

What is Section 153A of Indian Penal Code (IPC)?

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In news– Pawan Khera, chairman of the media and publicity department of the All India Congress Committee was arrested for alleged hate speech Section 153A of IPC by Assam Police recently.

About Section 153A of IPC-

- **It penalises “promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony”.**
- **This is punishable with imprisonment up to three years, or with fine, or with both.**
- **The provision was enacted in 1898 and was not in the original penal code.**
- **At the time of the amendment, promoting class hatred was a part of the English law of sedition, but was not included in the Indian law.**
- **In the pre-Independence Rangila Rasool case, the Punjab High Court** had acquitted the Hindu publisher of a tract that had made disparaging remarks about the private life of the Prophet, and had been charged under Section 153A.
- **Along with Section 153A, Section 505, which penalises “statements conducing to public mischief” was also introduced.**
- **In 1969, the offence was widely amended to enlarge its scope to prevent communal tensions.**
- **In the same amendment, the offence was also made cognisable, which means a police officer can make an arrest without a warrant.**
- **The FIR against Khera also mentioned Section 153B(1) (Making imputations, assertions prejudicial to national**

integration); 295A (Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs); 500 (Defamation); and 504 (Intentional insult with intent to provoke breach of the peace).

Safeguards against misuse-

- Given that the provisions are worded broadly, there are safeguards against its misuse. For example, **Sections 153A and 153B require prior sanction from the government for initiating prosecution.** But this is required before the trial begins, and not at the stage of preliminary investigation.
- To curb indiscriminate arrests, the **Supreme Court laid down a set of guidelines in its 2014 ruling in Armesh Kumar v State of Bihar.**
- As per the guidelines, **for offences that carry a sentence of less than seven years, the police cannot automatically arrest an accused before investigation.**
- **In a 2021 ruling, the SC said that the state will have to prove intent for securing a conviction under Section 153A.**
- The SC in this case quashed an FIR against the editor of The Shillong Times, Patricia Mukhim, registered for allegedly creating communal disharmony through a Facebook post.
- The SC stated that 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.
- The court said that **words used in the alleged criminal speech should 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.
- The standard of an ordinary reasonable man or as they

say in English law “the man on the top of a Clapham omnibus” should be applied