

**13.04.2026**

Ct. No. 34

S/L No.2

sg

**CRR 573 of 2023**

In the matter of : **Molla Jasimuddin**

Dr. Siddhartha Goswami

Ms. Uposana Shaw

...for the petitioner.

Mr. Arindam Jana

Mr. Yuvraj Chatterjee

...for the opposite party.

Mr.Md. Anwar Hossain

Ms. Sonali Bhar

...for the State.

1. This revisional application has been filed under Section 401 read with Section 482 of the Code of Criminal Procedure for quashing of the proceeding in connection with the First Information Report lodged against the petitioner by the de facto complainant being G.R. Case No. 1014 of 2018 arising out of Purbasthali Police Station Case No. 319 of 2018 dated 30.08.2018 under Sections 505(2)/34 of the Indian Penal Code, 1860 pending before the learned Chief Judicial Magistrate, Kalna, Purba Burdwan.

The case of the petitioner in brief:

2. The criminal case has been started on the basis of a complaint lodged by one Abhijit Chakraborty alleging that on 30<sup>th</sup> August, 2018 at 15:25 hours a complaint was received from Abhijit Chakraborty to the effect that on August 6, 2018 the owner of the news web portal Mangolkote.com, namely Molla Jasimuddin published fake news about Purbasthali Sanskrit Mancha written by one Shyamal Roy. It was further alleged that the fake news was

sent to various persons by said Shyamal Roy through WhatsApp to create disturbance in that area and thereby the petitioner has commenced an offence of defamation.

3. It is the case of the petitioner that the entire story made in the complaint is false and fabricated and published with an intention to malign the reputation and image of Sanskrit Mancha. On completion of investigation, the chargesheet was submitted against petitioner under Sections 505(2)/34 of the Indian Penal Code now pending before the Court of Learned Chief Judicial Magistrate, Kalna. Challenging the same the instant revisional application has been filed to quash the entire proceeding.

#### Submissions

4. Learned advocate representing the petitioner at the outset submits that the co-accused Shyamal Roy whose name was mentioned in the written complaint who wrote the said news has expired. There is absolutely no case made out against the present petitioner who is the proprietor of the said news portal and he has been falsely implicated with mala fide intention. It is further submitted that after promulgation of the Press Council Act, a council has been consisted with a Chairman and 28 other members with an object to preserve the freedom of the press and to improve the standards of newspapers and news agencies and if on receiving any complaints if there has reason to believe that newspaper or the news agency has offended against the standard journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct Council made after giving newspaper or news agency the editor or journalist

concerned after giving an opportunity of hearing hold an enquiry in such manner as may be provided by the Regulation made under the Act.

5. Learned advocate has relied upon the decision passed in CRR 1187 of 2022 in the case of **Mr. Arnab Goswami & Anr. Vs. The State of West Bengal & Anr.** and the decision passed by the High Court at Judicature at Allahabad in application under Section 528 of BNSS no. 1624 of 2025 in **Prempal & 3 Others. – Vs. State of U.P. and Another.**

6. It is submitted by the learned advocate that at no point of time any complaint has made before such appropriate authority in connection with this. It is further argued that in the judgement passed by the Hon'ble High Court it was held that in order to attract the provision under section 505(2) of the Indian Penal Code, the essential ingredients to constitute such offence of defamation are necessary which are- i) Making or publishing any imputation concerning any person; ii) Such imputation must have been made by words either spoken or intended to be read ,or by signs , or by visible representations ,and iii) Such imputation must have been made with the intent to harm, or with knowledge or belief that it will harm the reputation of the person concerned. In this case admittedly the content was written by Shyamal Roy and it was published in the web portal owned by the petitioner so no way this petitioner can have the intention to defame concerning any community or person. The petitioner made a detailed representation through his Advocate to the investigating authority

that no prior permission from the press council has taken in connection with this matter.

7. Learned advocate on the behalf of the opposite party, on the other hand, raised vehement objection and submits that in this case the said fake news against the Sanskriti Mancha was published with an intention to defame the organization and to create public outrage, was published in the news portal of which present petitioner is owner. It is further submitted that being the owner of the said news portal he ought to have considered the contents of the news before any publication to prevent post publication consequences which he has not done. There are sufficient material to establish by filing the charge sheet, the investigating authority for which petitioner face the trial.

8. Heard the submissions. On careful perusal and materials-on-record and going through the contents of the complaint prima facie it appears that complaint was lodged by the present opposite party no.2 before the I.C, Purbasthali Police Station against both the present petitioners as well as one Shyamal Roy who has expired during pendency of this proceeding and the report submitted before this Court on behalf of the prosecution also endorses such fact. From the above nature of facts and circumstances it can be gathered that news published in the News portal Mangolkote.com owned by the petitioner is the germen giving rise to this complaint. The sum and substance of the complaint depicts that because of such publication not only the complainant who is the secretary of said Purbasthali Sanskrit Mancha is maligned but it also humiliated and maligned the other members of such organization

who are associated with the same and also it was instigatory in nature causing an unrest situation over the locality. On close scrutiny of the complaint it further transpired that it was published in the news portal namely Mangolkote.com but it was created by Shyamal Roy and it is alleged that he further circulated the news to various persons through his WhatsApp to create disturbance in the area. However the chargesheet was submitted only under Sections 505(2)/34 of the IPC. Since the charge sheet was submitted under the aforesaid provision it is necessary to revisit the provision itself.

Section 505 reads as follows-

**“505. Statements conducing to public**

***mischief: (1)] whoever makes, publishes or circulates any statement, rumour or report,***

*(a) with intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or*

*(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or*

*(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,*

*shall be punished with imprisonment which may extend to 6[three years], or with fine, or with both.*

**2) Statements creating or promoting enmity, hatred or ill-will between classes.**

*Whoever makes, publishes or circulates any statement or report containing rumor or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.....”*

Therefore to attract this provision the mens rea must be established that there is an intent to incite a class or community against each other. Prima facie the content of the complaint does not appear to have such ingredient as essentially the grievance was that it contained material touching their honesty and integrity of the secretary and the other members of Purbashali Sanskrit Mancha which badly affected their reputation and thereby caused harm and since the news was circulated through whatsapp by Shyamal Roy it hurts the sentiments of local farmers. No

materials can be found that it was done to promote or incite a class of people or any community against each other.

9. On close scrutiny of the facts and circumstances, it is pertinent to mention that a writ petition was filed for non-consideration of the representation lodged by another person after the said incident of unrest situation happened after publication of this news and while dismissing the said proceeding it was observed by the Learned Co-ordinate Bench in the month of October, 2026 directing the writ petitioner to initiate before the appropriate forum or council.

10. On perusal of the case diary and the statements which were recorded in respect of witness therein also transpires that it was Shyamal Roy who wrote the news and tried to inform other persons through his whatsapp.

11. The judgement so relied upon by the the learned advocate of the petitioner, Mr. Arnab Goswami & Anr. Vs. The State of West Bengal & Anr. Where the Learned Co-ordinate Bench discussed various decisions where the issue relates to a news debate aired on Republic TV and a comment made by a panelist which was condemned by the petitioner. The charges levelled were under section 153A/153B/500 /504/120B of IPC and the Learned Co-ordinate Bench held that there was no ingredient to promote enmity or hatred between two groups. It further transpired that the publication was dated 6.8.2018 and the complaint was lodged on 30.8.2018 after the news was circulated on 7.8.2018 which he came to learn on 10.8.2018, so basically the issue developed not

due to the publication of the news but on account of circulation of such news through whatsapp.

12. From the Case Diary two more newspapers are found to have been collected where the same news was published and the petitioner is not the owner or editor of any of the said newspaper.

13. The Press Council Act was promulgated for the purpose of preserving the freedom of press and of maintaining and improving the standard of the newspaper and news agencies in India. In terms of such Act a council has been consisted with a Chairman and 28 other members and on receiving any complaints if there is reason to believe that newspaper or the news agency has offended against the standard journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct Council made after giving newspaper or news agency the editor or journalist concerned after giving an opportunity of hearing hold an enquiry in such manner as may be provided by the Regulation made under the Act. In terms of subsection 2 of section 15 of the said Act any enquiry held by the council shall be deemed to be a judicial proceeding within the meaning of section 192 and 228 of the Indian Penal Code. No complaint was ever lodged before such council against the petitioner. It is undisputed that the primary responsibility lies with the editor and owner of the news paper or the portal regarding selection of materials to be published and he cannot absolve with such responsibilities on the plea that the reporting was made by a third person. But in the present case the contents principally do not suggest any

ingredients to constitute an offence under section 505(2) of the Indian Penal Code so far the petitioner is concerned

14. Therefore, permitting the proceedings to continue against the petitioners will be an abuse of process of law and thus the proceeding is liable to be quashed.

15. Accordingly this revisional application stands allowed. The entire proceeding pending before the Learned ACJM, Kalna is hereby quashed qua the petitioner.

16. Parties are to act on the server copy of this order downloaded from the official website of the Calcutta High Court.

17. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

**[Chaitali Chatterjee (Das), J]**