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## **FREE SPEECH AND EXPRESSION: RIGHTS OF INDIAN STAND-UP COMEDIANS**

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### **ABSTRACT**

Indian stand-up comedians have recently seen success, and many of them are now incorporating dark humour into their performances. In certain instances, the numerous FIRs and lawsuits brought against comedians violate both their fundamental right to free speech and expression and their right to do their profession. The author's goal in this study is to give a comprehensive analysis that is only focused on Indian stand-up comedians in India and analyse the degree to which, when, and how much speech can be regulated.

### **INTRODUCTION**

Article 19(1)(a) of the Indian Constitution, which is only available to Indian citizens and not to foreign people, grants freedom of speech and expression in India. According to Article 19(1)(a), one has the freedom to express their opinions in any way, including through writing, speaking, gesturing, or any other method of expression. The rights to communicate and to spread or publish one's opinions are also included. This right is not absolute, so the government has the authority to enact laws and impose reasonable restrictions when doing so will protect the sovereignty and integrity of India, friendly relations with other nations, state security, public order, morality, and against defamation, contempt of court, and incitement to commit crimes.

It is frequently observed that many artists, particularly those who perform on stage (such as stand-up comedians), encounter intense public hostility while doing so. These individuals sometimes make statements that may offend others or damage their feelings. This public hatred may have legal repercussions as well as indirect losses.

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**ANALYSIS ON THE TOPIC****TANMAY BHAT**

Tanmay Bhat (born 23 June 1987) is an Indian YouTuber, comedian, playwright, Actor, performer and producer. Together with Gursimranjet Singh Khamba, he was one of the co-founders and the first CEO of the creative firm AIB. He served as a judge on the inaugural season of Comicstaan, an Amazon Prime stand-up comedy competition, in 2018.

A YouTube channel called AIB was co-founded in 2013 by Tanmay Bhat, Gursimran Khamba, Rohan Joshi, and Ashish Shakya. AIB's earliest YouTube appearances were comprised of quick parodies and comedies with imitation themes. In their work, song parodies continued to use stereotyped imagery and heavily appeal to nostalgia. They made use of the humorous cliché "Honest Indian..." in a variety of contexts. Bollywood stars, international and Indian comedians, and filmmakers were among the guests on their podcast and collaborators.

Notorious "roast," an offensive comedy that featured actors Ranveer Singh, Arjun Kapoor, and director Karan Johar, among others, brought them into difficulties in 2015. Charges of indecency were lodged against the group.<sup>2</sup>

Bhat posted a Snapchat video of Sachin Tendulkar and Lata Mangeshkar debating who was a better player in May 2016. Their representation in the film sparked intense debate; some considered it repulsive and disgusting, while others thought it was clever and funny. After this, the Maharashtra Navnirman Sena filed a FIR against him, and the Mumbai Police contacted to Google and YouTube to request them to eliminate the clip. Filmmaker Pehlaj Nihalani, the Censor Board Chief, told NDTV: "*Tanmay Bhat is a repeat offender, he deserves no freedom. He has insulted the mother of music.*"<sup>3</sup>

The comic troupe, which was once led by Tanmay Bhat, Gursimran Khamba, Ashish Shakya, and Rohan Joshi, ran afoul of the law for their infamous "roast" in 2015 that included, among others, stars Ranveer Singh, Arjun Kapoor, and Karan Johar. Charges of obscenity were lodged against the group. At the Tardeo police station, the Mumbai Police filed a FIR against the group and other attendees of the event under Sections 292 and 294 (pertaining to obscenity) of the

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<sup>2</sup> THE PRINT, <https://theprint.in/>, (Last visited on Mar 19,2023).

<sup>3</sup> Tejas Mehta, *Tanmay Bhat Roasted Over 'Sachin vs Lata' Video, Police Explore Ban*, NDTV, (May 30, 2016,11:54 pm IST), <https://www.ndtv.com/>

Indian Penal Code. In November 2018, the Bombay High Court reportedly directed the city police to refrain from filing a charge sheet against the celebrities in the case.<sup>4</sup>

### **Kotak Mahindra Bank Campaign**

Days after debuting a new ad campaign with the comedian, Kotak Mahindra Bank scrapped his 811 campaign when internet users discovered his decade-old tweet regarding lord Ganesha. The tweet caught attention, but Tanmay Bhat also had a number of other posts that did as well. One of these had comments that were paedophilic in nature, whereas another included commentary about the Parsi community.

### **VIR DAS**

Vir Das is an Indian comedian, actor, and musician who was born on May 31, 1979. After starting out in stand-up comedy, Das transitioned to acting in Hindi movies, playing minor parts in movies like Badmaash Company (2010), Delhi Belly (2011), and Go Goa Gone (2013). Das has appeared in almost 35 plays, more than 100 stand-up comedy performances, 18 movies, 8 TV episodes, and 6 comedy specials. He has written humorous essays for Tehelka, DNA, Exotica, Femina, and Maxim.

### **“I come from two Indias”**

In India, the act that Vir Das performed while on a US tour became viral. After that, it discussed "two Indias," opposing aspects of his own land that, in his opinion, had a touch of the silly.

The crowd during the sold-out concert in Washington, DC, heard Das say, "I come from an India where we worship women during the day and gang rape them at night. I'm from India, where we pride ourselves on being vegetarians yet run over the farmers who cultivate our veggies, the speaker said. When his performance came to a close, he expressed his delight in India and asked the crowd to applaud for it. The video soon became popular on social media when it was posted to YouTube.

Das was accused of "insulting the country," according to a police complaint made by Aditya Jha, a BJP representative. The BJP did not constitute the sole target of the outrage. Defaming the country as a whole in front of the world is just unacceptable, commented Abhishek Singhvi, a leader of the opposition Congress party, on Twitter. Vehemently pro-government Bollywood

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<sup>4</sup> THE HINDU, <https://www.thehindu.com/>, (Last visited on Mar 19,2023).

star Kangana Ranaut, who is notorious for seldom holding back, declared that "such creative work against an entire race is soft terrorism... severe action must be taken against such criminals".

A complaint was made against Vir Das at the Tilak Marg Police Station in relation to a widely circulated video in which he is seen allegedly insulting the country while attending an event in the US.<sup>5</sup>

Das responded to the criticism by announcing a clarification of his monologue. "The video is a parody on the existence of two very distinct Indias that pursue different goals. Like every nation, India contains both good and evil. All of this is public knowledge, he said in an online statement. I have immense pride in my nation, and I bring that pride across the world, he continued.<sup>6</sup>

## **MUNAWAR FARUQUI**

Munawar Iqbal Faruqui is an Indian stand-up comedian and rapper who was born on January 28, 1992. He participated in Kangana Ranaut's reality television programme Lock Upp Season 1 in 2022 and won the competition.

In response to a complaint made by Eklavya Singh Gaud, a BJP MP, for allegedly hurting religious sensibilities by making lewd jokes about Hindu deities at a comedy event in Indore, Madhya Pradesh, Faruqui, a comedian from Gujarat, was detained by police on January 1 along with four other people. Apparently using inappropriate language against Hindu deities and home minister Amit Shah, the accused performed a stand-up comedy event at Munro Café, which prompted the complainant to file a complaint against him.<sup>7</sup>

The petitioners had approached Judicial Magistrate, First Class, Indore after the FIR was filed against them. The magistrate and the sessions court had denied their request for bail. The accused "provoked frenzy" and it has been demonstrated that releasing him on bail will cause law and order issues since a segment of society will be insulted, the court stated.<sup>8</sup>

After spending two weeks in jail, Faruqui filed a petition with the Madhya Pradesh high court on January 14. On January 25, the high court had postponed making a decision on the bail

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<sup>5</sup> INDIA TODAY, <https://www.indiatoday.in/> (Last visited on Mar 19,2023).

<sup>6</sup> Hannah Ellis, *Indian comedian Vir Das accused of 'vilifying nation'*, THE GUARDIAN, (Nov. 18,2021, 2:37 GMT), <https://www.theguardian.com/>.

<sup>7</sup> HINDUSTAN TIMES, <https://www.hindustantimes.com/> (last visited on Mar 19, 2023).

<sup>8</sup> Iram Siddique, *Munawar Faruqui case: Court rejects bail for acquaintance, cites law and order*, THE INDIAN EXPRESS, (Jn 13,2021, 3:01 a.m.), <https://indianexpress.com/>.

request. On January 28, the high court bench presided over by Judge Rohit Arya once more rejected the accused's request for bail, citing the continuing investigation, the documents collected, and witness testimony. *"There is also a specific assertion by the learned counsel for the complainant that the applicant alongwith other co-accused persons allegedly making outraging filthy jokes in social media deliberately against Hindu Gods, Lord Shriram and Goddess Seeta hurting religious sentiments of Hindus for the last 18 months despite, protest on various social media platforms. There is nothing on record to the contrary,"* the judge said in the order.

In granting Munawar ad-interim bail in a case filed at Indore's Tukoganj police station, a Supreme Court bench led by Justice R F Nariman. The judgement is as follows:

*"The learned counsel has pointed out to us that quite apart from the fact that the allegations made in the FIR are vague that Signature Not Verified Digitally signed by Jayant Kumar Arora Date: 2021.02.05 the procedure contained in Section 41 of Cr.P.C. as adumbrated by our 16:36:34 IST Reason:*

*Judgment in "Arnesh Kumar Vs. State of Bihar & Anr.", reported in (2014) 8 SCC 273, has not been followed before arresting the petitioner. This being the case, we issue notice in both the petitions, and stay the Judgment of the High Court. The petitioner is released on ad-interim bail on conditions to the satisfaction of the trial court.*

*In the meantime, there shall be stay of the production warrants as well."*<sup>9</sup>

## **CONCLUSION AND SUGGESTIONS**

With the aforementioned remark in mind, we may draw the conclusion that simply though stand-up comedians' freedom of speech and expression is limited, it does not necessarily follow that the right is being infringed in its entirety. A person's job cannot violate, threaten, or even mock the basic rights of another.

It is preferable if there is to be any sort of legal punishment for speech whose acceptability is contested that it is meted out as a fine after publication or broadcast rather than as an outright repression. The creator of the disputed communication now has the right to a trial in open court where the merits of the case and the importance of the intended communication may be fairly

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<sup>9</sup> Munawar Faruqui v. The State of Madhya Pradesh, SLP (CrI.) No. 1045 of 2021

discussed. Nonetheless, if such an act is continued, it should be punished as specified in the article. Hence the hypothesis is not supported.

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