

But it would be no offence if the author adheres to the historical part of his narrative, however unpalatable it may be to the members of the other community, but if he uses language which shows malice and is bound to annoy the members of the other community so as to degrade them in the eyes of the other classes, he is promoting feelings of enmity and hatred and is liable to be dealt with under this section and section 295-A.¹⁹³ It is, therefore, important to remember that criminality under section 153A does not attach to the thing said or done but to the manner in which it is said or done. If the words spoken or written are couched in temperate language and do not have the tendency to insult the feelings or the deepest religious convictions of any section of the people, penal consequences do not follow.¹⁹⁴ This appears also to be the law in England in regard to blasphemous libel. Thus, in *Lemon's case* Lord Diplock observed:

To publish opinion denying the truth of the established church or even of Christianity itself was no longer held to amount to the offence of blasphemous libel so long as such opinions were expressed in temperate language and not in terms of offence, insult or ridicule.¹⁹⁵

So what is said or written is not so important as how it is said or written or with what intent it is said or written. Where, therefore, the article did not intend or exhibit any insult to any religion but read as a whole projected a scholarly historical thesis showing as to how in pre-Islamic times the ancient Hindu culture and Hindu religion were in vogue in Arabia and how Islamic culture, religion and art were greatly influenced by Indian culture and religion, it could not be said that the article came within the mischief of [section 153A, IPC, 1860](#), or [section 95, Cr PC, 1973](#). The scope of [section 153A, IPC](#), cannot be enlarged to such an extent with a view to thwart history or historical events.¹⁹⁶

Where an article in a newspaper bears a meaning that is calculated to produce hatred and enmity between two classes, the natural inference from the publication of such an article is that the person who published it had the malicious intention that it should produce such hatred and enmity.¹⁹⁷ A Hindu, who ridicules the Prophet of the Mohammedans not out of any eccentricity but in the prosecution of a propaganda started by a class of persons who are not Mohammedans, promotes feelings of enmity and hatred between Hindus and Mohammedans, and is liable to punishment under the section.¹⁹⁸ In order to ascertain the intention of the accused, the offending article must be read as a whole and the circumstances attending that publication must also be taken into account.¹⁹⁹

An FIR was filed against the author, publisher and printer of the book "Shivaji: Hindu King in Islamic India" on the ground that certain passages were objectionable. This led to blackening of the face of a local scholar, ransacking of a research institute and destruction of manuscripts, etc. The members of the institute had helped the author made contributions to enable the author to complete the work. The author was an American professor based in the USA. He tendered apology, by fax and the publishers immediately withdrew all the copies from the market. In proceedings against the author, etc., it was held that the book was purely a scholarly pursuit. There was no intention or motive to create trouble for the author and others. The State was directed not to proceed against them. The Supreme Court explained the gist of the offence under the section as follows:

The gist of the offence under section 153-A is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the *sine qua non* of the offence under [section 153-A IPC, 1860](#), and the prosecution has to prove *prima facie* the existence of *mens rea* on the part of the accused. The intention has to be judged primarily by the language of the book and the circumstances in which the book was written and published. The matter complained of to fall within the ambit of section 153-A must be read as a whole. One

cannot rely on strongly worded and isolated passage for proving the charge nor indeed can one take a sentence here and a sentence there and connect them by a meticulous process of inferential reasoning.

The effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. It is the standard of the ordinary reasonable man or as they say in English law "the man on the top of a Clapham omnibus".

The common feature in both the sections, viz., sections 153-A and 505(2), being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.²⁰⁰ In *State of Maharashtra v Sangharaj Damodar Rupawate*,²⁰¹ the Supreme Court again considered the question whether a notification issued by the Maharashtra Government to forfeit the book "Shivaji: Hindu King in Islamic India". It was held that the notification does not identify the communities between which the book had caused or is likely to cause enmity. It cannot be found out from the notification as to which communities got outraged by the publication of the book or it had had caused hatred and animosity between the particular communities or groups—statement in the notification to the effect that the book is 'likely to result in breach of peace and public tranquillity and in particular between those who revere *Shri Chhatrapati Shivaji Maharaj* and those who may not' is too vague a ground to satisfy the aforesaid tests. The order quashing the notification was upheld by the Supreme Court.

In *Ramesh Chotalal Dalal v UOI*,²⁰² the Court held that TV serial "Tamas" did not depict communal tension and violence and the provisions of [section 153A of IPC, 1860](#), would not apply to it. It was also not prejudicial to the national integration falling under [section 153B of IPC](#). Approving the observations of Vivian Bose, J in *Bhagvati Charan Shukla v Provincial Government*,²⁰³ the Court observed that the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. It is the standard of ordinary reasonable man or as they say in English Law, "the man on the clapham omnibus". Again in *Bilal Ahmed Kaloo v State of AP*,²⁰⁴ it was held that the common feature in both the sections, viz., sections 153A and 505 (2), being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it was observed that merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.

2. Scurrilous attack on basic religious books.—Section 153A certainly affords protection to the basic religious books of all the religions against scurrilous attacks. In *Chandanmal Chopra v State of WB*,²⁰⁵ it was alleged that the Koran, the basic religious book of Muslim religion promotes religious disharmony by advocating destructions of idols, etc., and thereby outrages not only the religious feelings of non-Muslims but also encourages hatred, disharmony, feeling of enmity between different religious communities in India, and the petitioner sought for directing the State of West Bengal to forfeit every copy of Koran. It was also alleged that the publication of Koran amounts to commission of offences punishable under [sections 153A and 295A of IPC, 1860](#). In support of their contention the petitioners quoted some isolated passages from the Koran. In rejecting this contention the High Court of Calcutta held that sections 153A and 295A of the Code have no application in the present case. The book is the basic text book of the Mohammedans and is held sacred by them like Bible to Christians and Gita, Ramayana and Mahabharata to Hindus. Because of Koran no public tranquillity

has been disturbed up to now and there is no reason to apprehend such disturbance in future. On the other hand the action of the petitioners may be said to have attempted to promote, on grounds of religion, disharmony or feelings of enmity, hatred or ill-will amongst different religions, i.e., Muslims on the one hand and non-Muslims on the other within the meaning of [section 153A, IPC, 1860](#). Forfeiture of Koran would go against the Preamble of the [Constitution](#) and violate [Article 25 of the Constitution](#) which guarantees freedom of conscience and religion to one and all.

3. Evidence of hatred, etc., not needed.—A Special Bench of the Bombay High Court has held that under this section it is not necessary to prove that as a result of the objectionable matter, enmity or hatred was in fact caused between the different classes. Intention to promote enmity or hatred, apart from the writing itself, is not a necessary ingredient of the offence. It is enough to show that the language of the writing is of a nature calculated to promote feelings of enmity or hatred for a person must be presumed to intend the natural consequences of his act. If a writing is calculated to promote feelings of enmity or hatred, it is no defence to a charge under this section that the writing contains a truthful account of past events or is otherwise supported by good authority. Adherence to the strict path of history is not by itself a complete defence to a charge under this section.^{206.}

Immediately after the demolition of Babri masjid and violent riots in Bombay, editorials appeared in the Marathi newspaper 'Samna' which were in high flown and caustic language but were not directed against the Muslim Community as a whole but only against anti-national elements amongst them and also against the attitude of police, army and Government. The articles were held to be not coming within the mischief of section 153-A and section 153-B.^{207.}

[s 153A.2] Previous Sanction:

Previous sanction under [section 196 Cr PC, 1973](#), is a must before taking cognizance of the offences under [section 153](#) and [153B IPC, 1860](#).^{208.}

^{177.} Subs. by Act 35 of 1969, sec. 2, for section 153A (w.e.f. 4-9-1969). Earlier section 153A was substituted by Act 41 of 1961, sec. 2 (w.e.f. 12-9-1961).

^{178.} Ins. by Act 31 of 1972, section 2 (w.e.f. 14-6-1972).

^{179.} Ins. by Act 31 of 1972, section 2 (w.e.f. 14-6-1972).

^{180.} *The Trustees of Safdar Hashmi Memorial Trust v Govt of Nct of Delhi*, [2001 Cr LJ 3689](#) (Del).

^{181.} *Manzar Sayeed Khan v State of Maharashtra*, [\(2007\) 5 SCC 1 \[LNIND 2007 SC 437\]](#) : [AIR 2007 SC 2074 \[LNIND 2007 SC 437\]](#) : [2007 Cr LJ 2959](#) .

^{182.} *Balwant Singh v State of Punjab*, [AIR 1995 SC 1785 \[LNIND 1995 SC 1420\]](#) : [\(1995\) 3 SCC 214 \[LNIND 1995 SC 1420\]](#) : [\(1995\) 1 SCC \(Cr\) 432](#).

^{183.} *Ram*, (1924) Kant 31. *Mens rea* is a necessary requirement of this offence. *State (Delhi Admn) v Shrikanth Shastri*, [1987 Cr LJ 1583](#) .

^{184.} *Maniben Kara*, [\(1932\) 34 Bom LR 1642](#) ; *Nepal Chandra Bhattacharjya*, [\(1939\) 1 Cal 299](#) .

^{185.} *Narayan Vasudev Phadke*, [\(1940\) 42 Bom LR 861](#) .

186. *Banomali Maharana*, (1942) 22 Pat 48.
187. *Express Publications (Madurai) Ltd v State of Orissa*, 2006 Cr LJ 2548 (Ori).
188. *Hardik Bharatbhai Patel v State of Gujarat*, 2016 Cr LJ 225 (Guj) : 2015 (4) Crimes 462 (Guj).
189. *Shiv Kumar*, 1978 Cr LJ 701 (All).
190. *Baburao Patel*, 1980 Cr LJ 529 : AIR 1980 SC 763 [LNIND 1980 SC 84] .
191. *Gautam*, (1937) All 69 (SB).
192. *R V Bhasin v State of Maharashtra*, 2012 Cr LJ 1375 (FB) (Bom); *Gopal Godse v UOI*, AIR 1971 Bom 56 [LNIND 1969 BOM 50] .
193. *Harnam Das*, (1957) 1 All 528 (FB).
194. *Azizul Haque*, 1980 Cr LJ 448 (SC).
195. *Rex v Lemon*, (1971) 1 All ER 898 .
196. *Varsha Publications Pvt Ltd v State of Maharashtra*, 1983 Cr LJ 1446 (Bom—SB); *Nand Kishore Singh v State of Bihar*, 1985 Cr LJ 797 (Pat-SB).
197. *Kanchanlal Chunilal*, (1930) 32 Bom LR 585 .
198. *Shib Sharma*, (1941) 16 Luck 674 .
199. *Ghulam Sarwar*, AIR 1965 Pat 393 .
200. *Manzar Sayeed Khan v State of Maharashtra*, (2007) 5 SCC 1 [LNIND 2007 SC 437] : AIR 2007 SC 2074 [LNIND 2007 SC 437] : 2007 Cr LJ 2959 ; *Sajjan Kumar v CBI*, (2010) 9 SCC 368 [LNIND 2010 SC 892] : (2010) 3 SCC (Cr) 1371 : (2010) 11 SCR 669 : 2011 AIR (SCW) 3730, Anti-Sikh Riots charges framed against Sajjan Kumar upheld by the SC. In *S Khushboo v Kanniammal*, JT 2010 (4) SC 478 [LNIND 2010 SC 411] : 2010 (4) Scale 462 [LNIND 2010 SC 411] : (2010) 5 SCR 322 : 2010 Cr LJ 2828 : AIR 2010 SC 3196 [LNIND 2010 SC 411] : (2010) 2 SCC (Cr) 1299, it is found that section 153A IPC, 1860, have no application to the present case since the appellant was not speaking on behalf of one group and the content of her statement was not directed against any particular group either.
201. *State of Maharashtra v Sangharaj Damodar Rupawate*, (2010) 7 SCC 398 [LNIND 2010 SC 1557] : 2010 AIR (SCW) 4960 : (2010) 8 SCR 328 [LNIND 2010 SC 1557] : 2010 Cr LJ 4290 : (2010) 3 SCC (Cr) 401. In *Anand Chintamani Dighe v State of Maharashtra*, 2002 Cr LJ 8 (Bom), the Government of Maharashtra issued notification under section 95(1) of the Code declaring that every copy of the Marathi play entitled "Mee Nathuram Godse Bolto" be forfeited to the Government. The notification, *inter alia*, stated that the play in question contained derogatory references towards Mahatma Gandhi and certain communities and was likely to disturb public tranquillity and that it was written with a deliberate and malicious intention to outrage the feelings of the followers of Mahatma Gandhi, The publication would be punishable under sections 153-A and 295-A of IPC, 1860. The challenge to the notification was repelled by the Bombay High Court.
202. *Ramesh Chotalal Dalal v UOI*, AIR 1988 SC 775 [LNIND 1988 SC 74]
203. *Bhagvati Charan Shukla v Provincial Government*, AIR 1947 Nag 1 .
204. *Bilal Ahmed Kaloo v State of AP*, (1997) 7 SCC 431 [LNIND 1997 SC 1060] .
205. *Chandanmal Chopra v State of WB*, AIR 1986 Cal 104 [LNIND 1985 CAL 180] , 1986 Cr LJ 182 (Cal).
206. *Gopal*, (1969) 72 Bom LR 871 (SB).
207. *Joseph Bain D'Souza v State of Maharashtra*, 1995 Cr LJ 1316 Bom. The court **relied** on *Varsha Publications Pvt Ltd v State of Maharashtra*, 1983 Cr LJ 1446 but **distinguished**; *Babu Rao Patel v State (Delhi Admn)*, AIR 1980 SC 763 [LNIND 1980 SC 84] : 1980 Cr LJ 529 . *Trustees of Safdar Hashmi Memorial Trust v Govt of NCT of Delhi*, 2001 Cr LJ 3689 (Del), the object of the provision is to prevent breaches of public tranquillity which might result from excited feelings of

enmity between classes of people. Malicious intention or *mens rea* has to be proved. *Mohd Khalid Hussain v State of AP*, [2000 Cr LJ 2949](#) (AP), offence of promoting enmity between people on the ground of religion. There was nothing to show the actual words uttered or acts committed. There were only vague allegations. FIR quashed. *Bilal Ahmed Kaloo v State of AP*, [1997 Cr LJ 4091](#) : [AIR 1997 SC 3483](#) [[LNIND 1997 SC 1060](#)] , inciting the feelings of one group without any reference to another, attracts neither section 153A nor section 505.

208. *Swaraj Thackeray v State of Jharkhand*, [2008 Cr LJ 3780](#) (Jhar); *Shailbhadra Shah v Swami Krishna Bharti*, [1981 Cr LJ 113](#) (Guj).

THE INDIAN PENAL CODE

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

177. [s 153A] Promoting enmity between different groups on grounds 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 representations 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 feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or 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, ¹⁷⁸. [or]

¹⁷⁹[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

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

(2) Offence committed in place of worship, etc.

Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

COMMENT—

Promoting enmity.—This section replaces the old section. Sub-section (1)(c) has been newly inserted by Act 31 of 1972. This section provides for enhanced punishment for offences committed in a place of worship and making offences under this section cognisable. Under this section promoting enmity between different groups on grounds such as, place of birth, or residence are included and it also makes promotion of disharmony or feelings of ill-will an offence punishable under it. The provision in clause (b) of sub-section (1) to the section includes acts prejudicial to the maintenance of harmony between different regional groups and sub-section (2) provides for enhanced punishment for any offence specified in sub-section (1) when it is committed in a place of worship, etc. With communal and fissiparous tendencies on the increase this section has now gained an added importance. The object of section 153-A is to prevent breaches of the public tranquillity which might result from excited feelings of enmity between classes of people. Absence of malicious intention is a relevant factor to judge whether the offence is committed. ¹⁸⁰.

[Section 153A of IPC, 1860](#), covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquillity. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the *sine qua non* of the offence under [section 153A of IPC](#) and the prosecution has to prove *prima facie* the existence of *mens rea* on the part of the accused. ¹⁸¹. The intention to cause disorder or incite people to violence is the *sine qua non* of the offence under [section 153A IPC](#) and the prosecution has to prove the existence of *mens rea* in order

to succeed. In this case, the prosecution has not been able to establish any *mens rea* on the part of the appellants as envisaged by the provisions of [section 153A IPC](#), by their raising casually the slogans a couple of times. The offence under [section 153A IPC](#) is, therefore, not made out.^{182.}

There must either be the intention to promote such feelings, or such feelings should be promoted as the result of words spoken or written. The words promotes or tends to promote feelings of enmity are to be read as connoting a successful or unsuccessful attempt to promote feelings of enmity. It must be the purpose or parts of the purpose of the accused to promote such feelings, and, if it is no part of his purpose, the mere circumstance that there may be a tendency is not sufficient.^{183.} The word classes includes any definite and ascertainable class of people. Capitalists do not constitute a class within the meaning of this section.^{184.} To bring any body of persons within the description of a class of people, the body of persons must possess a certain degree of importance numerically, and must be ascertained with certainty and distinguished from any other class. Every group of persons cannot be designated as a class.^{185.} The classes contemplated must be not merely clearly defined and separable but also numerous. A small and limited group of *Zamindars* cannot be regarded as constituting a class.^{186.} Petitioner published a sentence "Oriya is a younger sister of Bengal" in his book. Subsequently petitioner published an apology in newspaper and deleted the controversial statement. In view of this it cannot be said that alleged sentence published to defame Oriya language or promote hatred between different linguistic groups. Criminal proceeding are quashed.^{187.}

The police force of the State cannot be brought within the purview of the term "community".^{188.}

[s 153A.1] **Political Thesis.—**

This section cannot be used even if an article causes or tends to cause hatred or enmity between different political classes like the capitalists and the labour class or between persons believing in different forms of Government, e.g., a democratic or totalitarian rule. A bare reading of clause (a) of section 153A will show that a person will be guilty under this section only where by words, either spoken or written, he promotes or attempts to promote feelings of enmity or hatred between different religious, racial, linguistic groups or castes or communities on grounds of religion, race, language, caste or community, etc., and not otherwise.^{189.} But where the author in the guise of presenting a political thesis or historical truth wrote two articles describing the Muslims as a basically violent race and further described today's Muslims as the descendants of foul Moghuls rulers who were lustful perverts, rapists and murderers, it was held that both the articles promoted feelings of enmity between Hindus and Muslims and came within the mischief of [section 153A IPC, 1860](#), whether or not the Moghuls were really so.^{190.} In fine, this section does not contemplate the penalising of political doctrines, even though of the extreme kind like communism, but only such writings as directly promote feelings of hatred or enmity between classes. But if a publication advocates forcible overthrow of all existing social conditions, and aims at promoting class hatred and enmity, it comes under the purview of this section.^{191.}

1. Historical Account.—If the writing is calculated to promote feelings of enmity or hatred, it is no defence to a charge under [section 153-A of IPC, 1860](#), that the writing contains a truthful account of past events or is otherwise supported by good authority. Adherence to the strict path of history is not by itself a complete defence to a charge under section 153-A. It is no defence to a charge under [section 153-A of IPC](#) that the writing contains a truthful account of past events or is otherwise supported by good authority.^{192.}

But it would be no offence if the author adheres to the historical part of his narrative, however unpalatable it may be to the members of the other community, but if he uses language which shows malice and is bound to annoy the members of the other community so as to degrade them in the eyes of the other classes, he is promoting feelings of enmity and hatred and is liable to be dealt with under this section and section 295-A.¹⁹³ It is, therefore, important to remember that criminality under section 153A does not attach to the thing said or done but to the manner in which it is said or done. If the words spoken or written are couched in temperate language and do not have the tendency to insult the feelings or the deepest religious convictions of any section of the people, penal consequences do not follow.¹⁹⁴ This appears also to be the law in England in regard to blasphemous libel. Thus, in *Lemon's case* Lord Diplock observed:

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So what is said or written is not so important as how it is said or written or with what intent it is said or written. Where, therefore, the article did not intend or exhibit any insult to any religion but read as a whole projected a scholarly historical thesis showing as to how in pre-Islamic times the ancient Hindu culture and Hindu religion were in vogue in Arabia and how Islamic culture, religion and art were greatly influenced by Indian culture and religion, it could not be said that the article came within the mischief of [section 153A, IPC, 1860](#), or [section 95, Cr PC, 1973](#). The scope of [section 153A, IPC](#), cannot be enlarged to such an extent with a view to thwart history or historical events.¹⁹⁶

Where an article in a newspaper bears a meaning that is calculated to produce hatred and enmity between two classes, the natural inference from the publication of such an article is that the person who published it had the malicious intention that it should produce such hatred and enmity.¹⁹⁷ A Hindu, who ridicules the Prophet of the Mohammedans not out of any eccentricity but in the prosecution of a propaganda started by a class of persons who are not Mohammedans, promotes feelings of enmity and hatred between Hindus and Mohammedans, and is liable to punishment under the section.¹⁹⁸ In order to ascertain the intention of the accused, the offending article must be read as a whole and the circumstances attending that publication must also be taken into account.¹⁹⁹

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The common feature in both the sections, viz., sections 153-A and 505(2), being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.²⁰⁰ In *State of Maharashtra v Sangharaj Damodar Rupawate*,²⁰¹ the Supreme Court again considered the question whether a notification issued by the Maharashtra Government to forfeit the book "Shivaji: Hindu King in Islamic India". It was held that the notification does not identify the communities between which the book had caused or is likely to cause enmity. It cannot be found out from the notification as to which communities got outraged by the publication of the book or it had had caused hatred and animosity between the particular communities or groups—statement in the notification to the effect that the book is 'likely to result in breach of peace and public tranquillity and in particular between those who revere *Shri Chhatrapati Shivaji Maharaj* and those who may not' is too vague a ground to satisfy the aforesaid tests. The order quashing the notification was upheld by the Supreme Court.

In *Ramesh Chotalal Dalal v UOI*,²⁰² the Court held that TV serial "Tamas" did not depict communal tension and violence and the provisions of [section 153A of IPC, 1860](#), would not apply to it. It was also not prejudicial to the national integration falling under [section 153B of IPC](#). Approving the observations of Vivian Bose, J in *Bhagvati Charan Shukla v Provincial Government*,²⁰³ the Court observed that the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. It is the standard of ordinary reasonable man or as they say in English Law, "the man on the clapham omnibus". Again in *Bilal Ahmed Kaloo v State of AP*,²⁰⁴ it was held that the common feature in both the sections, viz., sections 153A and 505 (2), being promotion of feeling of enmity, hatred or ill-will "between different" religious or racial or linguistic or regional groups or castes and communities, it is necessary that at least two such groups or communities should be involved. Further, it was observed that merely inciting the feeling of one community or group without any reference to any other community or group cannot attract either of the two sections.

2. Scurrilous attack on basic religious books.—Section 153A certainly affords protection to the basic religious books of all the religions against scurrilous attacks. In *Chandanmal Chopra v State of WB*,²⁰⁵ it was alleged that the Koran, the basic religious book of Muslim religion promotes religious disharmony by advocating destructions of idols, etc., and thereby outrages not only the religious feelings of non-Muslims but also encourages hatred, disharmony, feeling of enmity between different religious communities in India, and the petitioner sought for directing the State of West Bengal to forfeit every copy of Koran. It was also alleged that the publication of Koran amounts to commission of offences punishable under [sections 153A and 295A of IPC, 1860](#). In support of their contention the petitioners quoted some isolated passages from the Koran. In rejecting this contention the High Court of Calcutta held that sections 153A and 295A of the Code have no application in the present case. The book is the basic text book of the Mohammedans and is held sacred by them like Bible to Christians and Gita, Ramayana and Mahabharata to Hindus. Because of Koran no public tranquillity