

\* SMT JUSTICE T. RAJANI

+ CRIMINAL PETITION Nos.1948 and 1949 of 2011

% 22.01.2018

# Trade Wings Ltd., rep. by its Director and others

... Petitioners

Vs.

\$ Mrs.Usha Boppana and another

... Respondents

! Counsel for the petitioners: SRI C.SHARAN REDDY

Counsel for the Respondents: SRI GURRAM PEDDA BABU (R1)  
PUBLIC PROSECUTOR (R2)

< Gist :

> Head Note:

? Cases referred:

1. (2016) 7 SCC 221
2. (2001) 6 SCC 30
3. (2010) 5 SCC 600: (2010) 2 SCC (Cri) 1299
4. (2000) 7 SCC 552
5. (1972) 2 SCC 680:1972 SCC (Cri) 777



In the High Court of Judicature at Hyderabad  
for the State of Telangana and the State of Andhra  
Pradesh

CRIMINAL PETITION Nos.1948 and 1949 of 2011

Between:

Trade Wings Ltd., rep. by its Director and others

... Petitioners

and

Mrs.Usha Boppana and another

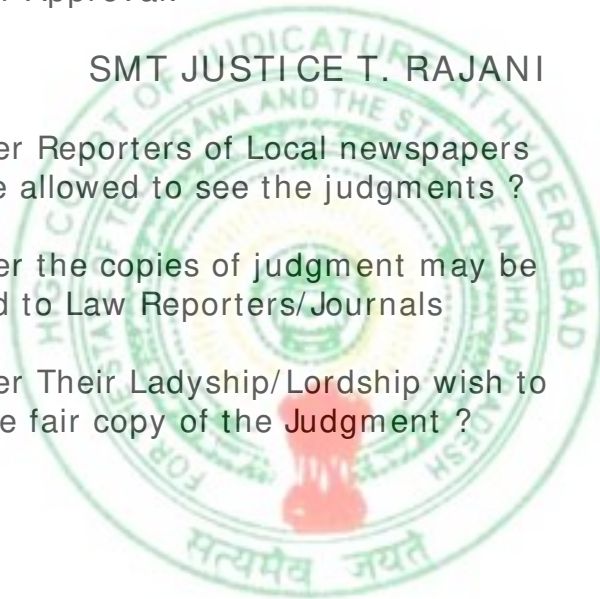
..Respondents

Date of Judgment Pronounced: 22.01.2018

Submitted for Approval:

SMT JUSTICE T. RAJANI

1. Whether Reporters of Local newspapers may be allowed to see the judgments ? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? Yes/No



SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.1948 and 1949 of 2011

COMMON ORDER:

The above two petitions are taken up for common consideration, as the basis for filing of the complaints, in the two cases, is the same. The complainants in the above two petitions are respectively the shareholder and the director of Tulip Hotels Private Limited against which allegedly a defamatory statement was made by the petitioners herein. They are husband and wife too.

2. These petitions are filed seeking for quash of the proceedings in C.C.No.344 of 2009 and C.C.No.753 of 2009 on the file of XVII Additional Chief Metropolitan Magistrate, Hyderabad, which were numbered after taking cognizance on the basis of the complaints filed by the 1<sup>st</sup> respondent in the above two petitions.

3. Before advertng to the arguments extended on either side, it would be beneficial to refer to the averments in the complaints, which are as follows:

The complainants are one of the Directors and a Shareholder, respectively, in Tulip Star Hotels Leisure and Health Resorts Limited, (for brevity, "TSHLHRL"), which is a Public Limited Company. They are aggrieved by the defamatory statements made against the head of an otherwise stable corporate body of the listed group of companies, which would

culminate in having an adverse impact in the share value in the volatile share market. The complainants are as much aggrieved as the Chairman of the group of companies and since it affects the economic stake in the company vis-à-vis the share market. The complainants are one of the Directors and the shareholder respectively of the Company; Dr.Ajit B.Kerkar is the Chairman and has controlling interest in the Tulip Group of Companies and he is not only the erstwhile Chairman of Taj Group of Hotels but he is also responsible for placing Goa on the international tourism map way back in the year 1970. TSLHRL was promoted and incorporated in July, 2002, in order to promote 5-Star Holiday concepts, in the wake of the exigencies like 9/11 disaster, Indo-Pak tension, SARS, etc., which had totally collapsed the hospitality and leisure business in India, in particular. TSHLHRL is affiliated with Interval International Inc. (II), an international time share exchange company. It renovated 3 out of 21 rooms on the 1<sup>st</sup> floor of Bogmallo Beach Resort. The choice of 3 rooms was to provide the members of TSHLHRL's Holiday Club with one studio apartment and one bed room apartment and accordingly the complainant spent at Bogmallo Beach Resort, over an amount of Rs.35 lakhs for renovating the same. Nor the said amount of Rs.60 lakhs spent by the complainant, while renovating the rooms, in addition to the amount of Rs.22.70 crores already paid to Tulip group to Trade Wings Group and an amount of Rs.8.30 crores being the balance amount for 50% equity ownership of Bogmallo Beach Resort has been retained since the Trade Wings

Hotels have not completed their part of the bargain under the concluded contract.

A1 is a company engaged in the business *inter alia* of running travel agencies, money changing, cargo, owning hotels, restaurants etc. A1 holds 100% shares in A2. A2 is thus subsidiary of A1; A3 is a majority share holder of A1 and is also a Director of A1 and A2. A3 to A6 are the Directors of A1 and A2. A3 and A6 drafted the text of the defamatory matter, definitely ingrained with malice, which was published and circulated widely via electronic mail. A4 and A5 forwarded the same to A3, who then made his corrections and incorporated the same in the draft forwarded by A4 and A5. A3, A4, A5 and A6 got together, met with each other and discussed the text of the defamatory matter and approved the final defamatory note to be published and circulated via electronic mail, against the complainant. They have control over A1 and A2 and its management. The mail was circulated among persons belonging to the hotel industry, to the guests visiting the various hotels and also among other persons all over India. The said mail is as under:

“The Bogmallo Beach Resort Goa (Bogmallo) owned by Trade Wings Hotels Ltd., (TWHL) was under the management of Mr.Ajit Kerkar, Chairman/Director of Tulip Hotel Pvt. Ltd., during the period 2000-2006. During his tenure as Director, Mr.Kerkar through his group company M/s.Tulip Star Leisure & Health Resorts Ltd., has unauthorisedly sold Time shares of Bogmallo, without knowledge of TWHL. Mr.Kerkar has also siphoned off the revenue generated from the said sale of Time Shares. Consequently, after having discovered the illegal acts of Mr.Kerkar, TWHL vide their Advocate’s letter dated 27<sup>th</sup> January 2007 have terminated, effective 1<sup>st</sup> November

2006, all the understandings and arrangement with Mr.Kerkar and have also initiated criminal proceedings in the Additional Chief Metropolitan Magistrates Esplanade Court, Mumbai being 14/M of 2007, where process has been issued against Mr.Kerkar and his co-conspirators under Sections 409, 468, 471, 120B and 34 of the Indian Penal Code for Trade Wings Hotels Ltd.”

The name of Dr.Kerkar is directly associated with the Tulip Group of hotels and any attempt to harm and prejudice Dr.Kerkar's reputation, directly affects the job of the complainants, along with all top officers. Hence, the complainants sought for taking cognizance of the cases against A1 to A6 for the offences under Sections 500 r/w 499 110, 34, 120-B of the Indian Penal code.

4. Assailing the order of cognizance of the XVII Additional Chief Metropolitan Magistrate, Hyderabad, these petitions are filed on the following grounds:

- I. The 2<sup>nd</sup> petitioner is the owner of the said resort at Goa. Sudhanshu Purohit, Kanwal Sindhu and Shaunat Paingankar are all accused in C.C.No.80/SW of 2007 on the file of Additional Chief Metropolitan Magistrate, 47<sup>th</sup> Court at Esplanade, Mumbai. They have dominion and control over the said Resort. They, in conspiracy with each other and with a common intention, started a time share scheme, without the authorisation and knowledge of the 2<sup>nd</sup> petitioner company and thus created false documents and

committed forgery of valuable securities and used those forged documents as genuine, with the intention of cheating the general public and misappropriating revenues from the 2<sup>nd</sup> petitioner company. The 2<sup>nd</sup> petitioner company filed criminal case, in Case No.80/SW of 2007 against Boppana Dwarakanth (1<sup>st</sup> respondent in CrI.P.No.1949 of 2011) and five others, for the offence under Sections 409, 468, 471, 120-B r/w 34 IPC. Against the order of the learned Magistrate, dated 14.08.2008, issuing process to the petitioners, W.P.No2146 of 2009 was filed in the Mumbai High Court. The same was admitted and stay order was granted for all further proceedings in C.C.No.1577 of 2008 on the file of XVII Additional Chief Metropolitan Magistrate. However, on 20.09.2010, the Mumbai High Court dismissed the writ petition, giving liberty to the petitioners to take recourse to the remedy before the appropriate High Court. Against the said judgment, the petitioners filed SLP (CrI.) No.675 of 2011 and it was dismissed with an observation that no cause of action has arisen within the territorial jurisdiction of the Mumbai High Court. The Petitioners are hence approaching this court. There is absolutely no reference to the 1<sup>st</sup> respondent in the alleged defamatory e-mail.

Hence, the 1<sup>st</sup> respondent is not an aggrieved party. The complaint is not filed by TSLHRL nor is it filed by Dr.Ajit Kerkar. To get over the bar under Section 199 Cr.P.C., the 1<sup>st</sup> respondent in CrI.P.No.1948 of 2011 states that she is a shareholder and the 1<sup>st</sup> respondent in CrI.P.No.1949 of 2011, falsely claims to be a Director of TSLHRL. The alleged defamatory matter did not directly or for that matter remotely, concern the complainant or the company in which the 1<sup>st</sup> respondent claims to be one of the Directors and the shareholder respectively.

- II. All the petitioners are residing at the places beyond the area in which the learned Magistrate exercises jurisdiction. As such under Section 202 Cr.P.C., the learned Magistrate has to postpone the issue of process, but the Magistrate failed to do so and the same would vitiate the proceedings.
- III. The contents of the e-mail, on which the 1<sup>st</sup> respondent in these petitions based their grievance, are not per se defamatory and in fact it was a record of the proceedings of the case before the learned Additional Chief Magistrate's 47<sup>th</sup> court, Esplanade, Mumbai.
- IV. The complaints are maliciously filed with a view to pressurize the petitioners to come for a settlement. Hence, the same need to be quashed.

5. Heard the counsel for the petitioners; the Public Prosecutor appearing for the 2<sup>nd</sup> respondent; and also the counsel appearing for the 1<sup>st</sup> respondent.

6. The contentions of the petitioners' counsel, are manifold and are as follows:

➤ The first contention is that there is no proof filed by the 1<sup>st</sup> respondent in these petitions that they are one of the Directors and the Shareholder in the company respectively. In the affidavit filed by Dwarakanath Boppana, he states that he was appointed as one of the Directors of the company i.e., TSLHRSL, on 01.02.2008, by which date the alleged defamatory statement was already made by the petitioners company and hence, they cannot be termed as aggrieved persons within the meaning of Section 199 Cr.P.C; Section 199 prevents the court from taking cognizance of an offence punishable under Section 21 of the IPC, except upon the complaint made by some persons aggrieved by the offence. In support of the said contention, the counsel relies on the ruling of the Apex Court reported in *Subramanian Swamy vs. Union of India, Ministry of Law and others*<sup>1</sup>, wherein at paragraph 197 the apex court discussed about Section 199 Cr.P.C. and at paragraph 198 it explained the words, "aggrieved person". The whole paragraph is extracted hereunder for better understanding.

"198. The said provision is criticised on the ground that "some person aggrieved" is on a broader spectrum

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<sup>1</sup>

(2016) 7 SCC 221

and that is why, it allows all kinds of persons to take recourse to defamation. As far as the concept of “some person aggrieved” is concerned, we have referred to a plethora of decisions in course of our deliberations to show how this Court has determined the concept of “some person aggrieved”. While dealing with various Explanations, it has been clarified about definite identity of the body of persons or collection of persons. In fact, it can be stated that the “person aggrieved” is to be determined by the courts in each case according to the fact situation. It will require ascertainment on due deliberation of the facts. In *John Thomas v. k.Jagadeesan*<sup>2</sup> while dealing with “person aggrieved”, the Court opined that the test is whether the complainant has reason to feel hurt on account of publication is a matter to be determined by the court depending upon the facts of each case. In *S.Kushboo v. Kanniamma*<sup>3</sup>, while dealing with “person aggrieved”, a three-judge Bench has opined that the respondents therein were not “person aggrieved” within the meaning of Section 199(1) Cr.P.C. as there was no specific legal injury caused to any of the complainants since the appellant’s remarks were not directed at any individual or readily identifiable group of people. The Court placed reliance on *M.S.Jayaraj v. Commr. Of Excise*<sup>4</sup> and *G.Narasimhan v. T.V.Chokkappa*<sup>5</sup>, and observed that if a Magistrate were to take cognizance of the offence of defamation on a complaint filed by one who is not an aggrieved person, the trial and conviction of an accused in such a case by the Magistrate would be void and illegal. Thus, it is seen that the words ‘some person aggrieved’ are determined by the courts depending upon the facts of the case. Therefore, the submission that it can include any and everyone as a “person aggrieved” is too specious a submission to be accepted.”

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<sup>2</sup> (2001) 6 SCC 30  
<sup>3</sup> (2010) 5 SCC 600; (2010) 2 SCC (Cri) 1299  
<sup>4</sup> (2000) 7 SCC 552  
<sup>5</sup> (1972) 2 SCC 680; 1972 SCC (Cri) 777

The above ruling leaves space for the courts to interpret the phrase, "person aggrieved," based on the facts of the given case. Hence, it has to be tested, on the facts of this case, as to whether the alleged defamatory statement aggrieves the complainants in a manner, bringing them within the term 'aggrieved persons'.

The argument of the counsel for the 1<sup>st</sup> respondent is that, even if their entry into the company is subsequent to the defamatory statement, the defamatory statement hits at the business of the company, in which they became the Director/ shareholder and in that manner of understanding, the 1<sup>st</sup> respondents become aggrieved persons.

The said argument seems to be sound and appeals to a rational and logical mind. The argument of the petitioners' counsel that there is no proof to say that the 1<sup>st</sup> respondents are the Director/shareholder of the company, is answered, by the 1<sup>st</sup> respondents' counsel, by producing the Director's Report which mentions that the 1<sup>st</sup> respondent in CRLP No. 1949 of 2011 has joined as Additional Director with effect from 01.02.2008. The same is not refuted by the petitioners' counsel. Hence, the status of the 1<sup>st</sup> respondent in the above mentioned petition, as a Director in the company, stands proved. The status of the 1<sup>st</sup> respondent in CRLP No. 1948 of 2011 is, however, yet to be proved. But, however, the counsel for the petitioners does not contend that the record pertaining to the status of the 1<sup>st</sup> respondent have to be produced along with the complaint. Hence, leaving the

conclusion on the said aspect at that juncture, the next contention of the petitioners' counsel can be met with. It can however, based on the material brought before this court, be concluded that, if the alleged defamatory statement would amount to a defamation of the company, the 1<sup>st</sup> respondent in CRMP 1949 of 2011, would be an aggrieved person, though the 1<sup>st</sup> respondent in CRMP 1948 of 2011 will not be an aggrieved person.

➤ The second contention is that the Magistrate did not apply his mind while taking cognizance of the case and the procedure as contemplated under Section 202 is not followed and hence, the same vitiates the complaint. Section 202 specifies that the issue of process has to be postponed when the accused resides at a place beyond the area in which he exercises jurisdiction. In this case, admittedly, the petitioners are residents of an area beyond the jurisdiction of the Magistrate, who took cognizance of the cases. In that regard, the counsel relies on the same ruling cited above i.e., *Subramanian Swamy's case*, wherein incidentally it was observed, that in matters of criminal defamation, heavy burden is on the Magistracy to scrutinize the complaint from all aspects and the Magistrate has also to keep in view the language employed in Section 202 Cr.P.C., which stipulates about the residence of the accused at a place beyond the area in which the Magistrate exercises his jurisdiction and he must be satisfied that ingredients of Section 499 Cr..P.C. are

satisfied and application of mind in the case of complaint is imperative.

The ruling of the apex court reported in *Sarah Mathew vs. Institute of Cardio Vascular Diseases*<sup>6</sup> at paragraph 31 deals with the meaning of the words, “taking cognizance” and it observed that Section 202 provides for postponement of issue of process. The Magistrate may, if he thinks fit, and shall in a case where the accused is residing at a place beyond the area in which he exercises the jurisdiction, postpone the issue of process against the accused and either inquire into the case himself or direct an investigation to be made by a police officer, for the purpose of deciding whether there is sufficient ground for proceeding.

The ruling of the apex court reported in *S.R.Sukumar v. S.Sunaad Raghuram*<sup>7</sup> also refers to Sections 190 and 200 IPC and holds that “Cognizance” has a reference to the application of judicial mind by the Magistrate in connection with the commission of offence and not merely to a Magistrate learning that some offence has to be committed. Only upon examination of the complainant, the Magistrate will proceed to apply the judicial mind whether to take cognizance of the offence or not. Under Section 200 Cr.P.C., when the complainant is examined, the Magistrate cannot be said to have ipso facto taken the cognizance, when the Magistrate was merely gathering the material on the basis of which he will decide whether a *prima facie* case is made out for taking

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<sup>6</sup> (2014) 2 SCC 62  
<sup>7</sup> AIR 2015 SC 2757

cognizance of the offence or not. “Cognizance of the offence” means taking notice of the accusations and applying the judicial mind to the contents of the complaint and the material filed therewith.

The apex court in *Maksud Saiyed vs. State of Gujarat and others*<sup>8</sup>, also makes similar observations. It further observes that summoning of an accused in a criminal case is a serious matter; criminal law cannot be set into motion as a matter of course; the Magistrate has to carefully scrutinize the evidence brought on record and may even put questions to the complainant to elicit answers to find out the truthfulness of the allegations: But whether non following of the procedure would vitiate the entire proceedings or whether quashing the order issuing summons would suffice, is a question, left to be answered.

In the cogitated view of this court, the entire proceedings may not be vitiated. It is only a procedural irregularity, which can be corrected. Support for the above view comes from a similar thought expressed by the Hon'ble High Court of Kerala in CrI.MC.No.2975 of 2007, between *V.K.SreeKumar v. Ramakrishna*, which opined that mere non-compliance with the procedure under Section 202 Cr.P.C. would not *ipso facto* vitiates the cognizance taken and the process issued under section 204 Cr.P.C. So the complaint does not require to be quashed, merely due to the above deviated procedure, adopted by the cognizance taking court.

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<sup>8</sup>

(2008) 5 SCC 668

➤ The other contention is that the petitioners 3 to 6 are the Directors of petitioners 1 and 2-Company and they cannot be mulcted with any criminality and they cannot be prosecuted for the offence committed by the company, as the concept of vicarious liability of Directors is not evolved by the criminal law.

In support of the said contention, the counsel relies on the ruling of the Apex Court in *Maksud Saiyed's* case (referred supra), wherein it was held that the penal code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is a Company and the Magistrate should have examined whether the complaint made the Directors personally liable.

In the complaint on hand, there are specific allegations made against petitioners 3 to 6, that they are the persons, who have drafted the defamatory material. Hence, it satisfies the requirements as laid down by the Apex Court, in the above ruling. The complainants do not seek for any punishment, based on vicarious liability, but makes allegations against all the petitioners, which would *prima facie* make them personally liable for the alleged offence.

➤ The last contention is that the alleged defamatory statement, if perused and understood in a right perspective, would not amount to defamatory statement. The counsel contends that in order to safeguard their interests,

the 1<sup>st</sup> respondent in these petitions had to alert the people concerned with the business, not to deal with Mr.Kerkar. He contends that the allegations made against Mr.Kerkar are not baseless and that there was a criminal complaint filed against Mr.Kerkar, for the acts which were projected through the said defamatory statement in the Additional Chief Metropolitan Magistrate 47<sup>th</sup> Court, Esplanade, Mumbai. The copy of the said complaint is also filed before this court. The fact of the filing of the said complaint is not refuted by the 1<sup>st</sup> respondents' counsel and hence can be looked into, being permitted by the Supreme Court wherein it's ruling reported in *Rajiv Thapar and others vs. Madan Lal Kapoor*<sup>9</sup>. The Supreme Court observed and held as follows:

“29. The issue being examined in the instant case is the jurisdiction of the High Court under [Section 482](#) of the Cr.P.C., if it chooses to quash the initiation of the prosecution against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under [Section 482](#) of the Cr.P.C., at the stages referred to hereinabove, would have far reaching consequences, inasmuch as, it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section - 482 of [Cr.P.C.](#) the High Court has to be fully satisfied, that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such, as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such, as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be

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<sup>9</sup> 2013(3) SCC 330

sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under [Section 482](#) of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under [Section 482](#) of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under [Section 482](#) of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."

The said complaint is filed against Mr.Ajit B.Kerkar and also the 1<sup>st</sup> respondent in CrI.P.No.1949 of 2011, but he

i.e., Boppana Dwarakanath was described as ex-Area General Manager of Bogmallo Beach Resort, Goa.

The allegations in the said complaint are that A1 is an ex-Director of the complainant company and as the Chairman and Director of the Tulip Star Hotels Limited & Tulip Star Leisure and Health Resorts Limited, which is engaged in the business of operating, managing and conducting resorts. A1 is, *inter alia*, engaged in the business of promoting time shares. A1, in active conspiracy with the other accused, have committed the offence in respect of a time shares scheme, unauthorisedly started by the accused persons in the said resorts, by misusing the fiduciary faith and responsibility reposed in them. The accused persons acting in connivance with each other have not accounted for and have misappropriated the entire revenue generated from the said timeshare scheme. In doing so, they have caused grave financial losses to the complainant company. On 26.04.2000, a Memorandum of Understanding (MOU) was arrived at between Tulip Hotels Pvt. Ltd., and Dr.Shailendra Mittal and the complainant company, proposing to set up a joint division company for the express purpose of operating the resorts of Tulip Hotels Private Limited. It is also alleged therein that A1 to A6 deliberately and with a *mala fide* intention kept the complainant company in dark, about their dealings, vis-à-vis the said resort and never let it be known to them, that they were generating a huge amount of unaccounted revenue from the said Resort.

The allegations being so, the petitioners thought it fit to make all the people concerned, aware about the same, in order to preserve their interest. The counsel argues that it is only with such intention that the said e-mails were sent to the people concerned and that it was not with an intention to injure the reputation of the R1. On explanation by the counsel, it is clear that the term used in the e-mail, as co-conspirators, would only indicate the persons other than Mr.Kherkar, who were arrayed as accused in the above said complaint, against whom an offence punishable under Section 120-B IPC was also alleged. Hence, only for that reason, they were mentioned as co-conspirators and it is not in order to defame them.

This court also is in agreement with the above submissions. When a person is put to loss by another person and when the method of preserving the interest of the person, who is put to loss, is by making people concerned aware of the same, there can be no fault found with the petitioners who have circulated the email to the said people. The imputation assumes the character of the one under the ninth exception to section 499 IPC, which is as follows;

“It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interest of the person making it, or of any other person, or for the public good”. Illustration (a) to the ninth exception would make it more clear, where a shopkeeper, A, says to B, who manages his business--”sell nothing to Z unless he pays you ready money, for I have no

opinion of his honesty". This case is a better instance, since, it is not the simple opinion of the petitioners that prompted them to circulate the E-mail, but it is their concrete information, according to them, which led them to file a criminal complaint against the 1<sup>st</sup> respondent.

7. Hence, in view of the above, this court opines that the continuation of proceedings against the petitioners would only be an abuse of process of law.

8. With the above observations, these Criminal Petitions are allowed and the proceedings against the petitioners in C.C.No.344 of 2009 and C.C.No.753 of 2009 on the file of XVII Additional Chief Metropolitan Magistrate, Hyderabad, respectively, are hereby quashed.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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T. RAJANI, J

January 22, 2018

Note:

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{ B/o}  
LMV