

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Pronounced on: 26.03.2025

1) CRM-M-3815-2021 (O&M)

Rajesh Ramachandran and another Petitioners

Versus

State of Punjab and another ... Respondents

2) CRM-M-3907-2021 (O&M)

Dr. Swaraj Bir Singh and another Petitioners

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Manu K. Bhandari, Advocate,
Mr. Rohit Kataria, Advocate, and
Mr. Arjun Sawhni, Advocate, for the petitioners.

Mr. Satjot Singh Chahal, AAG, Punjab,

Mr. P.S. Dhaliwal, Advocate, for respondent no.2/complainant.

TRIBHUVAN DAHIYA, J.

These petitions have been filed under Section 482 of the Code of Criminal Procedure (Cr.P.C.) for quashing of criminal complaint no.177/2019, dated 30.07.2019, titled *Nazar Singh Manshahia v. Bhagwant Mann and others*, under Sections 500 and 120-B of IPC read with Sections 66 and 67 of the Information Technology Act, Annexure P-2, as also the

order dated 14.12.2020, Annexure P-3, passed by Chief Judicial Magistrate (CJM), Mansa, whereby petitioners no.1 in CRM-M-3815-2021 and CRM-M-3907-2021, namely, Rajesh Ramachandran and Dr. Swaraj Bir Singh, respectively, have been summoned to face trial for commission of offences punishable under Sections 500, 501 and 502 IPC, and petitioners no.2 in both these petitions, namely, Parvesh Sharma and Gurdeep Singh Lali (wrongly mentioned in the complaint as Gurpreet Singh Thind Lally), respectively, have been summoned under Section 500 IPC.

2. At the time of passing the impugned order, petitioner no.1 in CRM-M-3815-2021, namely, Rajesh Ramachandran was working as Editor of newspaper 'The Tribune (English)', and petitioner no.2-Parvesh Sharma was working as its Principal Correspondent, posted at district Sangrur. Petitioner no.1 in CRM-M-3907-2021, namely, Dr. Swaraj Bir Singh was working as Editor of newspaper 'The Punjabi Tribune', and petitioner no.2-Gurdeep Singh Lali was its stringer and contributed news from Sangrur and nearby areas. On 27.04.2019, the then convener of Aam Aadmi Party (AAP) in Punjab and Member of Parliament (MP) from Sangrur, Mr. Bhagwant Singh Mann held a press conference stating that respondent no.2/complainant, the then AAP party Member of Legislative Assembly (MLA) from Mansa, got a huge amount of money from ruling Congress party and would be appointed as Chairman of the Punjab Pollution Control Board. The news item to that effect published in the columns of 'The Tribune' on 27.04.2019 has been appended as Annexure P-1, which reads as under:

Cong offered ₹10 cr, plum post to our MLA, claims Bhagwant

PARVESH SHARMA
Tribune News Service

SANGRUR, APRIL 27

Punjab AAP chief and Sangrur MP Bhagwant Mann late this evening alleged that Congress leaders offered Rs 10 crore and a plum post in the Congress to their party MLA and asked their leader to resign from the AAP. Mann did not disclose the name of his MLA. He alleged that money was being offered to other MLAs and leaders of their party.

"On the pretext of giving him developmental funds for his constituency, some Congress leaders today met our MLA and offered him Rs 10 crore and said our MLA Nazar Singh Manshahia has also got the same amount and Manshahia will also be appointed as chairman of the Punjab Pollution Control Board," alleged Mann, who rushed to Sangrur in late evening after cancelling his public meetings. Barnala MLA Gurmeet Singh Meet Hayer and Mehal Kalan MLA Kulwant Singh Pandori also accompanied Mann during the press conference at their Sangrur office. ...

2.1. The complainant filed a criminal complaint against nine persons, including MP Bhagwant Singh Mann, and the press reporters as well as the Editors of different newspapers, wherein the aforementioned statement of the MP was published; it included the petitioners as well, as accused no.2, 3, 6 and 7. It was alleged that the petitioners had published false allegations against the complainant, who never received the amount as alleged, only to harass, humiliate and defame him. Relevant paragraph of the criminal complaint concerning the petitioners reads as under:

2. That on 28.04.2019, accused Bhagwant Mann gave a statement and it was sent as news by accused No. 2 and published by the accused No. 3 in the Punjabi Tribune. It was

further sent as news by accused No. 4 and was published in the newspaper Jag Bani by the accused No. 5. The accused No. 6 sent this news and the same was published by accused No. 7 in the News Paper as The Tribune (English) and similarly accused No. 8 sent it news item and was published in the 'Hindustan Times' by accused No. 9 levelling false allegations against the complainant by name particularly that Nazar Singh Manshahia joined congress after taking Rs.10 crore and in greed of chairmanship of Pollution Board Punjab. But the accused No.1 made such a statement without any base though complainant neither received any amount nor came into any greed as alleged by the accused. In fact, the accused did Intentionally and wilfully just to harass, humiliate, torture, defame and degrade the complainant in the eyes of public and such a statement of the accused has been read over by number of persons well known to the complainant even from locality, whereby accused levelled allegations totally on false, baseless, forged, concocted, fabricated and fictitious grounds, whereby accused have defamed the unblemished image of the complainant. All other accused have not verified and enquired the fact as it is truth or not, but generalists (journalists) sent it as new item and publishers printed it and then supplied to be served publically. Even such a false news item has been viral on social media altogether without any base and everybody saw it.

2.2. Before the Magistrate, the complainant stepped into the witness box as CW1, and reiterated his version mentioned in the complaint. He brought on record the newspapers 'Punjabi Tribune' dated 28.04.2019 as Ex.C1, 'Jag Bani' dated 28.04.2019 as Ex.C2, 'The Sunday Tribune' dated 28.04.2019 as Ex.C3, and legal notice dated 30.04.2019 issued to Bhagwant Mann as Ex.C5. The CJM ordered investigation by a police officer under Section 202 Cr.P.C., who submitted report to the Court concluding that due

to publication of the news in newspapers on 28.04.2019 and its telecast on TV channels, the complainant's reputation had been lowered; no apology was tendered by accused Bhagwant Mann to the complainant, and non-cognizable offence was made out. After considering the allegations levelled in the complaint as well as the preliminary evidence, CJM vide impugned order, dated 14.12.2020, summoned the petitioners as well as the remaining accused to face trial. It was concluded that the news item was *prima facie* defamatory in nature. Despite having knowledge or reason to believe that such imputations against the complainant would harm his reputation, it was printed and published in their newspapers by the petitioners which constituted sufficient ground to summon them to face trial for the offences punishable under Sections 500, 501 and 502 IPC. Relevant paragraphs of the order read as under:

20. It is considerable aspect that accused No.1-Bhagwant Mann is Member of Parliament (in short 'MP') from Sangrur and thus holding responsible position in society and can also be considered as Person of influence upon people at large. Similarly, Accused No.2, 4, 6, 8 are Journalists/Press Correspondents of their respective Newspapers and Accused No.3, 5, 7, 9 are Editors of their respective Newspapers and they all also hold a responsible position in the society and can also be considered as Persons of influence upon people at large. ...

21. In the light of aforementioned legal provisions and case laws, as per allegations contained in the complaint, preliminary evidence of complainant, documents on file and submissions of Ld. Counsel for complainant, it has come before this Court that following is the *prima facie* role of accused:

Accused No.1 Bhagwant Mann:

xxx

xxx

xxx

Accused No.2, 4, 6, 8:

Accused No.2-Gurpreet Sing Thind @ Gurdeep Singh @ Lally (name as 'Gurdeep Singh' mentioned in his statement recorded during investigation under Section 202 Cr.P.C.), Accused No.4-J.B. Singla, Accused No.6-Parvesh Sharma and Accused No.8-Naresh Kumar are the Journalists/Press Correspondents who sent the said defamatory statement of Accused No.1 for publication in their respective Newspapers, as detailed above, and thus they despite having the knowledge or reason to believe that such an imputation will harm the reputation of the complainant, communicated it further for Printing and Publishing in their respective Newspapers, and therefore prima facie there are sufficient grounds for proceeding with the present Complaint against these Accused No.2, 4, 6, 8 by way of summoning them to face the trial.

Accused No.3, 5, 7, 9:

Accused No.3-Swaraja Bir Singh, Accused No.5-R.S. Jolly, Accused No.7-Rajesh Ramachandran and Accused No.9-Sharad Saxena are the Editors of their respective Newspapers, as detailed above, who got Printed and Published the said defamatory statement of Accused No.1 into their respective Newspapers knowingly or having good reason to believe that such matter is defamatory of complainant, then put into circulation & sold/offered for sale those Printed Newspapers containing defamatory matter, knowing that these Newspapers contained such matter and therefore prima facie there are sufficient grounds for proceeding with the present Complaint against these Accused No.3, 5, 7, 9 by way of summoning them to face the trial for the commission of offences punishable under Sections 500, 501 and 502 I.P.C.

3. Mr. Bhandari, learned counsel for the petitioners, has argued that the petitioners accurately and truthfully reported the statements made by MP Bhagwant Singh Mann, without any malice against the complainant. The facts reported by them were the exact statements given in a press conference

by the MP and attributed to him only which have never been disowned. The petitioners had no intention to defame the complainant, or to cause any damage to his reputation. Contrary version of the Congress Party Chief was also carried out in the newspaper. Learned counsel has further contended that the petitioners have a right to accurately report the statements which is protected under Exception 1 to Section 499 IPC, and the news item therefore does not constitute defamation. In support of the contentions, he has relied upon the judgment dated 04.01.2024, rendered by this Court in *N. Ram, Editor-in-chief and publisher of 'The Hindu' and others v. Rashtriya Swayamsewak Sangh, Haryana Prant, through its Prant Sangh Chalak and another*, 2012(3) Law Herald 2728.

4. *Per contra*, Mr. Dhaliwal, learned counsel for the complainant, has contended that summoning order has rightly been issued after considering the allegations as well as the preliminary evidence produced by the complainant. *Prima facie* the case is made out against the petitioners as the statements are false and politically motivated which have been made without any basis only to damage the complainant's reputation. He further contended that at this stage, the petitioners' assertions cannot be believed. There is no material on record to establish that their case falls under Exception 1 to Section 499 IPC. Facts in this regard can only be established by leading evidence, and the petitioners, accordingly, have been rightly summoned. Their innocence, if any, is a matter of trial.

5. Submissions made by learned counsel for the parties have been considered, and case files have been perused.

6. For deciding the matter it is apt to refer to the relevant provisions of law, which are as follows:

Section 499 IPC. 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.

Explanation 1 to 3 xxx xxx

Explanation 4.—No imputation is said to harm a person’s reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

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 to Tenth Exception xxx xxx

6.1. As defined under Section 499 IPC, whoever makes or publishes an imputation concerning any person intending to harm, or knowing or having reason to believe that it will harm the reputation of such person, is said to defame that person. Explanation 4, relevant to the facts of the case, is that no imputation can be said to harm a person’s reputation unless in the estimation of others it directly or indirectly lowers the character of that person. The s to Section 499 IPC provides that it is not defamation to impute anything which is true concerning any person and it is for public good that the imputation should be made or published. And public good is a question

of fact to be established by way of evidence. The First Exception has been explained by the Supreme Court in *Chaman Lal v. The State of Punjab*, 1970(1) Supreme Court Cases 590; relevant paragraph whereof reads as under:

15. In order to come within the First Exception to Section 499 of the Indian Penal Code it has to be established that what has been imputed concerning the respondent is true and the publication of the imputation is for the public good. The onus of proving these two ingredients, namely, truth of the imputation and the publication of the imputation for the public good is on the appellant. The appellant totally failed to establish these pleas. ...

6.2. Sections 500, 501 and 502 of IPC prescribe punishment of simple imprisonment for a term which may extend to two years, or with fine, or with both, for defaming another person, printing or engraving a matter known to be defamatory, and selling the said substance, respectively.

7. In the facts of the instant case, the complainant has stated that the allegations contained in the columns of the newspapers published on 28.04.2019 have lowered his reputation in others' estimation; the allegations are false and have been levelled to harass, humiliate, defame his unblemished image/reputation, and degrade him in the eyes of public. The statement levelling allegations had been read over by a number of persons well known to him, many of whom were from the same locality where he was residing. It has also been alleged in the complaint that the petitioners/accused without verifying and enquiring whether the allegations were true, published the same and distributed it publicly. It had gone viral on social media also and everybody had seen it. In the preliminary evidence, he himself testified to that effect as CW1 and brought on record the newspaper

publications of 28.04.2019 as well. Considering the facts of the case, the CJM summoned the petitioners vide impugned order, dated 14.12.2020, to face trial for the offences punishable under Sections 500, 501 and 502 IPC.

8. The contention on behalf of learned counsel for the petitioners is that the allegations levelled against the complainant by MP Bhagwant Mann have been truthfully reported and printed by them without any intention to harm the former's reputation. Accordingly, they are protected by First Exception to Section 499 IPC. As aforementioned, the First Exception excludes an imputation from defamation if it is true concerning the person and it is for public good that the imputation should be made or published. Merely because the petitioners accurately reported the allegations in the newspapers, would not bring them within the exception unless it was established that the imputation to the complainant's character and conduct in accepting money for political gain was true and it was in public good to publish the same. These facts are a matter of trial. At this stage there is nothing on record to even *prima facie* establish that the imputation was true and its publication was for public good. In fact, it is not the petitioners' case either that the imputation was truthful, and public good can only be established by leading evidence regarding "the nature of imputation made; the circumstances on which it came to be made and the status of the person who makes the imputation as also the status of the person against whom the imputation is allegedly made", and other relevant facts [*Jeffrey J. Diermeier and another v. State of West Bengal and another*, (2010) 6 SCC 243, page 256]. Therefore, the petitioners are not entitled to protection under First Exception to Section 499 IPC.

9. As noticed hereinbefore, to constitute ‘defamation’ under Section 499 IPC, the allegation must have been made with intention to harm or knowing or having reason to believe that it will harm the person’s reputation. It is apt to refer to the following observations by the Supreme Court in *Jeffrey J. Diermeier* case *ibid*:

29. To constitute "defamation" under Section 499 IPC, there must be an imputation and such imputation must have been made with the intention of harming or knowing or having reason to believe that it will harm the reputation of the person about whom it is made. In essence, the offence of defamation is the harm caused to the reputation of a person. It would be sufficient to show that the accused intended or knew or had reason to believe that the imputation made by him would harm the reputation of the complainant, irrespective of whether the complainant actually suffered directly or indirectly from the imputation alleged.

10. In the case at hand, it is not the complainant’s case that in reporting and publishing the imputation/allegations by MP Bhagwant Singh Mann, dated 27/28.04.2019, the petitioners had the *intention* to harm his reputation in any manner, or that *they had the knowledge or reasons to believe* that it would harm his reputation. There is no such allegation in the entire complaint against the petitioners, and the complainant in his testimony before the CJM has only reiterated his version given in the complaint. Further, no material has been brought on record to even *prima facie* indicate that the petitioners had reported or published the imputation concerning the complainant to harm his reputation, or knowing or having reason to believe that it would cause harm to his reputation. The reason cited by the CJM in the impugned order, dated 14.12.2020, “...*despite having knowledge or reason to believe that such an imputation will harm the reputation of the*

complainant, communicated it further for Printing and Publishing...” is without any evidence at all, and that is why none finds reference in support thereof. In the absence of any material indicating the petitioners’ complicity in the case, there was no occasion to summon them to face trial; the order is, accordingly, groundless and unsustainable. As allegations in the complaint even if accepted in entirety do not constitute the offences under Section 499 to 502 IPC, summoning the petitioners to face trial will be an abuse of the process of Court, and a travesty of justice.

11. The view taken is in line with the law laid down in *State of Haryana and others v. Bhajan Lal and others*, 1992 Supp (1) SCC 335, that criminal proceedings can be quashed by this Court in exercise of inherent powers under Section 482 Cr.P.C “(w)here the uncontroverted allegations made in the FIR 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.”

12. In *N. Ram* case (*supra*) also, similar allegation of defamation against the editor of a national newspaper was dealt with, and the Magistrate’s order summoning the petitioners/accused to face trial under Sections 499 to 501 IPC was set aside for the reason there was no intention to defame the complainant in publishing the news. Relevant paragraph of the judgment reads as under:

32. As depicted hereinabove, in the instant case, the complainant-RSS has miserably failed to indicate as to how, when and in what manner, the mere accurate publication, of the statement of the main accused Central Cabinet Minister and Congress Leader Mr. Arjun Singh, by the petitioners-accused was intentional or they have the knowledge or belief that it will harm its reputation. Even it is not claimed by the complainant

either in the complaint or preliminary evidence that publication of news (Annexure P7) is in any manner distorted or coloured version of the speech of the Minister. It is not a matter of dispute that the petitioners-accused have published the accurate statement of the Minister on the reports of PTI as such. That means, the requisite intention/knowledge, (Mens-rea) to defame the complainant RSS or the person associated with it and all other essential ingredients are totally lacking in this case. Meaning thereby, such fair, accurate and truthful reporting by the petitioners in the absence of mens rea would not constitute any offence. This matter is no more res integra and is now well settled.

13. In view of the discussion, the petitions are allowed. Criminal complaint no.177/2019, dated 30.07.2019, titled *Nazar Singh Manshahia v. Bhagwant Mann and others*, under Sections 500 and 120-B of IPC read with Sections 66 and 67 of the Information Technology Act, and all consequential proceedings arising therefrom, including the summoning order, dated 14.12.2020, are hereby quashed *qua* the petitioners. Bail/surety bonds, if any, furnished by them shall stand discharged.

14. A photocopy of this order be placed on connected file.

(TRIBHUVAN DAHIYA)
JUDGE

26.03.2025
Maninder

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