

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

1. CRM-M No.30878 of 2015 (O&M)  
Date of Decision: 01.06.2017

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| Varinder Singh<br>Vs<br>Bikram Singh Majithia | .....Petitioner<br><br>...Respondent |
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2. CRM-M No.30999 of 2015

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| Raj Chenagappa<br>Vs<br>Bikram Singh Majithia | .....Petitioner<br><br>...Respondent |
|-----------------------------------------------|--------------------------------------|

3. CRM-M No.35829 of 2015

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| The Tribune Trust<br>Vs<br>Bikram Singh Majithia | .....Petitioner<br><br>...Respondent |
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**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. N.B. Joshi, Advocate and  
Mr. Manu K. Bhandari, Advocate  
for the petitioner(s).

Mr. R.K. Handoo, Advocate  
Mr. D.S. Sobti, Advocate and  
Mr. Manish Shukla, Advocate  
for the respondent.

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**RAJ MOHAN SINGH, J.**

[1]. Vide this common order CRM-M Nos.30878, 30999 and 35829 of 2015 are being decided as these petitions have arisen out of similar controversy.

[2]. Petitioners have filed the present petitions under Section 482 of the Code of Criminal Procedure for quashing criminal complaint No.105 dated 27.04.2015 under Sections 500, 501, 502, 120-B IPC and order dated 27.07.2015 vide which the petitioners have been summoned to appear as an accused in the aforesaid case.

[3]. Since common question of law and facts are involved in these petitions, therefore, facts are being taken from CRM-M No.30878 of 2015.

[4]. Brief facts are that the respondent filed a complaint under Section 190 Cr.P.C. for the offence under Section 499 IPC read with Section 500, 501, 502, 120-B IPC with the allegations that news item dated 25.11.2014 captioned as “**All Powerful Minister Majithia and his three NRI Musketeers**”, news item dated 11.03.2015 captioned as “**Majithia collected money from three NRIs, says ED Probe**” and news item captioned as “**Majithia in the Soup?**” got published by the accused respondents in the daily newspaper 'The Tribune' were defamatory and were published by the accused intentionally without any due care and caution knowing fully well that the imputations contained in the news item were false, frivolous and defamatory. Respondent/complainant alleged that the accused/respondents got the news published thereby making

allegations that the complainant had links with the international drug *mafia*/operatives. The use of words and sentences in the aforesaid publications were intentionally made so as to sensationalize such defamatory publication. The captioned news items were intended to portray that the complainant was patronizing Canada based NRIs as drug peddlers whenever they visited India on their '*pseudoephedrine procurement jaunt*'. The publication has portrayed the complainant in a very poor light by alleging a Syndicate of international drug operatives being close links with the persons named in the news items.

[5]. Complainant further alleged that the tone and tenor of the publication were only to portray the complainant as head of a Syndicate allegedly operating drug peddling racket. In order to give flavour to the imputations, cut out picture of the complainant was also pasted on the news item without the consent of the complainant in order to magnify the intensity and impact of such portraying. In order to cause extreme harm in political career of the complainant, the use of words like '**Musketeer**' and '**Soup**' made the news so catchy and scandalous that the complainant was shown in an extreme poor light in the eyes of his friends and well wishers. Such ridiculous and extreme defamatory publications had created impediment in the discharge of public functions by the complainant as

Revenue Minister of State of Punjab. The publications were made without any verification of fact and were intended to disclose the complainant by artificially giving semblance of coherence to disjoint and false facts, with the intention to lower the image of the complainant in the estimation of his friends, supporters and public at large. The publications have demolished the clean image of the complainant and as a result of such publications, many persons called the complainant from all walks of life after believing the malicious news to be true. Complainant felt imminent threat of disassociation of those persons in terms of his political career and suffered an irreparable loss of personal, social and political reputation.

[6]. The cumulative assertion of defamatory publications alleged by the complainant is reproduced hereasunder:-

***“....All powerful Minister Majithia and his three NRI Musketeers.”***

***“Majithia 'Collected money' From 3 NRIs, says ED probe. Varinder Singh, Tribune News Service, Chandigarh/Patiala***

*Punjab Revenue Minister Bikram Singh Majithia, who is in the eye of a storm for his alleged links with “international drug operatives” and for “accepting” Rs.35 lakh as “election fund” from an alleged synthetic drug kingpin Jagjit Chahal, also “used to collect money” in Canada from three*

*NRIs – Satpreet Satta, Amaninder Laddi and Parminder Pindi.....It is investigating and zero-ing in on the exact role of the three Canada based NRIs in the laundering of drug money, if any. Sensational disclosures about Majithia have been made by Amritsar based businessman Jagjit Singh Chahal, who was arrested in Nov. 2013, and Maninder Singh Bittu Aulakh, former SAD treasurer (Amritsar Rural) who was arrested by the ED under the Prevention of Money Laundering Act (PMLA), in their duly signed statements given to the ED.*

*The investigating agency has, in turn, submitted these as part of the charge sheets in the Patiala-based PMLA Court. The Tribune has in its possession attested copies of statements of Chahal and Aulakh, which were given to ED. Chahal, who owned three pharma companies in HP along with other business in Amritsar and Jalandhar, is currently out on bail. Aulakh, arrested under Section 19 of the PMLA, is lodged in Nabha Jail.*

*Responding to an ED question whether Majithia had asked him to sell pseudoephedrine to Pindi and Satta, Chahal said, “Majithia had directed me to sell pseudoephedrine to them, but he did not sell the drug to them for we did not have the stock at that time.”*

*When ED sleuths asked Chahal if Majithia used to meet Satta and others and if he got any money from them during his frequent Canada trips, Chahal said, “I know Majithia used to take money*

*from people in Canada.”*

***Majithia in the soup?***

*The sensational content of these statements clearly indicate that Majithia “patronized Canada – based NRIs Satpreet Satta, Amaninder Laadi and Parminder Pindi.*

*These NRIs, according to Chahal's confession before the ED, used to stay at Majithia's Amritsar and Chandigarh – based private and official residence, respectively, whenever they visited India on their “pseudoephedrine procurement jaunt”. In a statement on February 9, Chahal said, “From 2007 to 2012, I gave about Rs.35 lakh to Majithia, who is a minister in the Punjab Government, I had given him the amount in bits and parts as Majithia was in need of money for his election.”...*

*.....In the same statement, Chahal has also admitted that the three NRI's had come to him for procuring pseudoeophedrine. “Bittu Aulakh told me that Bikram Majithia has directed that we have to help these three people.” said Chahal in his confessional statement. Drug lord and former Punjab police DSP Jagdish Bhola had revealed the alleged links of the trio with Majithia during his January 23-24, 2014 interrogation...*

***...Given as Poll fund***

*On handing over Rs.35 lakh to Majithia in parts, Chahal confessed, “I personally gave Rs.35 lakh to Majithia in 7-8 parts in the drawing room of his Amritsar house.” Before heading for Bikram's*

*residence, I used to fix the meetings with him through his personal assistant Kartar Singh.”*

### ***Satta Accompanied Majithia***

*“Satpreet Satta used to stay at Majithia's Amritsar house and at his official residence at Kothi No.362, Sector 39 Chandigarh. He used to accompany Majithia wherever he went. Satpreet had coordinated with various people for Majithia's 2007 Vidhan Sabha poll campaign.” said Maninder Singh Aulakh in his January 13 statement before the ED.*

### ***Links with NRI trio***

- *Alleged drug lord and former Punjab Police DSP Jagdish Bhola had revealed the alleged links of the Canadian NRIs-Satpreet Satta, Amaninder Laadi and Parminder Pindi – with Majithia during his January 23-24, 2014 ED interrogation.*
- *The statements by businessman Jagjit Chahal and SAD ex-treasurer Maninder Aulakh before the ED clearly indicate that Majithia “patronized the Canadian NRIs.”*

[7]. The complainant claimed that the accused persons have by such publications demolished the political and social image of the complainant. The complainant was left with no option but to issue two legal notices by registered post and vide

e-mail dated 24.12.2014 and 22.03.2015 against the news reporting. The accused did not respond to the notices, however accused No.2 gave a reply to the notice dated 22.03.2015 in a vague and offensive manner. With these allegations complaint in question came to be filed against the accused namely The Tribune Trust, through its Authorised Representative, Sh. Raj Changappa, Editor-in-Chief, The Tribune and Sh. Varinder Singh, Correspondent of the Tribune, Tribune News Service.

[8]. In order to support his case, complainant himself appeared as CW-1 and also examined Rajinder Mohan Singh Chhina as CW-2, Col. Mandeep Singh as CW-3 and Rajdeep Singh Uppal as CW-4. Thereafter complainant closed his preliminary evidence.

[9]. While appearing as CW-1, complainant by referring to the story/publications dated 25.11.2014 and 11.03.2015 originals of the news papers i.e. Ex.C-2 and Ex.C-3 respectively, submitted that the publications were *per se* derogatory and defamatory and the words used therein were intentionally used so as to sensationalize the defamatory assertions against the complainant in a well planned conspiracy. The publications were made with photograph of the complainant without his consent. The tone and tenor in which such publications were made were only to portray the complainant intentionally as head of a

Syndicate of alleged drug peddling racket.

[10]. The trial Court on the basis of *prima facie* material passed order dated 27.07.2015, summoning the petitioner and others under Sections 500, 501, 502, 120-B IPC.

[11]. Feeling aggrieved against the complaint and the summoning order, petitioners have filed the present petitions on the ground that the petitioner-Varinder Singh is the Principal Correspondent of the Tribune and was assigned the job of covering the news regarding respondent. Petitioner tried his level best to get in touch with the respondent in order to know his version, but he could not receive any response from the respondent. The respondent himself held press conference on 10.03.2015. The story shown in Annexure P-1 was the combined result of the news item towards left hand side and the press conference coverage towards right hand side. The press conference was held after publication of the news item. The story covered by the petitioner came to be published in the newspaper on 11.03.2015.

[12]. Learned counsel for the petitioner(s) submitted that the publication was made after due care and caution and was in public good. The publication was a fair, balanced and was the result of objective reporting of an issue having public

importance. Such faithful reporting by the petitioner without there being any *mens rea* would be protected under Ninth Exception to Section 499 IPC.

[13]. Learned counsel further submitted that the preliminary evidence adduced by the complainant was not sufficient to summon the petitioners. Freedom of speech and expression in a *bona fide* manner is protected under Article 19 of the Constitution of India as well as under Exception 1 to Section 499 IPC.

[14]. Learned counsel by placing reliance upon **N. Ram, Editor-in-Chief and publisher of 'The Hindu' and others vs. Rashtriya Swayamsewak Sangh, Haryana Prant, though its Prant Sangh Chalak and another, 2012(3) RCR (Criminal)** 161 contended that the act of the petitioners was protected under Article 19(1)(a) of the Constitution of India as well as under the Exceptions to Section 499 IPC. The filing of criminal complaint was the result of misuse and abuse of process of the Court. The true version based on statements before the Enforcement Directorate concerning the petitioner was for public good and it was incumbent on the part of the complainant to *prima facie* prove that the accused/petitioners have intentionally published the news with the intention to harm the reputation of the complainant.

[15]. On the other hand, learned counsel for the respondent submitted that the issue of *mens rea* on the part of the accused is a question of fact that can be proved by leading evidence before the trial Court. The complainant has disclosed all the necessary ingredients of the offence. At this preliminary stage, there cannot be any meticulous examination of allegations with reference to *prima facie* nature of the offence, only a *prima facie* case is to be seen and the Court will not be justified to quash the complaint at this stage as it is not the province of the Court to appreciate the scope of likely evidence. The evidentiary value of the statements of the persons would be gone into by the trial Court at the relevant stage.

[16]. Learned counsel further submitted that at this stage the Court cannot embark upon the evidence of the parties to hold whether or not the allegations made in the complaint, constitute the offence punishable under Section 500 IPC. The Magistrate has *prima facie* come to the conclusion that the allegations *prima facie* constitute offence in terms of Sections 500, 501, 502, 120-B IPC and the cognizance has been taken. Learned counsel placed reliance upon **Shatrughna Prasad Sinha vs. Rajbhau Surajmal Rathi and others, (1996) 6 Supreme Court Cases 263.**

[17]. In order to create dent in the case of the petitioner(s),

learned counsel referred to the statement of fact recorded in the news (Annexure P-1) with reference to the questions and answers in the statement of Maninder Singh Aulakh @ Bittu Aulakh in the following manner:-

*“Q:- Do you know Jagjit Singh Chahal of Amritsar if yes what is your relationship with him and state whether you introduced Satpreet @ Satta and Parminder Singh @ Pindi to Jagjit Singh Chahal if yes what was discussed with Jagjit Singh Chahal. Whether any matters of pseudo-ephedrine drug was discussed by Satpreet Singh @ Satta and Parminder Singh @ Pindi with Jagjit Singh Chahal?”*

*Ans. Yes I know Jagjit Singh Chahal from 1998 he is in the business of re-trading and sale of MRF tyres and running pharmaceutical companies in Himachal Pradesh and he is my friend from many years. Yes I introduced Satpreet Singh @ Satta and Parminder Singh @ Pindi to Jagjit Singh Chahal at his office of re-trading plant near Tarewal Pull at Amritsar in December, 2009. Satpreet Singh @ Satta and Parminder Singh @ Pindi discussed regarding doing export of human used medicines and vet medicines to Canada from India. No matter of pseudo-ephedrine drug was discussed by Satpreet Singh @ Satta and Parminder Singh Pindi in my presence.*

*Q:- How much transaction of money had taken place for dealing in pseudo-ephedrine between Jagjit Singh Chahal and Satpreet Singh Satta and*

*Parminder Singh Pindi and also state whether Bikram Singh Majithia was having knowledge of these transaction?*

*Ans. I do not know any details of transactions for supplies of any pseudo-ephedrine by Jagjit Singh to these Canadian persons, but these Canadian persons had met Jagjit Singh Chahal for this and work and this was in the knowledge of Bikram Singh Majithia, money transactions had been hidden from me."*

[18]. Learned counsel further referred to the answers given by Jagjit Singh to the questions in the following manner:-

*"Q:- Whether the raw material which was recovered from your factory, the same was being used and what is the price of 1 Kg. ephedrine and pseudo-ephitrine?*

*Ans. This raw material was used to make medicine. The rate of 1 kg psudo ephitrine is Rs.2400/- and rate of ephedrine is Rs.1400/-. Our companies have the license to purchase this raw material and make these medicines. I will produce the copy within one week.*

*Q:- Whether you have any monitory transactions with Bittu Aulakh, if yes provide the details?*

*Ans. I never had any monitory transactions with Bittu Aulakh."*

[19]. By referring to the aforesaid questions and answers in the statements recorded by the ED, learned counsel contended

that the facts allegedly deposed by those persons are the subject matter of Enforcement Directorate report which would be tested by the competent Court in due course. From the statements as a whole, no concrete opinion can be drawn in respect of verification of fact and true version of the story.

[20]. Learned counsel placed reliance upon **Sewakram Sobhani vs. R.K. Karanjia, Chief Editor, Weekly Blitz and others, (1981) 3 SCC 208** and contended that it was incumbent upon the accused to prove that their case would fall within Ninth Exception to Section 499 IPC. The accused petitioners were to prove that the imputations made were in good faith and the same was for the protection of interest of the person making it or any other person or for public good. The protection under Ninth Exception to Section 499 IPC would be a defence available to the accused. The accused would prove the ingredients in his defence and discharge the burden to prove good faith which implies the exercise of due care and caution and to show that the attack on the character of the complainant was for public good. Even the truth of an allegation does not permit a justification under 1st Exception to Section 499 IPC unless it is proved to be in public good. The question whether or not it was a public good is a question of fact like any other relevant fact in issue. The assertions falling within the ambit of

Ninth Exception to Section 499 IPC i.e. to show that the attack on the character of another was for public good and was in good faith. Several questions arise for consideration, if Ninth Exception to Section 499 IPC is applied to the fact of the present case. The same follows as under:-

- (i). Whether the news item published were on account of due care and attention?
- (ii) Whether the author satisfied himself that there were reasonable grounds to believe that the imputations made by him were true?
- (iii) Whether the author acted with reasonable care, sensibility, responsibility and propriety?
- (iv) What were those steps which were taken by the author about the authenticity of the report and its contents?

[21]. Learned counsel relied upon **John Thomas vs. Dr. K. Jagadeesan, (2001) 6 SCC 30** and submitted that the question whether publication was defamatory or not would not be to the advantage to the publisher. The complaining person can establish on evidence that the publication has in fact amounted to defamation even in spite of any apparent deficiency. The Court observed that only the effect of imputations being per se is that it would revive the complainant of the burden to establish

that the publication of such imputations has lowered him in the estimation of right thinking persons from public. However, even if, the imputations are not per se defamatory that by itself would not be go to the advantage of the publisher, the complaining person can establish on evidence that the publication has in fact amounted to defamation even, in spite of the apparent deficiency.

[22]. At last learned counsel by relying upon **Subramnian Swamy vs. Union of India, Ministry of Law & Ors., 2016(2) RCR (Criminal) 840** contended that the act of the accused petitioners is not an act protected in terms of right conferred under Article 19(1)(a) of the Constitution of India. Respect for the dignity of another is a constitutional norm. The existence of criminal defamation cannot be held to be obnoxious to freedom of speech and expression.

[23]. I have considered the submissions made by learned counsel for the parties.

[24]. The offence of defamation consists of three essential ingredients namely:-

- (i) making or publishing any imputation consisting of any person;
- (ii) such imputation must have been made by the

use of words either written, spoken or visible;  
and

- (iii) such imputation must be made with an intention to cause harm or with the knowledge or having reasons to believe that it will harm the reputation of the concerned.

[25]. Defamation is a culmination of a conflict between society and individual. Fundamental right to freedom and speech of expression enshrined under Article 19(1)(a) of the Constitution of India is pitted against the right of individual to have his reputation intact. Law of limitation seeks to attain the balance between the aforesaid two competing freedoms. Every individual has a right to protect his reputation. Defamatory statements made without any lawful justification would give rise to actionable claim against such person by the aggrieved party. Freedom of speech and expression helps an individual to attain self-fulfilment. It assists discovery of truth and strengthens the capacity of an individual in participating in decision making. It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change. Such a right cannot be exercised without any lawful justification and without caring for individual right of an person.

[26]. The parameters on which complaint and the

summoning order can be quashed were laid down by the Hon'ble Apex Court in **State of Haryana vs. Bhajan Lal and Ors., AIR 1992 SC 604**, which are to the following effect:-

- “(1) *Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- (2) *Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.*
- (3) *Where the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- (4) *Where the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
- (5) *Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent*

*person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

- (6) *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- (7) *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

[27]. From the facts on record it would be highly imaginary to presume that no *prima facie* offence is made out at this stage. The defence, if any, available to the petitioners in the context of Exceptions to Section 499 IPC would be available at an appropriate time. Even the proof of an allegation does not permit a justification under 1st Exception unless it is proved to be in 'Public Good', which is a question of fact that would be proved by leading evidence at relevant stage.

[28]. The evidentiary value of the statement as referred to in the preceding part of the order would be tested during trial.

Apparently these statements were allegedly recorded by the Enforcement Directorate and are the subject matter of appreciation by the competent Court. 'Good Faith' and 'Public Good' are the questions of fact and are dependent upon the evidence and trial would be required in any case.

[29]. Having considered the submissions of the parties, in the light of aforesaid legal position, I am of the view that no case is made out for quashing of the complaint No.105 dated 27.04.2015 and summoning order dated 27.07.2015 passed by the trial Court.

[30]. All the three petitions are accordingly dismissed.

June 01, 2017

*Atik*

**(RAJ MOHAN SINGH)**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No