023 at 21:57:00 hours. Therefore, as contended by the learned counsel for the defence that the video clippings produced before this court either should have been downloaded on 14.09.2023 or modified on

14.09.2023, however, Sec.65B certificates disclose that they were downloaded on 13.09.2023 and 20.09.2023. No such video files are produced before this court. Therefore, in the absence of S.65 B Certificate for the video downloaded/modified on 13.09.2023, the said videos contained in Ex.P4 are inadmissible. Reliance is placed upon the decision of the Hon'ble Apex Court in Arjun Panditrao Khotkar vs Kailash Kushanrao Gorantyal. The relevant portion of the said decision is extracted herein below:

“22. The evidence relating to electronic record, as noted hereinbefore, being a special provision, the general law on secondary evidence under [Section 63](#) read with [Section 65](#) of the Evidence Act shall yield to the same. Generalia specialibus non derogant, special law will always prevail over the general law. It appears, the court omitted to take note of [Sections 59](#) and [65-A](#) dealing with the admissibility of electronic record. [Sections 63](#) and [65](#) have no application in the case of secondary evidence by way of electronic record; the same is wholly governed by Sections 65-A and 65-B. To that extent, the statement of law on admissibility of secondary evidence pertaining to electronic record, as stated by this Court in [Navjot Sandhu](#) case, does not lay down the correct legal position. It requires to be overruled and we do so. An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65-B are satisfied. Thus, in the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65-B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible.”

29. Further, it is contended by the learned counsel for the defence that Sec.65B certificate does not disclose the hash value of the videographs downloaded to show that they are the one downloaded by P.W.5 and which were not subsequently tampered with or compromised before it reaches the court. It is true that though P.W.5, in his evidence deposed that on 13.09.2023, he has downloaded the said video

clippings, the video clippings available in Ex.P4 pendrive are not downloaded on 13.09.2023, but, downloaded on 14.09.2024. Further, the videos, which were said to have been downloaded on 20.09.2024 were not produced before this court. To satisfy the judicial conscience, this court has perused the entire materials placed before this court. This court found that there is yet another pendrive available in the records, which was not marked. The said pendrive also seen by this court. The said pendrive also contains video downloaded or modified on 14.09.2023 at 15.44.24 hours. Further, from the evidence of the Investigating Officer, it is found that the said pendrive was not recovered under the cover of Form-95 and not remanded in court vide Form-95. It was not made clear as to how the pendrive reached the court. Therefore, the chain of custody is not proved.

30. It is within common knowledge that electronic evidences are highly volatile in nature and therefore, to prove the integrity of the electronic evidences, now it is well recognized that the electronic evidences need to be extracted along with hash value. The hash value will establish the integrity of the files downloaded, but, in this case, admittedly, the hash value was not taken to prove that what is downloaded is the same as produced before the court. Therefore, the integrity of the said files are also in question.

31. Apart from that, it is the specific contention of the defence that the videographs recorded is subsequently modified with the use of latest scientific technologies and the voice of the Accused is masked and the present speech is made

as a voiceover to create sensation and publicity. The above defence of the Accused need to be seen at the backdrop of the character of P.W.3. So as to rule out the possibility of tampering of electronic evidences, the Investigating Agency ought to have forwarded this to Forensic Science Laboratory to find out whether the electronic evidence were not tampered with. Further, the Investigating Office has not taken any steps to forward this video clippings to the Forensic Science Laboratory to rule out a possibility of tampering of highly volatile electronic evidences. The said position is admitted by the Investigating Officer in his cross-examination also which also creates serious doubts in the integrity of the electronic evidence produced.

32. Further, the video clippings were played at the time of examination of P.W.5 and the Accused was examined u/s 313(1)(a) of Cr.P.C., in which, the Accused has given the following answer :

நீதிமன்ற கேள்வி-2

மேற்படி காணொளி குறித்து நீங்கள் கூறிக்கொள்ள ஏதேனும் உள்ளதா?

பதில் -

11.09.2023 அன்று பேசிய பேச்சுக்களில் மேற்படி கருத்துக்கள் கூறப்படவில்லை.

அது விவேகானந்தரும், பாரதியும் என்ற தலைப்பில் நான் விவேகானந்தரையும், பாரதியையும் பற்றிதான் பேசினேன்.

When the defence has taken a specific plea that they have not spoken anything ill about Ambedkar, Thol Thirumavalavan, Thiruvalluvar and members of scheduled

castes and scheduled tribes and who belong to Islamic religion, it is the duty of the prosecution to prove the same beyond all reasonable doubt.

33. In this case, admittedly, the original video, which was said to have recorded by P.W.3 through his cameraman was not produced. According to P.W.1, he has seen this video in https://x.com/karikalankiru/status/1701418721078804639?s=48&t=_4zaPUJCCcYJr hTGTm hpSMg. However, the said 'url' was not accessed and the video was not downloaded from the said 'url'. The said position is admitted by P.W.5 as well as the Investigating Officer P.W.6. From the evidence of P.W.5, it is found that he has downloaded the videograph from R1 Police Station CCTNS computer on 13.09.2023 and again on 20.09.2023. However, both the videos are not produced before this court. What is available in the court is the video downloaded/modified on 14.09.2023. No Section 65 B certificate was attached to the said videos. Ex.P6 Section 65 B Certificate pertains to videos said to have downloaded on 13.09.2023 and 20.09.2023. The video clippings which were downloaded were not taken hash value to prove its integrity before the court. The chain of custody of the pendrive was not proved. Further, it was not forwarded to Forensic Science Department to prove that it was not tampered with or compromised either at the time of uploading or at the time of downloading or any time in between before it was produced before the court. Therefore, this court is of the considered view that the electronic evidence whatever produced before the court cannot be relied upon as the prosecution has failed to prove that they are tamper free or not compromised. Apart from that, it is brought out by the

records by the defence that the solitary evidence of P.W.3 is in the habit of uploading videos with controversial topics and controversial Thumbnail, so as to boost his viewers and subscribers. The original video said to have recorded by him is not produced before this court to corroborate his testimony in the court. In this backdrop, this court found it unsafe to base a conviction based on the uncorroborated testimony of P.W.3 alone. Therefore, this court is constrained to acquit the Accused from the charges levelled against him.

34. In the result, the Accused is found not guilty of the offences punishable U/s 505(1)(b), 505(2), 153, 153A(1)(a) and u/s 3(1)(r), 3(1)(u) and 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and he is acquitted from the said charges. The said acquittal is recorded u/s 235(1) of Cr.P.C.

(i) The bail bond executed by the Accused is discharged.

(ii) No material objects produced and marked and therefore, no property order is passed.

Dictated to the stenographer transcribed by him, corrected and pronounced by me in the Open Court this, the 7th day of April, 2026.

Principal Sessions Judge, Chennai.

List of Prosecution side witnesses:-

PW1 - R.Selvam

PW2 - S.Natarajan

PW3 - Kiruba Mohan @ Karikalan

PW4 - Suresh
 PW5 - Sathish
 PW6 - Thiru.Bharathirajan
 P.W.7 - Thiru.K.N.Sudharsan
 P.W.8 - Thiru.Vijayan.

List of Prosecution side Exhibits:-

Exhibit No.	Date	Description of Document
Ex.P1	13.9.2023	Complaint.
Ex.P2	31.10.2023	Genuineness certificate.
Ex.P3	18.09.2023	Requisition for genuineness certificate for the community certificate of the accused.
Ex.P4	--	Pendrive-1
Ex.P5	--	Transcription of the speech delivered by the accused.
Ex.P6	13.09.2023 and 20.09.2023	65B certificates-2
Ex.P7	10.10.2023	Community Certificate of the complainant.
Ex.P8	13.09.2023	Proceedings of the Deputy Commissioner of Police, Thiyagaraya Nagar District, Chennai-17.
Ex.P9	13.09.2023	First Information Report.
Ex.P10	13.09.2023	Observation Mahazar
Ex.P11	13.09.2023	Rough Sketch
Ex.P12	18.10.2023	Proceedings of the Deputy Commissioner of Police, Thiyagaraya Nagar District, Chennai-17.
Ex.P13	20.03.2024	Proceedings of the Deputy Commissioner of Police, Thiyagaraya Nagar District, Chennai-17.
Ex.P14	30.08.2024	G.O.(Ms)N.598 Public (Law and Order-II) Department, dated 30.08.2024.

List of Material Objects:-

-Nil-

List of Defence side witness and Material Objects :-

Ex.D1 09.10.2023 - Requisition letter to Youtube copyright Infringement to block the channel.

List of Defence side documents :-

-Nil-

**Principal Sessions Judge,
Chennai.**