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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010560892023
+ **CRL.M.C. 9534/2023 & CRL.M.A. 35669/2023 & CRL.M.A. 35670/2023**

MS. NEETIKA & ORS.

.....Petitioners

Through: Mr. Gaurav Arya, Mr. Naveen Bamel,
Mr. Manav Trivedi & Mr. Harsh
Goyal, Advs.

versus

VIKAS GILL

.....Respondent

Through: Mr. Ashish Rana, Adv. (through VC)

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

07.08.2026

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 Code of Criminal Procedure, 1973 (hereinafter referred to as the 'CrPC') assails the judgment dated 30.11.2023 passed in **Criminal Revision No.13/2022** and the orders dated 24.01.2020 and 27.03.2021 passed in **Complaint Case No.4652/2018**, whereby the Petitioners have been summoned for the offence under Section 500 of the Indian Penal Code (hereinafter referred to as the 'IPC').

BRIEF FACTS OF THE CASE

3. Petitioner No. 1 and the Respondent were married on 09.07.2010. Matrimonial disputes subsequently arose between them and several proceedings came to be instituted by the parties.
4. The Respondent instituted the present complaint on 29.10.2018



alleging, *inter alia*, that on 13.10.2015 the Petitioners visited his workplace at SAIL, SCOPE Minar, Delhi and made derogatory statements concerning his character in the presence of his colleagues. Allegations concerning adultery and his relationship with another woman are also stated to have been made. The complaint further refers to a communication dated 12.10.2015 addressed to senior officials of SAIL.

5. By order dated 24.01.2020, the learned Metropolitan Magistrate, upon considering the complaint and pre-summoning evidence, including CW-2 and CW-3, found sufficient material to proceed against the Petitioners under Section 500 IPC. The challenge thereto was dismissed by the learned Revisional Court on 30.11.2023, holding that the plea under the Ninth Exception to Section 499 IPC would require evidence.

SUBMISSIONS BY THE PARTIES

6. Learned counsel for the Petitioners submits that the alleged communications have to be viewed in the background of the matrimonial dispute. At the relevant time, the Respondent was in Singapore and Petitioner No. 1 was attempting to establish contact with him while also attending to the medical condition of the minor child. It is, therefore, submitted that the communications were made in good faith for protection of the interests of Petitioner No. 1.

7. Reliance is now placed upon ***Shahed Kamal & Ors. v. M/s A. Surti Developers Pvt. Ltd. & Anr., 2025 INSC 502***, to contend that an Exception to Section 499 IPC is not excluded from consideration at the stage of issuance of process. It is accordingly urged that the plea of the Petitioners under the Ninth Exception ought not to be rejected merely on the ground that it can only



be considered at trial.

8. Learned counsel further submits that the complaint is barred by limitation. He asserts that the alleged defamatory incident pertains to 13.10.2015 and, according to the complaint itself, the Respondent had acquired knowledge of the same in November, 2015, whereas the complaint was instituted only on 29.10.2018. It is further submitted that the newspaper reports merely reported the proceedings between the parties and contained nothing defamatory.

9. *Per contra*, learned counsel for the Respondent submits that the complaint contains specific allegations of defamatory statements having been made at the Respondent's workplace, which are supported by CW-2 and CW-3. It is further submitted that, contrary to the contention of the Petitioners, allegations relating to adultery and another woman are specifically contained in the complaint. The complaint is stated to be within limitation. It is also submitted that good faith is a question of fact which requires evidence and has to be determined by the learned Trial Court.

ANALYSIS AND FINDINGS

10. This Court has heard learned counsel for the parties and has perused the record.

11. At the outset, ***Shahed Kamal (supra)*** was rendered on 17.04.2025, subsequent to the summoning order dated 24.01.2020 as also the Revisional Court judgment dated 30.11.2023. Thus, neither Court below could have considered the said judgment. However, since the Petitioners rely upon ***Shahed Kamal (supra)*** before this Court in support of their plea under the Ninth Exception, the legal position emerging therefrom requires



consideration.

12. The scope of consideration of an Exception to Section 499 IPC at the stage of issuance of process was examined by the Supreme Court in ***M/s Iveco Magirus Brandschutztechnik GMBH v. Nirmal Kishore Bhartiya & Anr., 2023 INSC 880***. The Supreme Court held that though there is no bar on considering an Exception at the summoning stage, the material before the Magistrate must itself disclose a “*complete defence*”. It observed:

“However, we hasten to reiterate that it is not the law that the Magistrate is in any manner precluded from considering if at all any of the Exceptions is attracted in a given case; the Magistrate is under no fetter from so considering, more so because being someone who is legally trained, it is expected that while issuing process he would have a clear idea of what constitutes defamation. If, in the unlikely event the contents of the complaint and the supporting statements on oath as well as reports of investigation/inquiry reveal a complete defence under any of the Exceptions to section 499, IPC, the Magistrate, upon due application of judicial mind, would be justified to dismiss the complaint on such ground and it would not amount to an act in excess of jurisdiction if such dismissal has the support of reasons.”

13. The Supreme Court in ***Iveco (supra)*** further held that, while exercising jurisdiction under Section 482 Cr.P.C., the High Court cannot enlarge the enquiry by relying upon defence material which was not before the Magistrate.

14. In ***Shahed Kamal (supra)*** the Supreme Court found from the impugned publication itself that the homebuyers had used restrained language, consciously avoided intemperate, rude or abusive expressions and had raised



their grievances for protection of their legitimate interests. The defence under the Ninth Exception was, therefore, discernible from the material itself.

15. Thus, the submission that an Exception to Section 499 IPC can be considered at the summoning stage is correct as a proposition of law. However, ***Shahed Kamal (supra)*** does not lay down that every plea of good faith must be conclusively adjudicated at that stage. The requirement remains that the material before the Magistrate must itself disclose a “complete defence”.

16. The present case does not satisfy that test. The complaint contains specific allegations that the Petitioners visited the Respondent's workplace and made statements concerning his character in the presence of his colleagues, including allegations relating to adultery and another woman. The learned MM has also recorded that CW-2 and CW-3 corroborated the occurrence dated 13.10.2015. The complaint and the pre-summoning material, therefore, do not themselves disclose a complete defence under the Ninth Exception.

17. Whether the alleged statements were made in good faith would require consideration of the circumstances in which they were made, the nature and extent of publication, the interest sought to be protected, the care and attention exercised by the Petitioners and the existence or otherwise of malice. In this regard, ***Iveco (supra)*** notices the categorical proposition:

“These and several other questions may arise for consideration, depending on the stand taken by the accused at the trial and how the complainant proposes to demolish the defence. Surely the stage for deciding these questions has not arrived yet. Answers to these questions at this stage, even before



the plea of the accused is recorded can only be a priori conclusions. ‘Good faith’ and ‘public good’ are, as we said, questions of fact and matters for evidence. So, the trial must go on.”

18. Accordingly, whether the Petitioners acted in good faith is, in the facts of the present case, a question of fact which has to be determined by the learned Trial Court on the basis of evidence. It cannot be conclusively adjudicated in the present proceedings under Section 482 Cr.P.C.

19. The same approach has been adopted by this Court in ***Dr. Shashi Tharoor v. State & Anr., 2024:DHC:6529***, wherein it was held that the defence that the imputations were covered by the Exceptions to Section 499 IPC “needs to be considered on the basis of evidence in the trial”. Similarly, in ***Arvind Kejriwal & Ors. v. State & Anr., 2024:DHC:6678***, this Court held that the defence of bona fides and public good “needs to be proved and established during the course of trial”.

20. The medical records of the minor child and the email correspondence with the National University of Singapore (‘NUS’), sought to be relied upon by the Petitioners before this Court, cannot alter this conclusion. These constitute defence material which cannot be used to conclusively determine good faith in the present proceedings. The Petitioners would be at liberty to rely upon the same before the learned Trial Court in accordance with law.

21. The contention concerning the newspaper reports also does not warrant interference. The summoning order is not founded solely upon such reports, but also upon the alleged communications to the Respondent’s employer and the occurrence dated **13.10.2015**, which was supported at the pre-summoning stage by CW-2 and CW-3.

22. The plea of limitation also does not merit acceptance. The complaint



itself pleads that the Respondent acquired knowledge of the incident dated 13.10.2015 through his colleague in the first week of November 2015. The complaint was instituted in October, 2018. Thus, even proceeding on the Petitioners' submission that the applicable period is three years, the complaint cannot be held to be *ex facie* barred by limitation.

23. Therefore, the learned Revisional Court proceeded on the basis that whether the Petitioners' case was covered by the Ninth Exception could only be determined after the parties had led evidence. However, in terms of *Iveco (supra)*, the said proposition cannot be stated in absolute terms, as an Exception may be considered at the threshold where the material before the Magistrate itself discloses a "*complete defence*". The present case does not fall in that category. The plea of good faith raised by the Petitioners requires evidence and must, therefore, be determined by the learned Trial Court.

24. Accordingly, no ground is made out for interference with the orders dated 24.01.2020 and 27.03.2021 or with the judgment dated 30.11.2023. The present petition is, accordingly, dismissed. Pending application(s), if any, are also disposed of.

25. All defences available to the Petitioners, including the defence under the Ninth Exception to Section 499 IPC, are left open to be urged before the learned Trial Court and shall be determined on the basis of evidence, uninfluenced by the observations made herein.

26. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

AUGUST 7, 2026/prg/m