

LAHORE HIGH COURT

Mr. Justice Mian Nazir Akhtar

NASIR AHMAD and another Petitioners

versus

THE STATE Respondent

CrI. Misc. No. 2163/B of 1992,

Mobashar Latif Ahmad for Petitioners.

Nazir Ahmad Ghazi. A.A.G. for the State.

Rashid Murtaza Oureshi for the Complainant.

Decided on 2nd August, 1992.

ORDER

MR. JUSTICE MIAN NAZIR AKHTAR.-- The petitioners seek bail in a case registered against them and a few other persons for offences under sections 295-A, 295-C and 298-C of the P.P.C. at P.S. Nankana Sahib. District Sheikhpura.

2. According to the allegations made in the F.I.R. Nasir Ahmad, petitioner No.1 is a Qadiyani and often propogates Qadiayni religion. In this connection a criminal case stands registered against him already. In the present

case, invitation cards for marriage ceremony of the daughter of Nasir Ahmad petitioner were got printed and distributed by the accused persons. The cards embody expressions Shiair-e-Islam like

- 1- "السلام عليكم" - 2- انشاء الله - 3- "نكاح مسنونہ" - 4- "بسم الله الرحمن الرحيم" - 5- "نحمدہ ونصلی علی رسولہ الکریم" -

which are used by Muslims. Thus by publishing the invitation cards containing Shiair-e-Islam the petitioners and their co-accused have posed themselves to be Muslims in violation of the provisions of section 298-C of the P.P.C.

3. The learned counsel for the petitioners has raised the following points to claim bail:—

- (1) The F.I.R. is incompetent as it includes the offence under section 295-A of the P.P.C. cognizance whereof is barred in the absence of an order under the authority of the Central or Provincial Government or from an officer empowered in this behalf by either of the two Governments as provide" under section 196 of the Cr.P.C.
- (2) The offences under section 298-C of the Cr.P.C. does not fall within the prohibition contained under section 497 of the Cr.P.C. There being no defiling of the sacred name of the Holy Prophet 'Muhammad ﷺ', the offence under section 295-C of the P.P.C. was not made out.

(3) The mere use of words

- 1- "السلام عليكم" - 2- انشاء الله - 3- "نكاح مسنونہ" - 4- "بسم الله الرحمن الرحيم" - 5- "نحمدہ ونصلی علی رسولہ الکریم" -

did not constitute any offence and that the Qadiyanis had the right to use the same.

(4) Law merely prohibits Qadiyanis to use the words specified in section 298-B of the P.P.C. and not the other expression used in the invitation cards.

(5) Invitation cards were got published by Sarfraz Ahmad, co-accused who was not Qadiyani.

4. On the other hand, Mr. Nazir Ahmad Ghazi, the learned A.A.-G. strenuously opposed the prayer for bail and urged that Mirza Ghulam Ahmad and his followers belonging to Qadiyani or Lahori groups are non-Muslims and constitute a separate community and were not entitled to pose themselves as Muslims in any manner. In this connection he referred to several extracts from the following books/pamphlets of Mirza Sahib:—

- (1) Haqeeqat-ul-Vahi, (2) Rohani Khazain, Vol. XVIII (a compilation of Mirza Sahib's writings). (3) Tuhf Golarvia, (4) Tariaq-ul-Qaloob, (5) Zamima Anjam-e Athum, (6) Aik Ghalati Ka Azala, (7) Albushra. (8) Tazkira, (9) Dafi-ul-Bala, (10) Durr-e-Sameen, (11) Kashti-e-Nooh, (12) Tabligh-e-Rasalat and (13) Nazool-e-Masih.

He also referred to some passages from the book 'Kalama-tul-Fasal written by Sahibzadah Mirza Bashir Ahmad M.A. (son of Mira Ghulam Ahmad Qadiani) to urge that the Qadiyanis treat all other Muslims who do not accept Mirza Ghulam Ahmad to be the promised Maseeh or Prophet, as Kafirs and non-Muslims. He placed reliance on the case of *Mujeeb-ur-Rehman and others v. Federal Government of Pakistan* 1985 FSC 8, *Malik Jehangir M. Joia v. The State* PLD 1987 Lah. 458 and *Khurshid Ahmad v. The Government of Punjab* PLD 1992 Lah. 1 to urge that followers of Mirza Ghulam Ahmad belonging to Qadiani or Lahori groups are non-Muslims and by virtue of provisions of section 298-C of the P.P.C., are not entitled to pose themselves as Muslims directly or indirectly. He urged that Shiair-e-Islam embodied in the invitation cards give an impression that the persons who have extended the invitation or lent their names for Takeed-e-Mazeed (further reminder to attend) are Muslims. Moreover, the Qadianis send Darood on Mirza Ghulam Ahmad treating him equal or even superior to Hazrat Muhammad ﷺ (نَعُوذُ بِاللّٰهِ مِنْ ذَٰلِكَ) and in this way, defile the sacred name of the Holy Prophet

مفتی رشید مورتازا قویشی and commit the offence under section 295-C of the P.P.C. Mr. Rashid Murtaza Qureshi, learned counsel for the complainant adopted the arguments of the learned A.A.G. and added that the petitioners had committed the offences mentioned in the F.I.R. and deserved maximum punishment under the law. He pointed out the petitioner No.1 was a habitual offender against whom another criminal case stood registered. He submitted that the petitioners had falsely posed themselves as Muslims and sent the invitation cards to several Muslims as well and thus injured their feelings. He controverted the assertion of the petitioners' learned counsel that the cards were got printed by a Muslim named Sarfraz Ahmad and has placed on the record a copy of the affidavit of Sagheer Ahmad Sheerazi, proprietor of Sheerazi Printing Point, Jaranwala in which he deposed that the cards were got printed by Nasir Ahmad, petitioner No.1.

5. The first contention raised by the petitioners' learned counsel that the F.I.R. is incompetent as a whole merely because it includes the offence under section 295-A of the P.P.C, cognizance whereof is barred in the absence of an order by the Central or Provincial Government or an officer authorised by either of the two, has no substance. The F.I.R. includes other offences under sections 295-C and 298-C of the P.P.C. as well which require no order from any official authority in the matter of taking of cognizance by the Court. Moreover, the stage of taking cognizance of the offence by the Court has not yet reached so as to attract the provisions of section 196-A of the Cr.P.C. The police can conduct investigation into the offences mentioned in the F.I.R. and submit a challan in the Court of competent jurisdiction. If the order of the competent authority allowing the Court to take cognizance of the offence under section 295-A of the P.P.C. is not received, then the Court would be competent to take cognizance of other offences alone.

6. A bare reading of the invitation cards, prima facie, gives an impression that these have been got published and sent by Muslims. No doubt, under section 298-B of the P.P.C., some sepcific expressions like Amir-ul-Momineen,

Khalipha-tul-Momineen, Khalipha-tul-Muslimeen, Suhabi or Ahail-e-Bait cannot be used by the Qadiani or other followers of Mirza Ghulam Ahmad. However, the express prohibition qua use of the said expression does not give a licence to the Qadianis to use other expression or Shi'air-e-Islam commonly used by Muslims because by so doing they would be posing themselves as Muslims which is forbidden by the law.

7. The argument raised by the learned A.A.G. and the complainant's learned counsel that Mirza Ghulam Ahmad and his followers are non-Muslims and belong to a separate community not forming part of the Muslim Ummah embodies nothing but the whole truth. The teachings of Mirza Ghulam Ahmad show that he considered only his own followers to be Muslims and declared all other Muslims who did not accept his claim of prophethood to be Kafirs and non-Muslims. In Kalamat-ul-Fasal, Mirza Bashir Ahmad has made detailed discussion in Chapters 2, 3 and 6 on the basis of teachings of Mirza Sabib to show that all those who did not believe in the claims and teachings of Mirza Ghulam Ahmad were Kafirs and non-Muslims and that the Qadianis/Ahmadis should not attend their marriage or death ceremonies. Mirza Ghulam Ahmad did not attend the funeral ceremony of his own son Fazal Ahmad who did not believe in him. Ch. Zafarullah Khan the first Foreign Minister of Pakistan did not participate in the funeral prayers of Hazrat Qaid-i-Azam, the Founder of Pakistan. Thus there can be no cavil with the proposition that followers of Mirza Ghulam Ahmad belong to a separate community and are otherwise non-Muslims in the true religious sense. They have been so declared by virtue of the provisions of sub-Article (3-B) of Article 260 of the Constitution of Pakistan.

8. Mr. Nazir Ahmad Ghazi, the learned A.A.G. has referred to a large number of books, pamphlets and writings of Mirza Ghulam Ahmad to show that he was "planted" by the British Imperialism. He referred to the application of Mirza Sahib (sent to the Lieutenant-Governor of Punjab) in which he described himself as a

(خودکاشته پورا) of the British Government (Tableegh-i-Risalat, Vol. VII, page 88). He contended that the basic object of teachings of Mirza Sahib was to persuade Muslims of the Sub-continent to bow their heads in complete obedience to the British Government, to consider obedience to the British Government as a part of Islam, to treat Jihad as Haram in future, and to break the Muslims' bond of love for Hazrat Muhammad ﷺ through (شرك في الرسالت) (i.e. sharing of prophethood with Hazrat Muhammad ﷺ). He has also urged that the teachings and beliefs of Mirza Ghulam Ahmad relating to Almighty Allah, the Holy Prophet and finality of his prophethood, the Holy Qur'an, the KALMA TAYYABA, the traditions of the Holy Prophet, the concept of Eiman, Haj, Jihad, respect for the earlier Prophets including Christ, respect for Ahl-e-Bait and the Holy places of Makka and Madina are diametrically opposed to those of Muslims throughout the world. The above arguments have considerable weight but since I am dealing with a bail matter, I need not enter into an elaborate discussion on the said points. However, I may briefly refer to some of the beliefs and teachings of Mirza Ghulam Ahmad for the limited purpose of disposal of this bail petition and to see whether the Darood printed on the disputed invitation cards is meant for Mirza Ghulam Ahmad or not and whether it can directly or indirectly have the effect of defiling the sacred name of Hazrat Muhammad ﷺ.

9. According to Muslims Darood-o-Salam is the entitlement of the Holy Prophet Hazrat Muhammad ﷺ by virtue of the following verse of the Holy Qur'an:--

"ان الله وملكته يصلون على النبي يا ايها الذين آمنوا صلوا عليه

(احزاب : 56)

وسلموا تسليما"

Darood-o-Salam is the highest act of virtue which fosters the Muslims' bond of love and respect for the Holy Prophet ﷺ. The question arises whether Mirza Ghulam

Ahmad ever claimed that he was a Nabi/Prophet and deserved Darood (صلوة) like the Holy Prophet?

10. Muslims throughout the world uphold the cherished belief of absolute and unqualified finality of prophethood of Hazrat Muhammad ﷺ. They firmly and contemptuously reject the idea of arrival of any new Prophet after Hazrat Muhammad ﷺ. According to the Holy Qur'an the Prophet Hazrat Muhammad ﷺ is (خاتم النبيين) (last of the prophets) who himself declared in unambiguous words that there could be no Prophet after him. However, Mirza Sahib claimed to be a Prophet and advanced the idea that Hazrat Muhammad ﷺ was not the final seal on Prophethood but was the holder of seal for approving Prophets in future (Haqeeqat-ul-Vahi, pages 27-28). He advanced the novel idea of second appearance (بعثت) of Hazrat Muhammad ﷺ and claimed that in him Hazrat Muhammad ﷺ had again appeared in the world in Bruzi form and added that in his first appearance in Arabia he was like (هلال) (moon of the first night) and that in his second appearance through him (Mirza Sahib) he was like (بدر كامل) (full moon). In this way, he not only claimed equality with but superiority over the Holy Prophet ﷺ, (نعوذ بالله من ذلك).

11. Following the teachings of his father, Mirza Bashir-ud-Din Mehmood declared that any person can progress and achieve the highest status and can even excel Hazrat Muhammad ﷺ, (Alfazal 17th July, 1922), (نعوذ بالله من ذلك)

12. It is the firm belief of Muslims that after Allah, the highest position in the universe is enjoyed by Hazrat Muhammad ﷺ and that no Muslim can imagine to be equal to him. What to speak of the Holy Prophet, no Muslim can claim to be equal to a companion (صحابي) of the

Holy Prophet. However, Mirza Sahib has ventured to claim complete equality and identity with Hazrat Muhammad ﷺ. He asserted (in Khutba Ilhamia) that any person who differentiated between him and Mustafa (i.e., Hazrat Muhammad, ﷺ) neither saw nor recognised him (Mirza Sahib) (نعوذ بالله من ذلك). He claimed that he got the name of Muhammad ﷺ and Ahmad ﷺ alongwith the status of prophethood because he was lost in the love of the Holy Prophet. In his Pamphlet captioned as 'Aik Ghalti Ka Azala? he wrote as under:-

”نبوت کی تمام کھڑکیاں بند کی گئیں مگر ایک کھڑکی سیرت صدیقی کی کھلی ہے یعنی فتانی الرسول کی۔“
(ایک غلطی کا ازالہ ص 3 مندرجہ روحانی خزائن ج 18 ص 207 از مرزا غلام احمد قادیانی)

Strangely enough, Hazrat Abu Bakar Siddique whose love for the Holy Prophet was exemplary and matchless did not acquire the status of a Prophet. The reason is obvious. The door of new prophethood was closed for ever. Hence, any degree of love for the Holy Prophet cannot fructify into prophethood. However, other spiritual positions short of prophethood can be attained by Muslims. The companions of the Holy Prophet who had profound love for the Holy Prophet were warned by Allah not to raise their voice above that of the Holy Prophet failing which their good deeds were to be lost imperceptibly. Allah's warning was meant to keep Muslims within certain limits so that they should not show equality with the Holy Prophet even in respect of the volume of their voice. Due to love for the Holy Prophet Muslims love the Ahl-e-Bait and even the places where he lived and moved about. They love the sand, dust, dates and even streets of Makka and Madina. The burial place of the Holy Prophet (Roza-i-Rasool) is loved and respected by Muslims as a part of Jannat in view of the tradition of the Holy Prophet (ما بین بقی و منبری روضة من ریاض الجنة) (Siraj-ul-Munir, Sharrah Jame-al, Sagheer, page 246). However, Mirza Ghuiaam Ahmad has ventured to show disrespect to Hazrat Muhammad ﷺ by claiming equality and identity with

him. He also showed disrespect to the Holy places of Makka and Madina by declaring Qadian as Haram like Makka and Madina and by saying that a visit to Qadian was superior to and better than Nafli Haj. He went to the extent to using derogatory language about burial place of the Holy Prophet Hazrat Muhammad ﷺ. Apparently in his zeal to show superiority of the Holy Prophet over Christ and to repudiate the idea of ascendance of Christ from heavens, Mirza Sahib, wrote as under:—

”ہم بارہا لکھ چکے ہیں کہ حضرت مسیح کو اتنی بڑی خصوصیت آسمان پر زندہ چڑھنے اور اتنی مدت تک زندہ رہنے اور پھر دوبارہ اترنے کی جو دی گئی ہے، اس کے ہر پہلو سے ہمارے نبی ﷺ کی توہین ہوتی ہے اور خدا تعالیٰ کا ایک بڑا تعلق جس کا کچھ حد و حساب نہیں، حضرت مسیح سے بھی ثابت ہوتا ہے۔ مثلاً آنحضرت ﷺ کی سو برس تک بھی عمر نہ پہنچی مگر حضرت مسیح اب قریباً دو ہزار برس سے زندہ موجود ہیں اور خدا تعالیٰ نے آنحضرت ﷺ کے چھپانے کے لئے ایک ایسی ذلیل جگہ تجویز کی جو نہایت متعفن اور تنگ اور تاریک اور حشرات الارض کی نجاست کی جگہ تھی۔ مگر حضرت مسیح کو آسمان پر جو بہشت کی جگہ اور فرشتوں کی مسائگی کا مکان ہے بلا لیا۔ اب تلاؤ محبت کس سے زیادہ کی؟ عزت کس کی زیادہ کی؟ قرب کا مکان کس کو دیا اور پھر دوبارہ آنے کا شرف کس کو بخشا۔“ (تحفہ کوثر دیہ ص 119 مندرجہ روحانی خزائن ج 17 ص 205 از مرزا قادیانی)

Whatever the worth or value of the argument qua the comparative status of Hazrat Muhammad ﷺ and Hazrat Eisa/Christ (علیہ السلام) one thing is clear that Mirza Sahib had made highly disparaging remarks about the burial place of the Holy Prophet which a Muslim shudders to imagine. Mirza Sahib claimed that he was superior to Hazrat Imam Hasan and Imam Hussain رضی اللہ عنہما and slighted them in his books Dafi-ul-Bala, Nazool-ul-Maseeh and Durr-e-Samin (Some relevant extracts are reproduced in Appendix-A, attached to the order. The traditions of the Holy Prophet Hazrat Muhammad ﷺ embody profound love for Hazrat Imam Hassan and Imam Hussain رضی اللہ عنہما but

Mirza Ghulam Ahmad (who proclaimed himself to be 'Muhammad') has shown contempt and disrespect for Hasnain ﷺ.

13. After expressing the above-referred views which shock the minds and injure the feeling of Muslims, Mirza Sahib has claimed that he deserved Darood-o-Salam. According to him Allah sends Darood on him. The book Tazkirah containing revelations of Mirza Ghulam Ahmad contains the following revelation at page 777:-

"صلى الله عليك و على محمد"

In his book Arbaeen No.2 Mirza Ghulam Ahmad said as under:—

”بعض بے خبر ایک یہ اعتراض بھی میرے پر کرتے ہیں کہ اس شخص کی جماعت اس پر فقرہ علیہ الصلوٰۃ والسلام اطلاق کرتے ہیں اور ایسا کرنا حرام ہے۔ اس کا جواب یہ ہے کہ میں مسیح موعود ہوں اور دوسرے کا صلوٰۃ یا سلام کہنا تو ایک طرف خود آنحضرت ﷺ نے فرمایا ہے کہ جو شخص اس کو پاوے، میرا سلام اس کو کہے اور احادیث اور تمام شروح احادیث میں مسیح موعود کی نسبت صدمہ جگہ صلوٰۃ و سلام کا لفظ لکھا ہوا موجود ہے۔ پھر جبکہ میری نسبت نبی علیہ السلام نے یہ لفظ کہا صحابہ نے کہا بلکہ خدا نے کہا تو میری جماعت کا میری نسبت یہ فقرہ بولنا کیوں حرام ہو گیا۔“

(اربعین نمبر 2، صفحہ نمبر 3 مندرجہ روحانی خزائن ج 17 ص 349 از مرزا قادیانی)

Again the book Haqeeqat-ul-Vahi (by Mirza Ghulam Ahmad) contains the following revelation in Chapter 4. page 75:—

"اصحاب الصفہ وما ادرك ما اصحاب الصفہ — تری اعینہم

تفیض من الدمع — یصلون علیک"

(حقیقت الوحی، صفحہ 75 مندرجہ روحانی خزائن ج 22 ص 78 از مرزا قادیانی)

The same revelation is also found at pages 242 and 631-32 of the book Tazkirah. Meaning thereby that Ashaab-i-Suffa (persons sitting on the platform) recite Darood for

Mirza Ghulam Ahmad. Thus it is evident that the Qadianis recite Darood-o-Salam for Mirza Ghulam Ahmad and thereby equate him with Hazrat Muhammad ﷺ. This prima facie, amounts to defiling the sacred and exalted name of the Holy Prophet Hazrat Muhammad ﷺ because in this manner his position is lowered to that of Mirza Ghulam Ahmad who, on his own showing was, (خودکاشته پودا) of the British Government, who considered faithfulness and obedience to the British Government as a part of Islam, declared 'Jehad' to be Haram, who slighted Imam Hussain رضی اللہ عنہ and who declared all Muslims (who did not believe in him) to be Kafirs. During the course of arguments it was firmly asserted by the learned A.A.G. that the Darood (نحمدہ و نصلی علی رسولہ الکریم) printed on the invitation cards in question was meant for Mirza Ghulam Ahmad but this assertion was not controverted by the petitioners' learned counsel. Hence, there are reasonable grounds for believing that the petitioners have committed an offence under section 295-C of the P.P.C. which falls within the prohibitory clause of section 497 of the Cr.P.C.

14. For the foregoing discussion, the petitioners do not deserve the concession of bail. Resultantly, their bail petition is dismissed.

Bail refused.

APPENDIX "A"

- 1۔ کربلائے است سیر ہر آنم صد حسین است در گریبانم
(ترجمہ) کربلا ہر وقت میری سیرگاہ ہے اور سو 100 حسین میرے گریبان میں ہیں۔
(نزدول المسیح، صفحہ 99، مندرجہ روحانی خزائن، جلد نمبر 18، صفحہ 477 از مرزا قادیانی)

2- وقالوا على الحسنين فضل نفسه اقول نعم والله ربى سيظهر.
(ترجمہ) اور انہوں نے کہا کہ اس شخص نے امام حسن اور امام حسین سے اپنے تئیں اچھا سمجھا، میں کہتا ہوں کہ ہاں اور میرا خدا عنقریب ظاہر کر دے گا۔

(اعجاز احمدی ص 52 مندرجہ روحانی خزائن، جلد نمبر 19، صفحہ 164 از مرزا قادیانی)

3- نسيتم جلال الله والمجد العلى وماوردكم الاحسين اتنكر فهذا على الاسلام احدى المصائب لدى نفحات المسك قلدر مقنطر.

(ترجمہ) تم نے خدا کے جلال اور مجد کو بھلا دیا اور تمہارا اور صرف حسین ہے۔ کیا تو انکار کرتا ہے۔ پس یہ اسلام پر ایک مصیبت ہے۔ کستوری کی خوشبو کے پاس گوہ کا ڈھیر ہے۔

(اعجاز احمدی ص 82، روحانی خزائن، جلد نمبر 19، صفحہ 194 از مرزا قادیانی)

4- اے قوم شیعہ:- اس پر اصرار مت کرو کہ حسین تمہارا منجی ہے۔ کیونکہ میں سچ سچ کہتا ہوں کہ آج تم میں ایک ہے کہ اس حسین سے بڑھ کر ہے۔

(دافع البلاء، صفحہ نمبر 13، روحانی خزائن، جلد نمبر 18، صفحہ نمبر 233 از مرزا قادیانی)

5- افسوس! یہ لوگ نہیں سمجھتے کہ قرآن نے تو امام حسین کو رتبہ ابیت کا بھی نہیں دیا بلکہ نام تک مذکور نہیں۔ ان سے تو زید ہی اچھا رہا جس کا نام قرآن شریف میں موجود ہے..... میں مسیح موعود نبی اور رسول ہوں اب سوچنے کے لائق ہے کہ امام حسین کو اس سے کیا نسبت ہے۔

(نزول المسیح، صفحہ نمبر 44 مندرجہ روحانی خزائن ج 18 ص 421-423 از مرزا قادیانی)

6- تم نے مشرکوں کی طرح حسین کی قبر کا طواف کیا پس وہ تمہیں چھڑانہ سکا اور نہ مدد کر سکا۔ تم نے اس کشتہ سے نجات چاہی کہ جو نو میدی سے مر گیا۔ اور بخدا اس کی شان مجھ سے کچھ زیادہ نہیں۔ میرے پاس خدا کی گواہیاں ہیں پس تم دیکھ لو اور میں خدا کا کشتہ ہوں لیکن تمہارا حسین دشمنوں کا کشتہ ہے۔

(ضمیمہ نزول المسیح، اعجاز احمدی، صفحہ 80۔ روحانی خزائن ج 19 ص 192، 193 از مرزا قادیانی)

7۔ امام حسین نے جو بھاری نیکی کا کام دنیا میں آ کر کیا، وہ صرف اس قدر ہے کہ ایک دنیا دار کے ہاتھ پر انہوں نے بیعت نہ کی اور اس کشاکش کی وجہ سے شہید ہو گئے..... اگر ہم امام حسین کی خدمات کو لکھنا چاہیں تو کیا ان دو تین فقروں کے سوا کہ وہ انکار بیعت کی وجہ سے کربلا میں روکے گئے اور شہید کئے گئے۔ کچھ اور بھی لکھ سکتے ہیں؟

(رسالہ تشحیذ الاذہان نمبر 2، جلد نمبر 1، مرتبہ مرزا محمود)

(1992 P Cr. L. J. 2351)

