

DEBATABLE INDICTMENT: THE HINDU EDITORIAL ON THE DONALD TRUMP CASE

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In a dramatic, but not unexpected, turn of events, former U.S. President [Donald Trump has been indicted](#) by a grand jury in New York in the case of [hush-money paid to adult film actor Stormy Daniels](#) in 2016, before the presidential election of that year. While the indictment, the first one ever against a former U.S. President, remains under seal and the specific charges and the extent of evidence remain unclear still, media reports and comments by Mr. Trump's lawyers indicate that the charges could include the fact that Mr. Trump's erstwhile attorney Michael Cohen paid \$1,30,000 to Ms. Daniels on the 45th President's behalf, apparently to stop her from going public with the story of their consensual (and earlier) extramarital encounter. Mr. Trump is said to have reimbursed the amount to Mr. Cohen after he won the election, which was then passed off as legal expenses. In this regard the charge in the indictment is expected to be a falsification of business records, but that is only a misdemeanour offence in New York, not a felony. To prosecute Mr. Trump for a felony, the onus is on Manhattan District Attorney (DA) Alvin Bragg to not only link the falsified bookkeeping to Mr. Trump directly but also to show that the business records in question were falsified to cover up an entirely different crime. Speculation is rife that the crime that will be cited for this charge will be a potential violation of campaign finance laws — yet, this is where the prosecution case appears less firm. Following Mr. Cohen's claim that he had paid Ms. Daniels at Mr. Trump's behest, there was a question of whether Mr. Trump would be liable under federal campaign finance laws, which require monies received as campaign donations to be disclosed transparently and be subject to specified legal limits. However, a federal investigation into this matter was closed in 2019, which suggests that the weight of evidence here may not have been compelling at the time.

The broader question underlying the indictment is whether Democrats are scoring a self-goal. While more serious issues that could be potential charges against Mr. Trump are on the scanner of the Justice Department, including certain dealings of the Trump Organization, his role in inciting the January 6, 2021 insurrection and withholding classified information after demitting office, the Manhattan DA's reliance on the hush-money case could end up as blowback for the Democrats, especially given the dangers that it will polarise Americans further and be seen as pure political partisanship. Mr. Trump will of course extract every ounce of political capital that he can from what he has described as "political persecution" and a "witch hunt", and that too will likely not favour Democrats in the 2024 election.

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