



drishti

## Truths and Hate Speech: SC

---

 [drishtias.com/printpdf/truths-and-hate-speech-sc](https://drishtias.com/printpdf/truths-and-hate-speech-sc)

### Why in News

---

In the context of **discussing the limits of free speech** and **what may tantamount to hate speech**, the **Supreme Court** (SC) has recently held that “Historical truths must be depicted without in any way disclosing or encouraging hatred or enmity between different classes or communities.”

The **FIRs were filed against a TV anchor** for alleged remarks on the **sufi saint Khwaja Moinuddin Chishti** in a news show.

### Key Points

---

- **On ‘True Facts’:**

- Elaborating on the point about **truth or true facts being a defence in cases of free speech**, the SC cited its ruling in *K A Abbas versus Union of India case 1970*, which was about  **censorship** .

The order said that there is **no bar in showing carnage or bloodshed which have historical value**, and depiction of such scenes may be permissible, if handled delicately **as a part of an artistic portrayal** of confrontation.

- The likelihood **must be judged from a healthy and reasonable standard**, thereby accepting the position that **historical truth may be a relevant and important factor**.

However, historical truth **must be depicted without in any way disclosing or encouraging hatred or enmity** between different classes or communities.

- The court also referred to the ruling in *Ebrahim Suleiman Sait versus M C Mohammed and Another case 1980*.

- The order held that **speaking truth was not an answer to the charge of corrupt practice under Section 123 (3A) of the Representation of the People Act 1950**.
- What was relevant was **whether the speech had promoted or had sought to promote feelings of enmity or hatred**.

- **Free Speech and the Marginalised:**

There may be a **possibility of divergence between truth and popular belief**, and the bench held that in many ways, **free speech has empowered those who were marginalised and discriminated**, and thus it would be wholly incorrect and a mistake to assume that free speech is an elite concept and indulgence.

- **Hate Speech:**

- The **hate speech should have no redeeming purpose**, which means that ‘the speech **primarily carries no meaning other than hatred** towards a particular group’.

This is necessarily **subjective and requires examination of good faith and good motives** on the part of the speaker.

- Speaking on **dignity in the context of hate speech**, the court held that **one must condemn and check any attempt at dissemination of discrimination** on the basis of race, religion, caste, creed or regional basis.
- The court pointed out that the **object of criminalising hate speech is to protect the dignity and to ensure political and social equality** between different identities and groups regardless of caste, creed, religion, sex, gender identity, sexual orientation, linguistic preference, etc.

**Hate speech has not been defined in any law in India.** However, legal provisions in certain legislations prohibit select forms of speech as an exception to freedom of speech.

- **Self-Regulation:**

Everyone must **act with the objective for promoting social harmony and tolerance** by proscribing hateful and inappropriate behaviour, which can be achieved by self-restraint, institutional check and correction, as well as self-regulation or through the mechanism of statutory regulations, if applicable.

- **Political Speech:**

The **political speech relating to government policies requires greater protection for preservation** and promotion of **democracy**.

- The bench held that **dissent and criticism of the elected government’s policy**, when puissant, deceptive or even false **would be ethically wrong, would not invite penal action**.
- **Government should be left out** from adjudicating what is true or false, good or bad, valid or invalid as these aspects should be left for open discussion in the public domain.

- **Intent and Purpose:**

The court clarified that **after these observations, persons of influence or even common people should not fear the threat of reprisal and prosecution**, if they discuss and speak about controversial and sensitive topics relating to religion, caste, creed, etc **as the question is primarily one of intent and purpose**.

**Source: IE**