

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**(1)**

**CRM No.M-12372 of 2016 (O&M)**

Aroon Purie and another

...Petitioners

Versus

Sukhbir Singh Wahla

...Respondent

**(2)**

**CRM No.M-12428 of 2016 (O&M)**

Rahul Kanwal and another

...Petitioners

Versus

Sukhbir Singh Wahla

...Respondents

**Date of Decision: January 17, 2017**

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Anup Bhambhani, Senior Advocate with  
Mr.Prasouk Jain and Mr.Karan Sinha, Advocates  
for the petitioners (in CRM No.M-12372 of 2016).

Mr.Akshay Bhan, Senior Advocate with  
Mr.H.P.S.Sandhu, Advocate and  
Mr.J.S.Bedi, Senior Advocate with Mr.Rohit Sud, Advocate  
for the petitioners (in CRM No.M-12428 of 2016).

Mr.R.K.Handoo and Mr.Aditya Chaudhary, Advocates  
for the respondent.

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**INDERJIT SINGH, J.**

Petitioners have filed these petitions under Section 482 Cr.P.C.

for quashing of criminal complaint No.61 dated 08.08.2014 instituted at the

instance of complainant-respondent for offences punishable under Sections 500, 501, 502, 120-B IPC along with all the subsequent proceedings emanating therefrom including the summoning order dated 12.09.2014 passed by learned Judicial Magistrate Ist Class, Gurdaspur.

Notice of motion was issued and learned for the respondent appeared and contested the petitions.

From the record, I find that Sukhbir Singh Wahla, Chairman, Sugarfed, Punjab, Advisor Core Committee Youth Akali Dal (B), Punjab-complainant filed the complaint against Aroon Purie, Chairman and Managing Director, T.V. today, Network, Ashish Bagga, Group CEO, The India Today Group, Rahul Kanwal, Editor, The India Today Group and Manaman Singh Chhina, Correspondent, Headlines Today, under Sections 500, 501, 502 and 120-B IPC. Learned JMIC, Gurdaspur, vide impugned order dated 12.09.2014 summoned all the accused in the complaint. The brief facts of the complaint as noted down in the impugned order passed by learned JMIC, Gurdaspur, are as under:-

*“1. Brief facts of the complaint are that complainant was enrolled as member of Shiromani Akali Dal (Badal) in the year 1987. He was appointed as President Youth Akali Dal (Badal), Gurdaspur in December 2002 and remained till 2011. The complainant was appointed as Chairman Punjab Sugarfed in the year 2011 and still discharging the function. The complainant and his family attached with the policies of Shiromani Akali Dal (B) and they follow the political agenda of the party. The complainant is also running business under the name and style of Wahla Dehri at Batala. Accused no.1 is Chairman & Managing Director T.V. Today Network Limited & Living Media India Limited (Its owns Headlines Today) whereas accused no. i.e. CEO of THE INDIA TODAY GROUP which controls and globally broadcasts News Channel HEADLINES TODAY, accused no.3 is the Editor and accused no.4 is the local Correspondent of the News Channel HEADLINES TODAY. The above news channel has wide transmission all over the India including the State of Punjab. All the accused persons in connivance with each other on 12-*

06-2014 at around 10.00 AM, had aired a news Programme as 'CENTRE STAGE AKALIES SHIELDING DRUG LORD'. This programme containing defamatory material was aired by the accused in news channel headlines today has lowered down the reputation of the complainant. All the accused presented a false and fabricated report to defame Shiromani Akali Dal and its leaders in the eyes of general public. Sh.Manaman Singh Chhina accused no.4 proclaimed that "it is a common knowledge that drug trade in Punjab has political backing" without quoting the source of his knowledge. It is evidence that all the accused were bent on telecasting a false and malicious report, thus in connivance with each other and by entering into criminal conspiracy hatched with each other. The accused had procured a bogus report to suggest that 73.5% of the youth in Punjab is addicted to drugs without indicting the sample and size and manner of survey. Sh.Rahul Kanwal accused no.3 further proclaimed that the incidents of drug are highest in Punjab in comparison with any other State in India. The programme broadcasted by the accused has brought disrespect to the entire youth of Punjab. Mr.Ashish Baggar, CEO accused no.2 became a willing partner in this conspiracy and his complicity can be judged from the fact that his false and fabricated news report was aired on the Prime Time Programme Centre State. It is well settled law that the owner/CEO is equally responsible under Section 501 of IPC for the misadventures of the Reports. Sh.Rahul Kanwal accused no.3 had proclaimed that Mr.Bikram Singh Majithia (Cabinet Minister and Senior Leader of Shiromani Akali Dal, who is a very close friend and colleague of the complainant) is the kingpin of the drug trade. It is worthwhile to mention here that his name is not figured in any FIR or Charge-sheet, the senior leaders of Congress Party had filed writ petitions in the Hon'ble Punjab and Haryana High Court seeking his intervention to include the name of Sh.Bikram Singh Majithia in the FIR but this did not find favour with the Hon'ble High Court. All the accused through the news report aired on the Channel HEADLINES TODAY have levelled such imputations on the senior leaders of Shiromani Akali Dal on the basis of impudent presumptions which do not have an iota of truth. Actuated by their own self interest, all the accused have indulged in character assassinations of senior leaders of Shiromani Akali Dal including its Presidents and Patron which has immensely damaged the eminent reputation of the complainant in the eyes of public. The complainant was to do a lot of explaining, some of his friends have even severed ties with him on the basis of this defamatory programme. The level of contumelious reporting of the accused can be judged from the fact that Mr.Naresh Gujral Member of Parliament of Shiromani Akali Dal confronted Mr.Rahul Kanwal accused no.3 that "are you suggesting that my Government is promoting it". Mr.Rahul replied that "Government is actually

*in cahoots with the Drug Mafia". Thus clearly indicates the complicity of all the accused in this conspiracy. All the accused were fully aware that this news item is nothing but an act of fiction, still they aired this programme containing defamatory matter in their channel without least justification. This news item aired in their channel does not have any substance and all the imputations are far from truth. Though as held by the Supreme Court of India in number of cases that the journalism do not enjoy any special privilege and have no greater freedom than others to make any imputation or allegations sufficient to ruin the reputation of the citizen and the journalists are not in better position than any other person and as such they are not all liberty to publish any scandalous or defamatory statement in the newspaper which can ruin the reputation of others. The complainant has been facing great turmoil and agony because of the telecast of derogatory and defamatory news. Programme as "CENTRE STAGE AKALIES SHIELDING DRUG LORDS" Programme in "HEADLINES TODAY" on 12-06-2014 around 10.00 by the accused persons. On 15-07-2014 Jagdev Singh son of Iqbal Singh resident of village Kailey Kalan, Tehsil and District Gurdaspur and Satbir Singh son of Harbans Singh resident of outside Kapuri Gate, Batala District Gurdaspur have confronted the complainant when he was present at Hanuman Chowk, Gurdaspur with the contents of the above said news item and informed the complainant. The complainant Jagdev Singh and Satbir Singh as well as thousands of persons of the area have viewed this defamatory news programme in the area of City Gurdaspur. In last prayed for summoning the accused."*

In the preliminary evidence, the complainant examined himself as CW-1, Jagdev Singh, as CW-2, Satbir Singh as CW-3 and tendered documentary evidence i.e. photocopy of the identity card Ex.C1 and Ex.C2 and CD as Ex.C3.

At the time of arguments, learned counsel for the petitioners argued that firstly, the present complainant has no locus to file this complaint as the complainant has nowhere been named in the telecast. Whatever is said, as per the complaint, that is against Akali Dal political party or Cabinet Minister. Section 199 Cr.P.C. provides the procedure for filing the complaint for defamation by the Cabinet Minister, therefore, the

present complainant cannot file the complaint for the defamation of the Cabinet Minister. He next argued that the political party have so many workers and members, in not a determined, definite and identifiable body. So, the proceedings at the instance of an individual member of a party, are not tenable as he has not been individually defamed. Learned counsel for the petitioners also contended that in the complaint, complainant himself says that he was enrolled as member of Shiromani Akali Dal (Badal) and also remained President of Youth Akali Dal, Gurdaspur and he was appointed as Chairman, Punjab Sugarfed and the complainant and his family are attached with Shiromani Akali Dal and they follow the political agenda of the party to the core of their heart. Learned counsel for the petitioners argued that learned Judicial Magistrate did not apply its mind to the facts of the case and summoning order has been passed in routine. The Magistrate has not applied mind, as to under which Section, if at all, the accused are to be summoned and accused have been summoned without discussing the preliminary evidence as well as the offences as to how these have been committed. He further argued that there is no concept of vicarious liability in the criminal law and even if it is taken that offence has been committed, then that has been committed by the Company and Company has not been made a party in the present case. Learned counsel for the petitioners next argued that the filing of the present complaint is nothing but abuse of process of law as the complainant has no locus standi to file the complaint and therefore, prayed that the complaint as well as subsequent proceedings be quashed.

On the other hand, learned counsel for the respondent-

complainant argued that the complainant has locus standi to file the

complaint as he being one of the active member of the political party, against which the defamatory statement has been published/telecasted and has every right/locus to file the complaint. He next argued that complainant is also having close relations with the Minister and even in that way, the complainant has been defamed. He further argued that learned Magistrate after discussing the facts of the case, has applied the mind and summoned the accused. He argued that there is no set of proforma as to how the order or judgment is to be written. Learned counsel for the respondent-complainant further contended that there is dispute regarding the facts, which are to be determined by the trial Court, therefore, proceedings cannot be quashed by this Court at this stage. He argued that the petitioners are at liberty to raise all the points before the trial Court. Therefore, he contended that there is no ground for quashing of the criminal complaint.

After hearing learned counsel for the parties as well as learned State counsel and after going through the record, I find that Section 199 Cr.P.C. provides as under:-

***199. Prosecution for defamation.***

*(1) No court shall take cognizance of all offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by, the offence:*

*Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the court, make a complaint on his or her behalf.*

*(2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Government of a State, the Administrator of a Union territory or a Minister of the*

*Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.*

*(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.*

*(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction.*

*(a) Of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;*

*(b) Of the State Government, in the case of any other public servant employed in connection with the affairs of the State;*

*(c) Of the Central Government, in any other case.*

*(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.*

*(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.*

The perusal of the above provision shows that the Court shall not take cognizance of an offence punishable under Chapter XXI of the IPC, except upon a complaint made by some person aggrieved by the offence. As already discussed, the present complainant is neither named in the alleged defamatory statement nor directly connected with the alleged defamatory statement. Secondly, as regarding the fact that complainant is a close associate of the Cabinet Minister, that is no ground to file the complaint on his behalf. Section 199(2) Cr.P.C. specifically provides that when the defamation is made to a public servant or Minister of State etc.,

then only the Court of Session may take the cognizance of such offence,

without the case being committed to it, upon a complaint in writing made by the Public Prosecutor and for that also, previous sanction of the government is required and complaint is to be made within six months. Therefore, this argument of learned counsel for the respondent has no merit and the complainant has no right to file defamation complaint being associate of the Cabinet Minister or on the ground that Cabinet Minister has been defamed. For defamation of a Cabinet Minister for discharging official functions, there is totally a separate procedure for filing the complaint and taking cognizance by the Court of Session with the sanction of the government etc.

Now, the only disputed point in the present case is, if any defamatory statement has been given against a political party, whether worker of that political party can be treated as defamed and has locus to file the complaint. The answer to this question has been given in the judgment passed by the Hon'ble Calcutta High Court in ***CRR No.1856 of 2009 decided on 13.10.2015 titled as Kalyan Bandyopadhyay vs. Mridul De***, in which it is held as under:-

*5. From the aforesaid statements imputed to the petitioner it is clear that his tone and tenor was contemptuous and irreverent towards the then Chief Minister of West Bengal Mr. Buddhadeb Bhattacharyya in particular, and to a lesser extent also towards the CPI (M) which was the ruling party at the relevant time. The highlighted portions of the statements quoted above are per-se indecent, vulgar and defamatory specifically towards Mr.Bhattacharyya, the Chief Minister. Also, the language used is Unparliamentary, coming ironically from someone introducing himself as a “sitting Parliamentarian”, as noted in Para 2 earlier.*

*6. It has however been contended that the complainant is not the “aggrieved person” when the complaint itself clearly makes out the case that the entity against whom the alleged defamatory or derogatory statements were made is a political party [CPI (M)] which is not a ‘determinate, definite and identifiable body’, and so the proceedings at the instance of an individual member of the party are not tenable as he has not*



*been individually defamed.*

*7. It has also been contended that the only identifiable person of the party happens to have be Mr. Buddhadeb Bhattacharya, who at the relevant time was the Chief Minister of the State of West Bengal, on account of which criminal proceedings at the instance of a private party for his alleged defamation are statutorily barred U/S. 199 (2) & (4) of the Cr. P.C.*

*8. In “Krishnaswami Vs. C.H. Kanaran” reported in LAWS (KER)-1970-9-3/TLKER-1970-0-133, which was also in relation to a complaint of defamation of the same political party, i.e., the Communist Party of India (Marxist), the High Court of Kerala had held-*

*“If a well-defined class is defamed, each and every member of that class can file a complaint. So, it follows that the defamatory words must reflect or refer to some ascertained and ascertainable person and that person must be the complainant. Where the words reflect on each and every member of a certain number or class, each and all can sue. But, this principle depends upon the determination of the number of persons of the class. A large body of men, the numerical strength of which is not known, nor could it be computed with any amount of precision, it cannot be said that each and every member of that group of persons constitution, such as a political party, each member of that party can be said to be defamed if the political group, such as the Marxist Communist Party is imputed with any libelous imputation.*

*On a review of the above decisions, it would be his difficult, in the circumstances of the present case, to say that the complainant, Sri C.H. Kanaran has been defamed on account of the present publication. It is sure that pws. 2 to 4 have deposed that when they read the news item they understood it that it referred to Sri C.H. Kanaran. That is because pws. 2 to 4 knew the complainant as a member of the Marxist Communist party and not because he was a person referred to in Ext. PI (b). if an indefinite and indeterminate body as the Marxist Communist Party or Marxists or leftists as a collection of persons as such are defamed, the fact that the collection of persons as such being an indeterminate and indefinite collection of body, it could not be said that each and every member of that body could maintain an action under S. 500 IPC., unless the complainant was referred to as a person who had been defamed under the imputation. In the relevant imputation, apart from the fact that the Secretary of the Marxist Communist Party had been defamed, the consequence of which will be considered by me at a later stage, it could be said on the evidence on record that there had been no defamation of the complainant as a member of a large body of*

*the Marxists or Leftists belonging to the Marxist Communist Party, either of India as a whole, or much less of the Kerala State. Therefore, Sri C.H. Kanaran is not competent to file a complaint as a member of the Marxist Communist Party on the basis that the party or the Marxists had been defamed as he was not able to point out that he was the person against whom the imputation was levelled in Ext. P1 news item. (Emphasis added).*

*On a consideration of the above decisions, I am of the opinion that it would not be possible to say whether the imputation is alleged against Sri C.H. Kanaran or Sri P. Sundarayya. When there was another person of the description of the person in the imputation, it would not be possible to say who the person was referred in the news item referred to above. The evidence showed that Sri P. Sundarayya was as much involved as Sri Kanaran in the activities of the Marxists Party in Kerala. On a consideration of the evidence on record, I am of the opinion that the case of the complainant would not improve even if the proceeding is sent back to the trial court for continuation of the trial. Assuming that the allegation in Ext. P1 (b) is against the Marxists or Leftists of Kerala, even then I am of the opinion that the complainant. Sri Kanaran cannot be pointed out as one among the large body of Marxists or Leftists of Kerala to have been defamed on account of the instant publication. It was not also possible for him to show conclusively that he was the person referred to as the General Secretary, when it was conceded by all the witnesses in the case that there was another person, who has satisfied the description of a General Secretary of the Marxist Communist Party of India, who had been defamed, it would not be worthwhile for remanding the case to the trial Magistrate to frame charge against the revision petitioner. I find, therefore, that no case against the 1st respondent, printer and publisher of the Indian Express was made out so as to frame charges under S. 500 and 501 IPC.”*

That Court in the above judgment further discussed the law laid down in ***G.Narasimhan, G.Kasturi and K.Gopalan vs. T.V.Chokkappa, AIR 1972 SC 2609, Balasaheb Keshav Thackeray vs. State of Maharashtra and another, 2003(1) Mh1j 775, Ganesh Nand vs. Swami Divyanand, 1980 Cri.L.J 1036, Vijay vs. Suresh, 2000(2) Mh.L.J. 990 and Dhirendra Nath Sen and another vs. Rajat Kanti Bhadra, AIR 1970 Calcutta 216***, and held as under:-

*“12. In the present case the allegation is that the petitioner by his derogatory statements caused defamation of the Communist Party of India (Marxist). The only identifiable member of that particular political party in the entire complaint happens to be Mr. Buddhadev Bhattacharya, the Chief Minister of West Bengal at the relevant time. Undoubtedly the highlighted statements of the petitioner are indecent, vulgar and derogatory. However there is a Statutory bar under section 199 (2) & (4) of the Cr.P.C for prosecution for the offence of defamation against the Chief Minister of the State at the instance of a private complainant. Under these provisions taking of cognizance in relation to the offence of defamation against certain specified Office holders and Public Servants including a Minister of the Union or of a State (which naturally includes a Chief Minister as well) without the previous sanction of the State Government is not permissible. The only exception in this regard is taking of cognizance of such offence by a Court of Session, and that too only upon a complaint made in writing by the Public Prosecutor. But in this case neither the complaint was filed after obtaining sanction from the State Government, nor was the cognizance taken by any Session Court. Consequently the proceedings so far as they relate to the alleged defamation of the Chief Minister of West Bengal at the relevant time are clearly unsustainable on account of the Statutory bar under section 199 (2) & (4) of the Cr.P.C.*

*13. Regarding the alleged defamation of the political party, this Court, in relying on the citations referred above, is in respectful agreement with the decision of the Kerala High Court that the Communist Party of India (Marxist) is not a determinable, definite or identifiable body or association of such nature that each and every member of the same stands to get individually defamed when an insinuation is made against the party as a whole. The Complainant therefore cannot be held to be defamed individually, and consequently is not an “aggrieved person” in the given case. On this count also therefore the complaint filed in the court of the Ld. Chief Metropolitan Magistrate would be untenable.”*

The above judgment fully apply to the facts of the present case.

The political party in this case is not determinable, definite or identifiable body or association of such nature that each and every member of the same stands to get individually defamed when any defamation is made against the political party as a whole. Therefore, the complainant cannot be held as a

defamed/aggrieved person.

Learned counsel for the respondent cited judgment passed by the Hon'ble Supreme Court in *John Thomas vs. Dr.K.Jagadeesan, 2011 (6) SCC 30*. I have gone through this cited judgment and the same having distinguished facts will not apply in the present case as in that case, the imputations were leveled against a reputed hospital and the Director of the hospital complained for defamation. Learned counsel for the respondent also cited judgment passed by the Hon'ble Supreme Court in *G.Narasimhan, G.Kasturi and K.Gopalan vs. T.V.Chokkappa, 1972 (2) SCC 680*. I have gone through above cited judgment also and in which, the Hon'ble Supreme Court has not decided whether the political party is determinable or identifiable body. Therefore, this cited judgment is of no benefit to the respondent.

In view of the above discussion, I find that the complainant-respondent has no locus to file the present complaint and he does not fall in the category of person aggrieved, so he cannot file the complaint and filing of the present criminal complaint is nothing, but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in both the petitions, the same are allowed. The criminal complaint No.61 dated 08.08.2014, summoning order dated 12.09.2014 passed by learned JMIC, Gurdaspur and all other subsequent proceedings arising therefrom, are hereby quashed.

**January 17, 2017**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**