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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 24th January, 2019

+ CRL.M.C. 939/2018 and Crl.M.A.3343/2018, 12469/2018

DAMAN KRANTI & ANR.

..... Petitioners

Through: Mr. Lave Kumar Sharma, Advocate
with Mr. Manish Gupta, Adv. &
Mr. Sumit, Advocates

versus

JEET RAM BHATT

..... Respondent

Through: Dr. Ritu Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The second petitioner is the Chief Editor of a weekly publication in the name and style of “*Daman Kranti*” (the first petitioner) stated to have national circulation. In their periodical issued for 18th - 24th September, 2016, they had published, what purports to be a news item in Hindi, the caption whereof called upon anti-corruption branch to carry out investigation into scams of the Hindi and Sanskrit Academy (described as an entity established by Government of Delhi) of which the respondent is the Secretary. The respondent is mentioned by name in the said publication and there are allegations made carrying innuendos primarily to the effect that the Academy was not performing the functions for which it had been established and instead the budget allocated to it was being frittered away over refreshments or irrelevant events like poetry recitations, the

finances possibly being abused to fill pockets of the officers connected to the organization. It is stated that the petitioners had also sent certain communications carrying similar allegations and innuendos to various quarters, reference being made to one such communication dated 26.09.2016 addressed to the Lieutenant Governor of Delhi.

2. Taking exception to the above publications alleging that the same were intended to and had the effect of tarnishing the image of the respondent in the eyes of public at large, this constituting offences punishable under Section 500 and 501 of the Indian Penal Code, 1860 (IPC), the respondent filed criminal complaint case (CC No.101/1/2017). The Metropolitan Magistrate has issued summons on said complaint to the petitioners to appear as accused and answer accusations of the aforementioned offences alleged by the respondent (complainant). The petitioners submit through their counsel that they had appeared before the Metropolitan Magistrate and seek to contest the allegations.

3. The present petition has been filed seeking proceedings in the aforementioned criminal case to be quashed primarily on the grounds that the allegations are misconceived and frivolous; the impugned publication mentions the status of the respondent, but makes no allegation against him, innuendos being only about misappropriation of funds by the officials of the academy requiring investigation; similar allegations have been made in certain other publications prior to the impugned publication to which no exception was taken; the publication was made in exercise of the freedom of speech and

expression and freedom of press; the complaint has been instituted as a “*counter blast*” to the complaints made by the petitioners against the respondent before different departments and authorities seeking investigation into its affairs; and that the publication was in public interest and, therefore, protected.

4. To say the least, the petition seeking quashing of the criminal proceedings at this stage of the process on the above grounds itself is wholly misconceived. In a case involving publication carrying insinuations of the nature mentioned above, the burden of proving the truth will lie heavily on the petitioners. The fact that similar allegations have been made by other publishers cannot be a defence. Whether or not the allegations are true and whether or not the publication of such material would be in “*public interest*” or was “*in good faith*” would be a matter of defence. Lodging of complaints with the authorities by the petition seeking investigation may be well within the rights of the petitioners. But, *prima facie*, there is no freedom of speech and expression so as to publish untested and unproved allegations *ex facie* designed to tarnish the image of the complainant in the manner done.

5. The petition is dismissed with costs of Rs.50,000/-, to be deposited with Delhi High Court Legal Services Committee within two weeks. This disposes of pending applications as well.

R.K.GAUBA, J.

JANUARY 24, 2019/vk