



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

CRM-M No.5510 of 2023 (O&M)

Reserved on : 6th August, 2024
Pronounced on : 10th September, 2024

Rubi Adhikari Sehgal & another

... Petitioners

Versus

Yashpal Joshi

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Ranbir Singh, Advocate for the petitioners.

Mr. Parminder Singh, Advocate for the respondent.

MANJARI NEHRU KAUL, J.

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of order dated 10.01.2023 passed by the Court of learned Additional Sessions Judge, Karnal vide which the order of dismissal of complaint No.13 dated 22.10.2011 under Sections 499, 500, 211, 506 of IPC by the learned trial Court dated 04.02.2015 had been set aside and the trial Court had been directed to hold further inquiry.

2. Learned counsel for the petitioner has argued that the learned Revisional Court, vide impugned order dated 10.01.2023, has erroneously set aside the well reasoned order of the learned Trial Court dated 04.02.2015, without identifying any illegality or jurisdictional error in the said order. While drawing the attention of this Court to the Complaint, annexed as Annexure P-2, learned counsel has asserted that



a bare reading of the Complaint demonstrates that the ingredients of the alleged offences are not even substantiated, as neither the Complaint nor the evidence presented during the preliminary stage mentions any public dissemination or publication of the Complaint made by the petitioner to the police. Furthermore, petitioner No.2 is not even a party to the Complaint, which is allegedly defamatory. While referring to the provisions of Section 499 of the IPC, learned counsel has further submitted that the essence of the offence of defamation necessitates that the accused, with malicious intent, commits an act that lowers the reputation of the complainant in the eyes of the public. Therefore, for defamation to occur, the alleged act must be communicated or published in such a way that it reaches the public. Learned counsel has submitted that in the instant case, the Complaint merely states that a report was made to the police, which led to the reputation of the respondent being injured. It has been further submitted that it is not even the case of the respondent that this report was ever made public or communicated to anyone else, and hence, it cannot be considered defamatory by any reasonable interpretation.

3. Learned counsel has still further submitted that it is well settled that if a Complaint made to a person in authority is found to be false or unsubstantiated, only the concerned officer or a superior officer may take action against the complainant, if deemed appropriate. Learned



counsel has additionally argued that the respondent had also filed a suit for unliquidated damages against the petitioner, her daughter, and her late father on the same issue as raised in the impugned Complaint. However, the learned Trial Court dismissed this suit under Order VII Rule 11 of the CPC, by holding that it did not disclose any cause of action. In support, learned counsel has drawn the attention of this Court to Annexures P-4 to P-6. It has still further been submitted that the Complaint made by the petitioner to the police was a genuine and bona fide action, motivated by concern for her father's safety and property, as several persons had attempted to occupy her father's property, by taking advantage of his old age and his medical ailments. The petitioner and her sisters thus, acted swiftly to protect their father and themselves from potential harm. Learned counsel has therefore contended that such a Complaint cannot be deemed defamatory and the actions, which were taken in good faith, fall within the exceptions outlined in Section 499 of the IPC. It has lastly been argued by the learned counsel that the Revisional jurisdiction of courts is limited, and the impugned order reflects a complete lack of application of mind and a failure to appreciate the relevant law in the said regard.

4. Per contra, learned counsel for the respondent has vehemently opposed the submissions and prayer made by the learned counsel for the petitioner. It has been argued by the learned counsel that



the Complaint clearly reveals that the allegations against the petitioners are defamatory, with malicious intent clearly discernible. Learned counsel has further drawn the attention of this Court to the testimonies of CW-2 Hari Om Shashtri (a priest of Rameshwar Shiv Mandir, Karnal), CW-3 Parkash Rao, and CW-4 Anil Kumar (a shopkeeper), by asserting that these testimonies reveal that the allegations leveled by respondent No.1 against the complainant were widely communicated and had a significant impact on his reputation. CW-2 Hari Om Shashtri testified that on coming to know that the complainant had a criminal bent of mind, and was involved in land grabbing, he developed a deep resentment towards the complainant. This negative sentiment extended to some of the other friends of the complainant, namely Amir Chand, Anil Kamboj, Parkash Rao, and Pritam Singh, who then severed all communication with the complainant, and all his efforts to reconcile with them were in vain. CW-3 Parkash Rao also corroborated this during his testimony before the trial Court, that he too had heard about these allegations, which influenced his opinion of the complainant. CW-4 Anil Kumar, residing just 200 meters away, from the residence of the complainant, also testified that he had heard similar accusations from the police, prompting him and others to distance themselves from the complainant. It has been further asserted by the learned counsel that both the oral and documentary evidence in the present case, collectively



proves that the allegations against the respondent were baseless; they were made with full knowledge and intent that they would harm the reputation of the complainant in the eyes of the general public, his family, and friends. Learned counsel has therefore, vehemently argued that these imputations were clearly intended to damage his reputation and did not fall within any of the exceptions to Section 499 of the IPC, thereby, making them punishable under Section 500 of the IPC.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding further, it would be relevant to refer to the provisions of Section 499 of the IPC which deals with defamation. Section 499 IPC reads as under:

“499. Defamation

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

First Exception- imputation of truth which public good, requires to be made or published- It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made



or published. Whether or not it is for the public good is a question of fact.

Second Exception- Public conduct of public servants- It is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception- Conduct of any person touching any public question- It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Fourth Exception- Publication of reports of proceedings of Courts- It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Fifth Exception- Merits of case decided in Court or conduct of witnesses and others concerned- It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Sixth Exception- Merits of public performance- It is not defamation to express in good faith any opinion respecting



the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Seventh Exception- Censure passed in good faith by person having lawful authority over another- It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Eight Exception- Accusation preferred in good faith to authorised person- It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Ninth Exception- Imputation made in good faith by person for protection of his or other's interests- 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 interests of the person making it, or of any other person, or for the public good.

Tenth Exception- Caution intended for good of person to whom conveyed or for public good- it is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.”



7. Section 499 of the IPC outlines the legal framework for the offence of defamation. A minute perusal of its provisions which stand reproduced hereinabove, make it abundantly clear that defamation takes place when a person, through spoken or written words, signs, or visible representations, makes or publishes an imputation concerning another individual with the intent to harm or with the knowledge or reasonable belief that such imputation will harm that individual's reputation. This definition is broad, encompassing various forms of communication – whether oral, written, visual, or symbolic – that might injure a person's standing in society.

8. The key ingredients that constitute defamation under these provisions are the intent to harm or the knowledge that harm is likely to occur as a result of the imputation. It is not necessary that the person making the statement explicitly intends to damage the reputation of another person; it is sufficient if they act with the knowledge that their words or actions are likely to cause harm. To further elaborate, defamation under Section 499 IPC can occur through direct statements or even through indirect suggestions or insinuations that could degrade the reputation of a person. The law thus, recognizes the significant power that words and other forms of expression have on influencing how a person is perceived by others. Protecting an individual's reputation is of paramount importance under the law, and Section 499



IPC provides legal recourse against any unwarranted or malicious attack on that reputation. However, Section 499 of the IPC at the same time, also recognizes that not all statements that could potentially harm someone's reputation are wrongful or unlawful. There are certain exceptions to this rule, acknowledging circumstances where imputations may be justified, such as when made in the public interest or in good faith. Section 499 IPC also strikes a balance by providing specific exceptions, ensuring that the law does not unduly restrict free speech or the right to legitimate concerns.

9. The eighth exception to Section 499 of the IPC provides a crucial limitation on the application of law of defamation, particularly in the context of complaints made to persons in position of authority. As per this exception, it is not considered defamation, to make an accusation against someone, to a person who has lawful authority over them, provided that the accusation is made in good faith. This exception is designed to protect individuals who report wrong doing, or misconduct, to appropriate authorities, from the liability of defamation, as long as they act with honest intentions and reasonable diligence.

10. For example, if a person makes a complaint to the police or any other authorized official regarding another individual's misconduct or if in a complaint made before a Court with respect to certain allegations, this action would not be deemed defamatory under the



eight exception, as long as the complaint is made in good faith. The law here seeks to encourage the reporting of genuine concerns to those who have the power to take appropriate action, without the threat of legal repercussions for defamation. Exception eighth to Section 499 IPC reflects the recognition by the law that the protection of public interest and the administration of justice often require individuals to report their concerns to the relevant authorities, and it would also include complaints made to the police under Section 154 of the IPC which could form the basis of prosecution of an individual.

11. It would also be apposite to refer to the definition of “Good Faith” under Section 52 of the IPC. This term has been defined under Section 52 IPC and plays a pivotal role in determining whether the eighth exception to Section 499 IPC applies. Section 52 IPC specifies that an action is not considered to be done in ‘Good Faith’ if it is undertaken without due care and attention. This definition implies that ‘Good Faith’ is not merely a subjective belief in the righteousness of one’s actions; rather, it requires that the person acts with a reasonable degree of caution, diligence, and attention to the truth of the matter before making an accusation.

12. In practical terms, for an accusation to qualify as having been made in good faith, the person making the accusation must have taken reasonable steps to verify the facts and must have a genuine belief



that the accusation is justified. The law demands a high standard of integrity, responsibility, and awareness of the potential consequences of one's actions on the reputation of others. In the present case and in the light of the eighth exception to Section 499 IPC, and the definition of 'Good Faith' in Section 52 IPC, it is clear that an accusation made in good faith to an authorized person regarding matters within their jurisdiction does not constitute defamation. Moreover, upon a thorough examination of the allegations levelled in the complaint in question, this Court has no hesitation in holding that it is evident that no prima facie case for defamation is made out, as the requisite ingredients of the offence under Section 499 IPC are not at all satisfied. Therefore, the accusations in question, fall within the protective ambit of eighth exception and do not amount to defamation under the law.

13. It would also be apposite to refer to the following observations made by the **Hon'ble Supreme Court in Kishore Balkrishna Nand v. State of Maharashtra, (2023) 8 SCC 358**, while addressing a similar question of law :

“11. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is whether the allegations made in the complaint addressed to the SDM make out the offence under Section 500IPC or not?



16. Exception 8 to Section 499 clearly indicates that it is not a defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with regard to the subject-matter of accusation. Even otherwise by perusing the allegations made in the complaint, we are satisfied that no case for defamation has been made out.”

14. Upon perusing the material on record, it stands revealed that the respondent, while testifying as CW-1, made no reference to petitioner No.2 Sunaina Sehgal, nor were any specific allegations directed against her. Consequently, no case is made out against her.

15. Regarding petitioner No.1, Rubi Adhikari Sehgal, the allegations relate to the submission of certain complaints. The material on record clearly indicates that petitioner Rubi Adhikari Sehgal filed multiple complaints with the police, seeking investigations into attempts made by certain individuals to take over the property of her father P.R. Adhikari. Under the given circumstances, her actions were both reasonable and lawful, aimed at safeguarding the interests of her family. These complaints, lodged in good faith for inquiry by the police, cannot be construed as defamatory, as there is no evidence indicating an intent to defame the complainant.

16. Moreover, a detailed examination of the complaints shows that while petitioner Rubi Adhikari Sehgal mentioned an individual



named ‘Pal’, the complainant Yashpal, was not specifically named. The respondent has not provided any proof that ‘Pal’ refers to him. Without a clear incident of defamation being demonstrated, the essential ingredients required to attract the mischief of offences under Sections 499, 211 and 506 of the IPC have not been fulfilled. Therefore, there is no prima facie case for summoning of any of the petitioners in the instant complaint. In the light of the above, the instant petition is allowed and the complaint dated 22.10.2011 along with order dated 10.01.2023 passed by the Court of learned Additional Sessions Judge, Karnal are hereby quashed qua the petitioners.

(MANJARI NEHRU KAUL)
JUDGE

September 10, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No