



2025:DHC:2201



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Reserved on: 14th January, 2025*
Pronounced on: 01st April, 2025

+ **CRL.M.C. 6350/2018 & CRL.M.A. 49660/2018**

SANJAY BANTHIYA

S/o Mr. F.M. Banthiya

Executive Director & Manager

M/s Energy Infrastructure (India) Ltd. & Ors.

No.5, E Block,

Local Shopping Center, Masjid Moth,

Greater Kailash-II, New Delhi-110048.

.....Petitioner

Through: Mr. Trideep Pais, Senior Advocate
with Ms. Sanya Kumar & Ms. Saloni
Ambastha, Advocates

Versus

JAGBIR SINGH MALIK @ J S MALIK

S/o Shri Balram Singh

R/o B-148, Ghazipur,

Delhi-110096.

.....Respondent

Through: Respondent in person

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Present Petition under Section 482 Code of Criminal Procedure (*hereinafter referred to as the "Cr.P.C."*) has been filed by the Petitioner/Sanjay Banthiya seeking setting aside of Order dated 04.10.2018 of the learned Metropolitan Magistrate whereby the Petitioner has been



summoned for trial under Section 500 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*), in a Complaint under Section 200 Cr.P.C., filed by the Respondent/Jagbir Singh Malik @ J.S. Malik.

2. ***Brief facts of the case*** are that the Respondent/Jagbir Singh Malik @ J.S. Malik, an employee of Energy Infrastructure (India) Ltd. (EIIL), *formerly known as WIMCO Petrogas Ltd.*, joined the Service *vide* Appointment Letter dated 24.02.1998. His service was terminated *vide* Termination Letter dated 08.10.2010 and his dues were paid in full.

3. Just prior to his termination, the Respondent filed a Complaint on 24.09.2010 with Police Station Gurgaon, Haryana against several officers of EIIL including the Petitioner/*Mr. Sanjay Banthiya, Mr. Rajesh Rao, General Manager; Mr. Federick Peter Jones, Director and Mr. Shiv Kumar Jatia, Chairman* alleging that he was facing harassment at workplace, resulting in mental torture and agony and that he was not promoted and was asked to hand over the files and records handled by him.

4. According to the Petitioner, he and other named persons namely Mr. Rajesh Rao, Mr. Fedrick P. Jones and Mr. Shiv Kumar Jatia, received the Notice of this Complaint dated 24.09.2010 only on 26.10.2010 and were not aware of the same at the time of termination of the service of Respondent.

5. The Petitioner appeared before the Gurgaon Police on 29.10.2010. The Gurgaon Police after due investigations, closed the Complaint on 30.10.2010.

6. The Respondent, pursuant to his termination on 08.10.2010, made another Complaint dated 10.10.2010 to the Deputy Commissioner of Police, East Delhi claiming that his termination was arbitrary.



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7. The Respondent made another Complaint dated 19.09.2011 under Section 154 Cr.P.C. to SHO, Gurgaon Police making similar allegations, which was Closed on 10.10.2011.

8. Subsequent to Respondent's termination on 08.10.2010, EIIL came to know that a purported letter dated 12.10.2010, was written by Petitioner on behalf of EIIL to Vice Chairman, GBM, allegedly signed by Mr. Rajesh Rao, stating that EIIL wished to postpone /cancel the development of Okha Port in Gujarat and requested the return of Bank Guarantee of Rs.150 Lakhs. The Petitioner has alleged that neither he nor Mr. Rajesh Rao, had written the forged letter dated 12.10.2010 and they suspected that Respondent whose services were terminated on 08.10.2010, had sent this Letter under the forged signatures. A Complaint dated 16.11.2010 was made at Police Station Gandhi Nagar, on which FIR No. 1/415/2010 was registered by Gandhi Nagar Police.

9. The Respondent apprehending his arrest, filed various Applications for Anticipatory Bail before the Sessions' Court, Gujarat High Court and the Supreme Court, but all were rejected.

10. The Gujarat Police after due investigations, found that no case was made out against the Respondent and filed a Closure Report "A-Summary Report" dated 27.06.2012 in FIR No. 1/415/2010. However, it was stated that it would continue investigation to find the real offender who had committed the offences of forgery and impersonation. The Closure Report was accepted by the learned Magistrate, on 06.08.2012.

11. The Respondent then filed various Complaints against the Petitioner for seeking compensation before the learned Labour Court, New Delhi [LID



No. 398/2016, South West District, Dwarka Courts, Delhi] and another before Labour Court, Kakardooma Court, East Delhi [LID No. 347/2014]. The Respondent has also filed Complaint dated 25.07.2015 before Station House Officer, Police Station Ghazipur and a *Civil Suit bearing C.S. NO. 3321 of 2016*, before the learned Trial Court.

12. The Respondent also filed impugned Complaint dated 01.04.2016 under Section 200 read with Section 190 Cr.P.C. before CMM, Karkardooma Court alleging that the Petitioner and other accused persons, removed his Academic Certificates including the Termination Letter dated 08.10.2010, from his Workstation. The Respondent also alleged in the Complaint that he and his family had threat to their lives and that his services were illegally terminated and he has been falsely implicated in FIR No. 1/415/2010 dated 16.11.2010 on the allegations that he had committed forgery of letter dated 12.10.2010. The Respondent also alleged in the Complaint that the statements made by the Petitioner and others on 29.10.2010 during investigation by Gurgaon Police, were defamatory in nature.

13. The learned Metropolitan Magistrate *vide* Order dated 04.10.2018 concluded that no offence as alleged under *criminal intimidation, forgery, false evidence, removal of certificates etc. through any concrete evidence* was made out, but summoned the Petitioner under Section 500 IPC. The Order of learned MM reads as under:-

“From the allegations leveled in the complaint, it seems that no case can be made out against the persons subsequently introduced by the complainant. So far as allegation of false implication in FIR of



*forgery is concerned, the only conclusion which can be drawn is that as per Gandhi Nagar police, the handwriting/signature were not matching with the complainant. However, there is no material to establish that such handwriting or signature were made by accused Sanjay or any other proposed accused. Be it noted that during the investigation of the said FIR, bail application of present complainant was rejected right upto the Hon'ble Supreme Court. It is therefore, it cannot be said that there was no allegations or any basis of allegations. It is entirely another thing that his handwriting/signature were not found to be matching. Science of handwriting comparison is not a full proof thing and it remains a mere opinion. On this basis, no final conclusion can be drawn. **Moreover, there is nothing to establish that any of the accused persons committed forgery in respect of allegations made in the present complaint case.***

*So far as **forceful quitting of job is concerned**, the termination by a company is basically a civil dispute and there cannot be any criminal liability attached to the same. Even if, the complainant received the termination letter under protest, the same cannot be the basis of a criminal case. Here it would be significant to note that complainant is claiming that he was forged to sign some documents under threat of life. However, he has not established what words were used. **A bare claim does not satisfy the requirement of criminal intimidation defined u/s. 503 IPC.***

*So far as **removal of academic certificate** is concerned, even if we were to accept that such academic certificate was removed, the deposition of complainant does not establish that it was removed by any of the accused persons. How he can claim that it*



*was accused Sanjay Banthiya at whose instance his academic certificate were removed, is not clear. Neither he has seen or hear any such thing so that he could be witness u/s 60 of Evidence Act, nor he has produced any other witness in this respect. **Moreover, for removal of anything, its existence at that place is required to be proved. Nothing really has been proved concretely by the complainant.***

In view of the aforesaid, it seems that the complainant is unable to establish criminal intimidation, forgery, false evidence, removal of certificates etc. through any concrete evidence. However, prima-facie a case is made out for defamation on the basis of available material against accused Sanjay Banthiya. There is nothing to involve other proposed accused persons even for this defamation.

*As such, no proceeding can be conducted against the other proposed accused persons named in amended memo of parties. Even Sanjay Banthiya and the accused company cannot be imputed in any criminal allegation mentioned in the complaint **except that Sanjay Banthiya may be summoned in respect of defamation.***

Consequently, accused Sanjay Banthiya is directed to be summoned for Section 500 IPC.”

14. Against this Order, the Respondent/J.S. Malik preferred a Revision Petition No.212/18, assailing that Petitioner should be summoned under other offences as well and that all the other accused be also summoned for all the Charges. The learned Special Judge *vide* Order dated 26.11.2018 dismissed the Revision Petition holding as under:-



“10. In absence of any substantive offences being made out against any accused persons, there was requirement to establish that conspiracy for any such offence actually took place within the territorial jurisdiction of East Delhi. There was further requirement to establish that the named accused persons/respondent took part in that conspiracy. However, I find that neither complaint nor evidence led by the complainant lead to any such inference.

11. In fact, impleading a statutory body i.e. respondent no.6 as one of the respondent was not a right course of action in a criminal proceeding. A crime is committed by juristic or natural person and role of such persons has to be explained by the maker of the allegations. It was not so done by the petitioner in his complaint. **The complaint and testimony of petitioner, rather show that he filed such complaint in the court of East Delhi as a retaliatory action against the accused persons because FIR was lodged against petitioner in Gandhi Nagar, Gujarat on the allegations of forgery of letter dated 12.10.10. However, this reason cannot be a basis to launch a criminal prosecution against the named accused persons.**

12. **Ld. MM had as already taken cognizance of the offence u/s 500 IPC, against respondent no. 2 I do not find any basis to summon any of the accused or respondents for other charges.”**

15. The Petitioner aggrieved by the Order of summoning under Section 500 IPC, by learned MM which has been upheld by learned Special Judge, has filed the present Petition.



16. *The grounds of challenge are* that the Respondent has clearly failed to establish that any imputation has been made by or even at the behest of the Petitioner. Also, there is no cogent evidence to demonstrate that the reputation of Respondent has been affected, as mandatorily required under Section 499 IPC, Explanation 4 which specifies that *an imputation can be said to harm a person's reputation only if it directly or indirectly lowers the moral and intellectual character of that person or of his calling or the credit of that person in the estimation of others.*

17. Respondent has not made any claim nor led any evidence of any third party, to establish that his reputation was harmed or his moral or intellectual character was lowered in the *estimation of others* as a result of the alleged acts of the Petitioner. None of the other witnesses, namely CW-2 to CW-5, stated that the reputation of the Respondent was lowered in their eyes.

18. It was further asserted on behalf of the Petitioner that the allegation of Respondent that the raid conducted at his premises at Gazipur pursuant to Complaint dated 16.11.2010 filed by the EIIL against him, caused him loss of reputation, is bereft of substance as no evidence has been led of any witness including any of the neighbour to demonstrate that he was defamed in any manner. Thus, no case is made out under Section 499/500 IPC.

19. It was also submitted that the Complaint dated 16.11.2010, pertaining to forgery of letter dated 12.10.2010, was filed by EIIL through its Authorized Representative and not by the Petitioner in person. Also, the Closure Report- "A Summary Report" dated 27.06.2012 mentioned *that even though Respondent had not committed the said offence, but the Letter was forged and further inquiry would be continued to get the true culprit.*



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The learned Metropolitan Magistrate *vide* Order dated 04.10.2018, while accepting the Closure Report, held that while the alleged forgery was not established to have been committed by respondent No.1, but it could not be concluded that the allegations in the Complaint dated 16.11.2010 were baseless; these findings were upheld by the learned Session Court *vide* Order dated 26.11.2018.

20. Also, there is not a whisper in the evidence of the Respondent that the statements made by other officers of EIIL before the Gurgaon Police or before the learned Trial Court in Respondent's pre-summoning evidence on 09.05.2016, were at the behest of the Petitioner or on account of force, coercion or collusion with the Petitioner, or that they were defamatory in nature.

21. It is further contended that since filing of the Complaint on 01.04.2016, the Respondent has improved his version in his statement in pre-summoning evidence on 09.05.2016 and written Note dated 28.06.2018, attributing specific role to the Petitioner and his subordinates.

22. The Petitioner has contended that the learned Metropolitan Magistrate and learned Sessions Court though observed that no case of forgery was made out against the Respondent, but failed to consider that none of the Status Reports dated 15.02.2018 and 21.05.2018 indicated commission of offence under Section 499 IPC by the Petitioner. It has also not been appreciated that various Complaints made by the Respondent against the Petitioner and also multiple litigations initiated against him, is a counter blast since he was not promoted in the Company and subsequently terminated.



23. Reliance is placed on Subramanian Swamy vs. Union of India (2016) SCC OnLine SC 550 to submit that the Apex Court has held that in case of *Criminal Defamation*, the responsibility is of the Magistrate to scrutinize the Complaint and issue the process judiciously.

24. The Petitioner has claimed that the learned Trial Court has not appreciated the facts of the case in its entirety and in spite of lack of sufficient grounds to proceed against him, has summoned him *vide* Order dated 04.10.2018, even though no case for defamation was made out nor was there any material against him. *Thus*, the Petitioner has sought the ***setting aside of Order dated 04.10.2018*** of the learned Metropolitan Magistrate and Order dated 26.11.2018 of the learned Special Judge.

25. ***Respondent/Complainant filed his written submissions*** wherein it is submitted that the Petitioner along with other accused persons, had harassed him for a considerable period and extended criminal threats to eliminate him and his family members, for getting his signatures on Termination Letter dated 08.10.2010.

26. Subsequent to his termination, defamatory Public Notice dated 29.10.2010 *"To Whomsoever it may Concern"* under the signatures of subordinate employees of Petitioner, was prepared with the contact number in his own handwriting, to be issued in all Papers/ documents.

27. The Petitioner along with other co-accused, forged the documents and delivered the same in the Government office of Gujarat, based upon which FIR was registered against him, for which he had to file various Caveats in Punjab and Haryana High Court and High Court of Delhi.



28. The evidences seized by the Investigating Officer from Gandhinagar and Mysore, filed with the Reports dated 15.02.2018 and 02.05.2018, clearly disclose the various offences committed by the accused persons.

29. The Complainant has further submitted that in the FSL Report, it has been opined that the writing and signatures on the disputed Letter Pad, do not match with his admitted writing and that somebody else knowing the affairs, had attempted to prepare the Letter Pad. The accused persons have not only committed theft of his Academic Certificates, but also forged the documents to falsely implicate him in the false case of forgery, cheating, etc. to put him in Jail in Gujarat and thereby caused mental harassment, criminal intimidation and criminal defamation.

30. The Complainant has alleged that because of the *mala fides* of the Petitioner and other accused persons, he has suffered pain, humiliation and mental agony till he was exonerated in the criminal case. Furthermore, there is enough evidence on record to show that Petitioner has been rightly summoned, but he along with other accused persons deserve to be tried and punished under strict penal provisions including sections 120B, 448, 406, 380, 384, 596, 499, 500, 418, 420, 468, 469, 471, 193, 182, 34, 211 IPC.

31. ***In Rejoinder***, the Petitioner has submitted that the statements made by his Colleagues on 29.10.2010 before the Gurgaon Police, were not at the behest of Petitioner. Though the Complainant has now claimed that these were prepared on a single Computer, on the same size and font, bearing their contact numbers in Petitioner's handwriting, but has not placed any evidence in respect of his claim.



32. The Petitioner has reiterated his stand as taken in his Petition and has further submitted that the documents placed on record, fail to render any credence to Respondent's claim; instead, the Complainant has used the defamatory phrases such as "*master manipulator*", "having managed the police" and "mastermind" against him, which are baseless.

33. **Submission heard and record perused.**

34. Respondent/Jagbir Singh Malik was appointed as an employee of (EIL) *vide* Appointment Letter dated 24.02.1998, whose service was terminated *vide* Letter dated 08.10.2010. Thus, began the multiple complaints against the Respondent and the EIL and its Officers.

35. The moot question which poses itself before this Court is *whether case of defamation of the Respondent by the petitioner, is prima facie made out from the averments made in the Complaint under Section 200 Cr.P.C. and the evidence led by the Respondent, in support thereof.*

36. Before considering the facts on merit, it would be pertinent to first consider the Contours of Defamation, as defined in Section 499 IPC.

37. **Section 499** defines "**Defamation**" which 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.*

.....

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.”

38. According to *Salmond & Heuston* on the Law of Torts, 20th Edn.7 define a defamatory statement as under :

“A defamatory statement is one which has a tendency to injure the reputation of the person to whom it refers; which tends to lower him in the estimation of right thinking members of society generally and in particular to cause him to be regarded with feelings of hatred, contempt, ridicule, fear, dislike, or disesteem....”

39. Defamation has been defined as a “false statement about a man to his discredit” by Justice Cave in *Scott vs. Sampson*, (1882) 8 QBD 491 and followed by Indian Courts in *Bata India Ltd. vs. A.M. Turaz*, 2012 SCC OnLine Del 5387 : (2013) 53 PTC 586 and *Pandey Surendra Nath Sinha vs. Bageshwari Pd.*, 1960 SCC OnLine Pat 116 : AIR 1961 Pat 164

40. Section 499 IPC speaks of proof of “malice in fact” which is present when the ill intention translates into a deliberate act that injures another in an unlawful manner with the motive to cause such harm as explained in *W.B. SEB vs. Dilip Kumar Ray*, (2007) 14 SCC 568 : (2009) 1 SCC (L&S) 860. Actual malice is a **question of fact** which requires specific proof.

41. This aspect was also considered in *Jeffrey J. Diermeier vs. State of W.B.*, (2010) 6 SCC 243, wherein the Apex Court held that 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 to constitute defamation under Section 499 IPC. It would thus, 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.

42. The intrinsic facet of “Defamation”, is “*harm to Reputation*” or lowering the estimation of a person *in public domain*. This makes it pertinent to understand what constitutes reputation.

43. In Manisha Koirala vs. Shashi Lal Nair & Ors, 2003 (2) Bom CR 136, the term “*reputation*” was held to be that allusions which clearly exposit the innate universal value of reputation and how it is a cherished constituent of life and not limited or restricted by time. It has regard, not to intellectual or other special acquirements, but to that repute which is slowly built up by integrity, honourable conduct, and rightful living. The right to reputation in its vital aspect, is not concerned with fame or distinction. It is, therefore, reputation alone that is vulnerable; character needs no adventitious support.

44. Thus, it may be concluded that the offence of *defamation* involves:

- (i) *whoever, by **words** either spoken or intended to be read, or by signs or by visible representations, **makes or publishes;***
- (ii) *any statement or **imputation;***



(iii) *the imputation must have been made with the intention or knowledge or having reason to believe that it will harm the reputation of the person about whom it is made; and*

(iv) *which is a tendency to harm the reputation of the person or lower him in estimation of members of the Society resulting in loss of reputation and is consequently defamatory.*

45. The **first aspect** which clearly emerges from the contents of the Complaint under Section 200 Cr.P.C. is that while the Complainant/ Respondent had made specific allegations in respect of *cheating, forgery, false evidence and criminal intimidation*, but there was not a word spoken about the alleged defamation. The learned MM in the impugned Order has observed that *prima facie* offence of defamation is made out, but has failed to state even a sentence on the basis of which this *prima facie* conclusion had been drawn.

46. The first decipherable averment from which the allegations of defamation may be ascertained, is the forged letter dated 12.10.2010 allegedly written by EIIL to Gujarat Maritime Board in respect of which FIR No. I/415/2010 was registered. The Respondent was suspected to have written this Letter on account of his pending disputes with EIIL. It was established during investigation that the letter was indeed forged, but forgery was not done by Respondent/Complainant. Since the actual culprit who had committed the forgery of the letter could not be ascertained, the Closure Report was submitted before the learned Trial Court.

47. In this backdrop, it cannot be said that there was any malicious prosecution or any endeavour on the part of the Company to defame the



Respondent. They had merely perused their legal remedy in respect of a wrong act *committed vis-a-vis* the Company.

48. It is pertinent to observe that Respondent had also filed a Civil Suit seeking damages on account of alleged malicious action of Petitioner, which was dismissed and even the Revision preferred against thereof, also stands dismissed by the learned Sessions Court.

49. ***The second set of averment*** on which the allegations of defamation may be considered, are the three statements made by the Officials of the EIL before the Gurgaon Police. In this context, it would be pertinent to refer to the relevant part of the three statements of the employees of EIL, submitted to the Gurgaon Police during the investigation of the Complaint dated 24.09.2010.

50. Statement of Mr. Ashok Soni, Head of Accounts, reads as under:-

**“STATEMENT OF SH. ASHOK SONI DATED
29.10.2010
TO WHOMSOEVER IT MAY CONCERN**

3. I state that I have known Mr. J.S. Malik since last 20 years and worked with him in the Company since the year 1998.During my long association, I have never been comfortable in my interactions with him because of high handed attitude. Mr. Malik is egoistic, greedy and miser person, he always believes in passing the buck and not a self starter and always requires soon feeding in the recent past his general attitude has been very arrogant, negative and un professional. Even though he was junior to me in the company hierarchy and I was promoted in the company on the basis of my competence and hard work and in spite of Mr. Malik having no knowledge of accountancy and finance he has questioned my competence and promotion granted to me and defamed



me before the management and also made acquisitions on me to concentrate on my job responsibilities which he had no authority or knowledge.”

51. Likewise, Statement of Mr. M.P. Vinod, Assistant Manager Coordination and Logistics, reads as under:-

**“STATEMENT OF SH. M.P. VINOD DATED
29.10.2010**

To whomsoever it may concern

2. I have known Mr. J.S. Malik since last 15 years and i have worked with him in the company since the year 2001 onwards.

..... I state that Mr. Malik is not been fair to the company and provides no cooperation to other employees. He is a person who thinks too high of himself and not modest. Of late his attitude had become very unreasonable and demanding even though current circumstances have been trying and difficult for the company.”

52. Statement of Mr. B.S. Bhandari, Senior Supervisor Accounts, reads as under:-

**“STATEMENT OF SH. B.S. BHANDARI DATED
29.10.2010**

TO WHOMSOEVER IT MAY CONCERN

2. That I have known Mr. J.S. Malik since June 2002, the day I have joined the company.

..... I have always found Mr. Malik to be manipulative and greedy, Mr. Malik has never been cost conscious and in the recent past his attitude has become very aggressive and unprofessional. I have on numerous occasions found him to be talking against the management, company and company's interest.”



53. The Statements were made by the three officers of EIIL in the inquiry conducted in the Complaint filed by the Respondent. The Respondent/Complainant contends that these Statements were “*Public Notices*” under signatures of subordinate employees by the Petitioner, and these statements were in fact prepared by the Petitioner and other accused persons with the Contact nos. in the Petitioner’s own handwriting.

54. The contention of the Respondent that the Petitioner wrote the Contact nos. in his own handwriting, is not substantiated with any evidence. Even if this contention is accepted for the sake of arguments, then too, it was only to facilitate the inquiry of the Police into the Complaint of the Respondent himself.

55. Thus, there is no document/evidence brought on record to show that any defamatory statements were made by the Petitioner/Sanjay Banthiya against the Respondent/J.S. Malik. The three statements are not attributable to the Petitioner, but were submitted by the three employees of EIIL. Even otherwise, the Statements merely recorded the personal opinion of the three employees in regard to Respondent/Complainant, who was their former colleague with them in the Company-EIIL.

56. The next important aspect for establishing an offence under Section 499 IPC are the words “*makes or publishes any imputation*”. In Bilal Ahmed Kaloo vs. State of Andhra Pradesh, (1997) 7 Supreme Today 127, the Supreme Court held that these words should be interpreted as words supplementing to each other. A maker of imputation without publication, is not liable to be punished under that section.



57. It is the 'public' element that is inherent in the language of Section 499 IPC that strives to protect the reputation of an individual in the eyes of the public at large. However, it is clear that these statements were made to Gurgaon Police in an inquiry and cannot be considered as having been made to the public or to any other third person. *Per se*, they may be holding an opinion about Respondent, but the statements cannot be said to have been made with an intent to harm the reputation of the Respondent and thus, cannot be termed as defamatory. There is not even a whisper that such acts had a tendency to injure the reputation of the Respondent.

58. The aforesaid discussion leads to an inevitable conclusion that aside from asserting that the reputation of the Respondent suffered, none of the requisite ingredients of the offence of defamation were either alleged or established from the pre-summoning evidence led by the Respondent against the Petitioner.

59. The impugned Order, is therefore, liable to be set aside.

Period of limitation:-

60. In addition, it further needs to be observed that the alleged defamatory acts which caused loss of reputation of the Respondent, by the Petitioner and employees of EIL, pertain to the year 2010.

61. **Section 468 Cr.P.C.** bars a Court from taking cognizance of an offense after the expiry of a specific period of limitation, depending on the severity of the punishment for that offense.

62. Further, Section 468(2) Cr.P.C. provides that the period of limitation shall be six months if the offence is punishable with fine; one year if the offence is punishable with imprisonment for a term not exceeding one year



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and three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

63. The Punishment under Section 500 for the offence of Defamation is Simple Imprisonment for a term which may extend to two years, or with fine, or both. Therefore, the Complaint for the alleged defamation by the Petitioner should have been filed within three years by the Respondent, but the same has been filed in the year 2016 which is thus, barred by limitation.

Conclusion:-

64. Accordingly, the impugned Order dated 04.10.2018 of the learned Metropolitan Magistrate summoning the Petitioner under Section 500 Cr.P.C. which has been upheld by the Order dated 26.11.2018 of learned Special Judge, is held to be erroneous and hereby set aside.

65. The present Petition is hereby allowed and accordingly disposed of along with pending Application(s), if any.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 1, 2025/r