



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

205

Date of decision: 23.01.2025

1. CRM-M-9219-2017(O&M)

Mahender Mohan Gupta and another

...Petitioners

Versus

State of Haryana and another

...Respondents

2. CRM-M-17840-2017(O&M)

Meenakshi Sharma

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Preetinder Singh Ahluwalia, Advocate for
for the petitioner(s).

Mr. Iarisa Carmen Suting, Advocate
for Mr. S.P. Arora, Advocate
for respondent No.2.

Mr. Vikas Bharadwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (Oral)

1. This common order shall dispose of both the
abovementioned petitions as they arise from identical factual matrix.



However, for the sake of brevity, the facts are taken from CRM-M-9219-2017.

2. The present petition is preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of summoning order dated 25.08.2015 (Annexure P-2) passed learned Chief Judicial Magistrate, Sirsa, as well as the order dated 08.02.2017 (Annexure P-4) passed by the learned Additional Sessions Judge, Sirsa whereby the revision petition preferred against the summoning order dated 25.08.2015 (Annexure P-2) was dismissed.

3. Briefly, the facts, as alleged, are that respondent No.2-complainant and her husband had disowned their son and daughter-in-law due to familial discord. An announcement qua the same was also published in a newspaper in the year 2003. However, on 23.08.2014, her son and daughter-in-law got a news article published in the city edition of the petitioner's newspaper- Dainik Jagran, claiming that respondent No.2 and her husband had broken into their home and stolen cash and some gold items. Since the said news item caused considerable damage to the reputation and prestige of respondent No.2 and her husband in the society, the complaint (supra) was instituted. Subsequently, the petitioners were summoned by the learned trial Court vide impugned order dated 25.08.2015 (Annexure P-2). Aggrieved by the same, the petitioners preferred a revision before the learned Revisional Court, however, the same was dismissed vide order dated 08.02.2017 (Annexure P-4).



4. Learned counsel for the petitioners, *inter alia*, contends that no offence under Section 500 IPC is made out against the petitioners and the complaint(supra) is based on incorrect facts as the name of respondent No.2 was not mentioned in the said news article. Moreover, respondent No.2 has not brought anything to the record that would indicate that her reputation has been lowered in the society because of the said publication. Further still, the petitioners are not 'Editors' in terms of Section 7 of the Press and Registration of Books Act, 1867 (hereinafter 'PRB Act'). The said news article was published in the Sirsa edition of Jagran City whereas the petitioners are based out of Kanpur, Uttar Pradesh. In fact, they did not have any knowledge of the litigation till 09.03.2016 when a notice was issued to them. Learned counsel further contends that the said news article falls into the purview of Exceptions 1 and 9 of Section 499 IPC and as such, the complaint (supra) has no legs to stand on. The revision petition was also dismissed by the learned Revisional Court merely only on the ground of limitation, which is erroneous as the period of limitation is to be calculated from the date of the incident coming to the knowledge of the petitioners i.e. 09.03.2016. Reliance in this regard is placed on the judgements of the Hon'ble Supreme Court in ***K.M. Matherw vs. K.A. Abraham (2002) 6 SCC 670***, ***Haji C.H. Mohammad Koya vs. T.K.S.M.A. Muthukoya (1979) 2 SCC 8***, ***Aroon Poorie vs. State (NCT of Delhi) 2022 SCC OnLine SC 1491*** and this Court in ***Dhani Ram vs. Om Prakash 2024 SCC OnLine P&H 2651***, ***Barjinder Singh Hamdard vs. Param Vir***



Rathee 2024 SCC OnLine P&H 286, Navjote Kaur Khara vs. State of Punjab CRM-M-44035-2015 and Ramesh Chand Aggarwal vs. State of Punjab 2012 SCC OnLine P&H 22465.

5. *Per contra* learned counsel for respondent No.2, alongwith the learned State counsel, submits that the son and daughter-in-law of respondent No.2 have taken an antagonistic approach and gotten the said news article published only to harass respondent No.2 and her husband, who had disowned them and ousted them from their property in 2003. The said article is based on false and baseless allegations as respondent No.2 was in Sri Ganga Nagar from 11.08.2014 to 26.08.2014, seeking treatment, as such; they could not have committed the alleged offence on 21.08.2014 in Sirsa. Since the publication of a factually incorrect news article has caused immense hardship to respondent No.2 and ruined her reputation in the society, the learned Courts below have correctly summoned the petitioners to face trial. Further, whether the actions of the newspaper fall within the purview of the exceptions to Section 499 IPC, would be for the learned trial Court to decide after assessing the evidence presented.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it appears that petitioner No.1 is the Managing Director, petitioner No.2 is the CEO of Dainik Jagran while the petitioner in CRM-M-17840-2017 is an Editor based out of Hisar. The allegedly defamatory news article was published on 23.08.2014 in the local edition for Sirsa called Jagran City.



7. A proper adjudication of the matter at hand would require a study of Section 499 IPC, which is reproduced below:

Section 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 excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

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.—*Public conduct of public servants.—It is not defamation to express in 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.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above section.

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.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

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.

Eighth 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.*

8. While a presumption is created under Section 7 of the PRB Act to prosecute the editor will be liable for any civil or criminal action initiated against the newspaper, as the content of the newspaper is approved and published under his supervision. However, the same is rebuttable in nature, with the standard being that of preponderance of probabilities. Since the essence of defamation lies in the intention to cause harm with a certain imputation, the concerned officials need only prove that the reporting itself was accurate. On that note, the complaint(supra) indicates that the following news item was published:

“Sirsa: A married woman of Khanna Colony raised allegations of theft against her mother-in-law and father-

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in-law and has given a complaint to the police for action against them. Harsh Bala, a resident of Khanna Colony told that on Thursday she had been to her maternal house at Dabwali and the main gate of the house was locked. Her mother and father-in-law after breaking the lock open have stolen one ring, Rs ten thousand cash, gold chain and two bangles (Karas) of her child."

A perusal of the same indicates that the correspondent concerned has merely reported that Harsh Bala, the daughter in law of respondent No.2, has approached the police for acting against the alleged theft committed by respondent No.2 and her husband. Pertinently, nowhere have respondent No.2 or her husband been named. Moreover, it is factually correct that Harsh Bala had approached the police for this purpose. The news article does not comment on the veracity of the allegations but merely reports them, without illustrating any bias. As such, the petitioners fall into the First and Ninth Exception to Section 499 IPC.

9. A two Judge bench of the Hon'ble Supreme Court in ***Chaman Lal vs. State of Punjab (1970) 1 SCC 590***, speaking through Justice A.N. Ray, made the following observations:

*"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. On the contrary, the evidence is that the imputation concerning the respondent is not true but is motivated by animus of the appellant against the respondent.*

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17. The Ninth Exception states that if the imputation is made in good faith for the protection of the person making it or for another person or for the public good it is not defamation. There is no evidence whatever to support the plea that the imputation was for the public good. The accusation was not also made in good faith. Good faith requires care and caution and prudence in the background of context and circumstances. The position of the person making the imputation will regulate the standard of care and caution. Under the Eighth Exception statement is made by a person to another who has authority to deal with the subject-matter of the complaint whereas the Ninth Exception deals with the statement for the protection of the interest of the person making it. Interest of the person has to be real and legitimate when communication is made in protection of the interest of the person making it.” (emphasis added)

Since the petitioners are in the business of running a newspaper, its purpose would be rendered obsolete if they are not allowed to publish accurate news. Moreover, the abovementioned news article was published in the local edition of the newspaper with an intention to inform the citizens of the activities occurring in their neighbourhood. In such matters, good faith is indicated by the standard of care adhered to while reporting any incident. Once the journalist has verified the accuracy of the point he aims to communicate by means of the article, the same cannot be said to be published with an intention to defame the subject.

10. A two Judge bench of the Hon’ble Supreme Court in ***Aroon Purie vs. State of NCT of Delhi and others 2022 SCC OnLine SC 1491*** has conclusively held that the benefit of the exceptions to the offence under Section 499 IPC can also be sought while approaching the Court under Section 482 Cr.P.C. (now Section 528 BNSS) and the



same is not limited to the trial. Speaking through Chief Justice Uday Umesh Lalit, the following was opined:

“18. We now turn to the question: whether the benefit of any of the exceptions to Section 499 of the IPC can be availed of and on the strength of such exceptions, the proceedings can be quashed at the stage when an application moved under Section 482 of the Code is considered?”

19. In *Jawaharlal Darda & Ors. v. Manoharrao Ganpatrao Kapsikar & Anr. (1998) 4 SCC 112*, the reporting made by a newspaper about the proceedings in the Legislative Assembly touching upon the issues of misappropriation of Government funds meant for certain projects, was the subject matter of complaint alleging defamation. The decision shows that the article being accurate and true reporting of the proceedings of the House, which was reported in good faith in respect of conduct of public servants entrusted with public funds intended to be used for public good, the protection was extended and the power under Section 482 of the Code was utilised. Paragraph 5 of the decision is as under: -

"5. It is quite apparent that what the accused had published in its newspaper was an accurate and true report of the proceedings of the Assembly. Involvement of the respondent was disclosed by the preliminary enquiry made by the Government. If the accused bona fide believing the version of the Minister to be true published the report in good faith it cannot be said that they intended to harm the reputation of the complainant. It was a report in respect of public conduct of public servants who were entrusted with public funds intended to be used for public good. Thus the facts and circumstances of the case disclose that the news items were published for public good. All these aspects have been overlooked by the High Court ."

20. Similarly, in *Rajendra Kumar Sitaram Pande v. Uttam (1999) 3 SCC 134*, a reporting made to a superior officer alleging misconduct on the part of complainant was taken to be completely protected by exception 8 to Section 499 of the IPC and the proceedings were quashed. The relevant portion from paragraph 7 of the reported decision is as under: -

"7. .. Under such circumstances the fact that the accused persons had made a report to the superior officer of the complainant alleging that he had abused the Treasury Officer in a drunken state which is the gravamen of the present complaint and nothing more, would be covered by Exception 8 to Section 499 of the Penal Code, 1860. By perusing the allegations made in the complaint petition, we



are also satisfied that no case of defamation has been made out. In this view of the matter, requiring the accused persons to face trial or even to approach the Magistrate afresh for reconsideration of the question of issuance of process would not be in the interest of justice. On the other hand, in our considered opinion, this is a fit case for quashing the order of issuance of process and the proceedings itself. .."

21. It is thus clear that in a given case, if the facts so justify, the benefit of an exception to Section 499 of the IPC has been extended and it is not taken to be a rigid principle that the benefit of exception can only be afforded at the stage of trial.

22. Similarly, the law laid down in *K.M. Mathew* (supra at footnote No.5.) , which has subsequently been followed, is to the effect that though the benefit of **presumption under Section 7 of the 1867 Act is not applicable so far as Chief Editors or Editors-in-Chief are concerned, the matter would be required to be considered purely from the perspective of the allegations made in the complaint. If the allegations are sufficient and specific, no benefit can be extended to such Chief Editor or Editor-in-Chief. Conversely, it would logically follow that if there are no specific and sufficient allegations, the matter would stand reinforced by reason of the fact that no presumption can be invoked against such Chief Editor or Editor-in-Chief.**" (emphasis added)

11. Moreover, a perusal of the summoning order dated 25.08.2015 (Annexure P-2) does not reflect any cogent reasons necessitating summoning the petitioners. Time and again, the Hon'ble Supreme Court has reiterated that summoning a person to face criminal prosecution is a serious matte and must not be indulged in lightly. A two Judge bench of the Hon'ble Supreme Court in ***J.M. Laboratories vs. State of Andhra Pradesh 2025(1) R.C.R.(Criminal) 810***, speaking through Justice B.R. Gavai, made the following observations:

"8. In the judgment and order of even date in criminal appeal arising out of SLP (Crl.) No. 2345 of 2024 titled "INOX Air



Products Limited Now Known as INOX Air Products Private Limited and Another v. The State of Andhra Pradesh", we have observed thus:

"33. It could be seen from the aforesaid order that except recording the submissions of the complainant, no reasons are recorded for issuing the process against the accused persons.

34. In this respect, it will be relevant to refer to the following observations of this Court in the case of ***Pepsi Foods Ltd. and Another v. Special Judicial Magistrate and Others (1998) 5 SCC 749*** (supra):

"28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is *prima facie* committed by all or any of the accused."

35. This Court has clearly held that summoning of an accused in a criminal case is a serious matter. It has been held that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. This Court held that the Magistrate is required to examine the nature of allegations made in the complaint and the evidence, both oral and documentary in support thereof and as to whether that would be sufficient for proceeding against the accused. It has been held that the Magistrate is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

36. The said law would be consistently following by this Court in a catena of judgments including in the cases



of Sunil Bharti Mittal v. Central Bureau of Investigation (2015) 4 SCC 609, Mehmood Ul Rehman v. Khazir Mohammad Tunda and Others (2015) 12 SCC 420 and Krishna Lal Chawla and Others v. State of Uttar Pradesh and Another (2021) 5 SCC 435.

37. Recently, a Bench of this Court to which one of us (Gavai, J.) was a Member, in the case of Lalankumar Singh and Others v. State of Maharashtra 2022 SCC Online SC 1383 (supra), has observed thus:

*38. The order of issuance of process is not an empty formality. The Magistrate is required to apply his mind as to whether sufficient ground for proceeding exists in the case or not. The formation of such an opinion is required to be stated in the order itself. The order is liable to be set aside if no reasons are given therein while coming to the conclusion that there is a prima facie case against the accused. No doubt, that the order need not contain detailed reasons. A reference in this respect could be made to the judgment of this Court in the case of **Sunil Bharti Mittal v. Central Bureau of Investigation**, which reads thus:*

"51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused.

52. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into court merely because a complaint has been filed. If a prima facie case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

53. However, the words "sufficient ground for proceeding" appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and



formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."

*39. A similar view has been taken by this Court in the case of **Ashoke Mal Bafna (supra)**.*

40. In the present case, leaving aside there being no reasons in support of the order of the issuance of process, as a matter of fact, it is clear from the order of the learned Single Judge of the High Court, that there was no such order passed at all. The learned Single Judge of the High Court, based on the record, has presumed that there was an order of issuance of process. We find that such an approach is unsustainable in law. The appeal therefore deserves to be allowed."

12. Admittedly, respondent No.2 and her husband share a strained relationship with their son and daughter-in-law. They have claimed that the news article was published by their son and daughter-in-law merely to harass them. Since the news article does not contain anything that would make out an offence under Section 499 IPC, being accurately reported in good faith, continuing criminal prosecution against the petitioners would amount to unjust entanglement of the newspaper and its office bearers in, what seems to be, a private dispute. The Constitutional Courts owe a duty to the citizens to protect the common man from unwarranted harassment. When not even a *prima facie* offence is made out against the accused, the Courts cannot, in good conscience, leave them in a lurch to be agonised by an unnecessary trial. In such circumstances, the Courts are duty bound to



invoke its inherent powers under Section 482 Cr.P.C. in order to do complete justice, in the true sense of the term. A two Judge bench of the Hon'ble Supreme Court in ***Mahmood Ali vs. State of U.P. 2024 SCC OnLine SC 950***, speaking through Justice J.B. Pardiwala, held that:

*“12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under section 482 of the Code of Criminal Procedure, 1973 (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or **the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.** We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary **pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.** The Court while exercising its jurisdiction under section 482 of the CrPC, 1973 or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”*

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13. In view of the discussion above, the aforementioned petitions are allowed and impugned summoning order dated 25.08.2015 (Annexure P-2) passed by the learned Chief Judicial Magistrate, Sirsa and the order dated 08.02.2017 (Annexure P-4) passed by the learned Additional Sessions Judge, Sirsa, are hereby quashed qua the petitioners.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

15. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

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