



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

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*Reserved on: 30th October, 2025
Pronounced on: 20th January, 2026*

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CRL.M.C. 4225/2018 & CRL.M.A. 30417/2018

HARKIRAT SINGH SODHI

S/o. Shri M. S. Sodhi,

R/o 210-A, Golf Links, New Delhi

.....Petitioner

Through: Mr. Lalit Gupta, Mr. Rajat Asija,
Ms. Mansi Singh, Mr. Anmol Ghai,
Ms. Ishita Nautiyal and
Ms. Shreeyam Kedia, Advocates

versus

1. **STATE OF NCT OF DELHI**

Through its Chief Secretary,
Delhi Secretariat, I.P. Estate, New Delhi.

2. **RAVINDER SINGH**

S/o Late Shri M. S. Sodhi,

R/o. M-77, Greater Kailash-I, New Delhi

.....Respondents

Through: Mr. Ajay Vikram Singh, APP for the
State.

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CRL.M.C. 5891/2019 & CRL.M.A. 40685/2019

HARKIRAT SINGH SODHI

S/o. Late Shri Mohinder Singh,

R/o 210-A, Golf Links, New Delhi

.....Petitioner

Through: Mr. Lalit Gupta, Mr. Rajat Asija,
Ms. Mansi Singh, Mr. Anmol Ghai,
Ms. Ishita Nautiyal and Ms.
Shreeyam Kedia, Advocates

versus

CRL.M.C. 4225/2018 & 5891/2019

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1. **STATE OF NCT OF DELHI**
Through Standing Counsel (Crl.),
Delhi High Court.
2. **RAVINDER SINGH (RAVINDRE SINGH GANDOAK)**
S/o Late Shri Mohinder Singh,
R/o. M-77, Greater Kailash-I, New DelhiRespondents
Through: Mr. Ajay Vikram Singh, APP for the
State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The aforesaid two Petitions have been filed under Section 482 Cr.P.C. on behalf of the Petitioner, Harkirat Singh Sodhi, for quashing of the Complaint under Section 200CrPC for the offences 499/500 IPC filed on behalf of Respondent No.2, Ravinder Singh Gandoak, and the summoning Order dated 06.07.2017 of the Ld. MM, which have been upheld by the Revisional Court vide Order dated 11.07.2018 and 18.07.2019.
2. *The brief facts* are that a Complaint Case No. 89247/2016 was filed by Respondent No. 2, Shri Ravinder Singh Gandoak, against the Petitioner, Shri Harkirat Singh Sodhi - his brother-in-law (husband of the sister)- under Section 200 Cr.P.C. for offences under Sections 499/500 IPC. The Complainant/Respondent No. 2 asserted that the Petitioner has been involved in various disputes concerning the property and assets of their deceased mother, Sardarni Surinder Kaur Sodhi, who expired on 31.12.2013.



3. Two testamentary petitions are pending before this Court. *Test Case No. 38 of 2014* titled *Harkirat Singh Sodhi v. State & Ors.*, before this Court, was filed by the Petitioner seeking probate of a registered Will dated 13.01.1987 executed by his mother in his favour.

4. The second *Test Case No. 42 of 2014* was filed by Smt. Amita Gandoak, Respondent No. 2's wife (and Petitioner's sister), to seek probate of an alleged unregistered Will dated 07.09.2004, which purportedly revoked the 1987 Will. Amita Gandoak asserted that her mother had left a handwritten Will dated 07.09.2004, whereby she bequeathed her house bearing No. 210-A, Golf Links, New Delhi, jointly to Amita Gandoak and the Petitioner, Harkirat Singh Sodhi. She had earlier executed a registered Will dated 13.01.1987, which was allegedly revoked by a Registered Revocation Deed dated 05.06.2004. The Petitioner has claimed that he is contesting this petition and has disputed its validity, contending that it was forged and that the 1987 Will remained the last valid testament. He also denied the existence or validity of any revocation deed, asserting that the original registered Will of 1987, was never lawfully revoked.

5. Both testamentary petitions remain pending adjudication before this Court.

6. The Respondent No. 2 filed a Complaint under Sections 499/500 IPC alleging that the Petitioner, **Harkirat Singh Sodhi**, made defamatory statements against him (**Ravinder Singh Gandoak**) and relied on the following three instances:

a) Police Complaint dated **02.08.2014** filed by the Petitioner before **Police Station Tughlak Road, New Delhi**, against Respondent No.



2's wife (**Amita Gandoak**, who is also the Petitioner's sister), wherein the Petitioner stated that *"Mr. Ravinder Singh Gandoak has earlier also committed such forgeries in respect of his late father's properties and assets and also in respect of his late father's Will and other documents, which my sister had informed me earlier"*;

- b) Objections dated 22.12.2014** filed by the Petitioner in **Testamentary Case No. 42/2014** titled *Amita Gandoak v. State & Ors.*, pending before the Delhi High Court, wherein the Petitioner reiterated allegations of forgery of cheques of the mother by Amita Gandoak and dishonest conduct against Respondent No. 2, referencing findings in **CS (OS) No. 82/2005**; and
- c) An unsigned letter dated 04.01.2015**, allegedly circulated by the Petitioner in the **Greater Kailash RWA**, which again questioned Respondent No. 2's integrity and reputation and contained derogatory and defamatory statements against him and his children.

7. According to Respondent No. 2, these averments made by the Petitioner in his objections are completely bogus, **falsely and mala fide** and smack of sensationalism and intentional defamation, with a view to wrongfully and illegally harass the Complainant so that his wife (the Petitioner's sister) would be pressured into abandoning her rightful claims in their deceased mother's estate. The statements made by the Petitioner in his objections in the aforementioned Testamentary Case No. 42/2014, as well as in his police Complaint dated 02.08.2014, are false, baseless, and sensational. These statements were made with the sole intent to



unnecessarily harass the Complainant (Respondent No. 2) and to harm his hard-earned goodwill and reputation in society.

8. The Complainant (Respondent No. 2) further asserted that he was shocked to read such scathing, mischievous, baseless, and overtly defamatory accusations against him. It was therefore, asserted in the Complaint that the Petitioner had committed the offence of defamation under Section 500 IPC.

9. The Learned MM summoned the **Petitioner for offences under Sections 499/500 IPC vide Summoning Order dated 06.07.2017.**

10. The petitioner has sought the quashing of the Complaint and the summoning Order dated **06.07.2017** before the learned Additional Sessions Judge (ASJ), but the Revisions were dismissed.

11. The aforesaid Petitions have been filed to challenge the ***Complaint and the Summoning Order on the ground*** that Respondent No. 2, Ravinder Singh Gandoak, is himself an accused in **FIR No. 149/2014** under Sections **420/468/471/120-B IPC**, registered at **PS Tughlak Road**, based on allegations of conspiracy involving forgery of cheques and documents. The investigation in the said FIR is still pending; hence, the defamation complaint predicated on the same allegations is premature and not maintainable during the pendency of adjudication in the said proceedings.

12. Furthermore, the averments regarding forgery attributed to **Respondent No. 2**, by the Petitioner in his **objections dated 22.12.2014** in **Testamentary Case No. 42/2014** and in the **police Complaint dated 02.08.2014**, were based on the judicial record of **CS (OS) No. 82/2005**, a Partition Suit between Respondent No. 2 and his siblings. In that suit, Respondent No. 2 had propounded a Will dated **27.11.2003**, which was



disbelieved by this Court in its judgment dated **08.01.2014** due to “*suspicious circumstances.*” Crucially, **no finding of forgery** was recorded against Respondent No. 2, and **no allegations of fraud or mischief** were levelled against the Petitioner in that judgment. Therefore, no actionable case of defamation is made out, especially since the Petitioner’s statements were substantially true reports of judicial proceedings and findings, protected under the **Fourth, Fifth, Eighth and Ninth Exceptions to Section 499 IPC.**

13. The Ld. MM committed a grave error not only in summoning the Petitioner vide order dated 06.07.2017, but also in framing Notice against him vide order dated 15.04.2019, and subsequently the Ld. ADJ in dismissing the Revision challenging the same. The Complaint contains no specific averment demonstrating actual harm to the reputation of Respondent No. 2 as required under Explanation IV to Section 499 IPC and fails to disclose any prima facie offence of defamation.

14. Furthermore, the alleged circulation of a letter in the Greater Kailash-I Resident Welfare Association (RWA) did not form the basis of the summoning order dated 06.07.2017, as expressly noted by the learned Metropolitan Magistrate. Although the submission that Respondent No. 2 was defamed “*in the area of his local residence*” appears in the Order dated 15.04.2019, this fact was not pleaded in Paragraph 12 of the original Complaint. Consequently, it could not validly serve as a ground to invoke territorial jurisdiction. The learned Magistrate erred in entertaining the Complaint, as no part of the cause of action arose within his territorial jurisdiction, once the RWA letter was discarded as a basis for prosecution.



15. It is further asserted that Respondent No. 2 has also filed *Civil Suit No. 58116/2016 for Damages and Permanent Injunction*, in which issues have been framed against the Petitioner. Additionally, the wife of Respondent No. 2, Smt. Amita Gandoak, has filed two separate Criminal Complaints against the Petitioner, which are false and frivolous.

16. In one such Complaint i.e. **CC No. 183/1A/2014** before MM, Patiala House, the Application under **Section 156(3) Cr.P.C.** was dismissed and the Criminal Revision against that Order, was also dismissed. In another Complaint i.e. **CC No. 10/1/15** before MM, Tis Hazari, the Section 156(3) Application was initially dismissed, but the Criminal Revision was allowed by the ASJ, leading to the registration of an FIR pursuant to the Order dated **21.01.2017**. However, that Order was challenged by the Petitioner in CRL.M.C. No. 327/2017 before this Hon'ble Court and the operation of the impugned order has been stayed.

17. A Prayer is, therefore, made that the **CC No.89247/2016** filed by Respondent No.2 against the Petitioner, along with the Summoning Order under **S.499/S.500 IPC**, be set aside.

18. Reliance has been placed on Kishore Balkrishna Nand vs. State of Maharashtra & Anr., Criminal Appeal No.2291/2011; Dhulipalla Venkateswarlu vs. The State of Andhra Pradesh, CRL.P.9480/2012; Oil and Natural Gas Commission vs. Utpal Kumar Basu & Ors (1994) 4 SCC 711; Dr. Subramaniam Swamy vs. Prabhakar S Pai Mayor of Bombay & Anr. (1983) SCC OnLine Bom 103; Subramaniam Sethuraman vs. State of Maharashtra and Anr. (2004) 13 SCC 324; M.K. Varghese Cor Episcopa vs. State of Kerala 2020 SCC OnLine Ker 85; Sanjay Mishra vs. Govt. (NCT of Delhi), 2012 SCC OnLine Del 1779; Prabhakaran vs. Gangadharan 2006



SCC OnLine Ker 302; Sukra Mahto vs. Basdeo Kumar Mahto (1971) 1 SCC 885; Arvind Kejriwal vs. State 2024 SCC OnLine Del 719 and Neeru Shabnam vs. Manoj Kumar MANU/HP/2563/2019.

19. Respondent No.2/Complainant in his Reply to the Petitions, has taken the *preliminary objection* that the aforesaid both Petitions are a total misuse of the due process of law, wholly misconceived, and do not warrant any interference by this Court.

20. On merits, while the factual matrix about the *inter se* litigation between the parties is not disputed, it is denied that the learned Trial Court had discarded the Letter dated 04.01.2015 to RWA, GK-I. However, the authorship, identity, and veracity of the Letter dated 04.01.2015 remains to be decided during the trial. Moreover, there are clear averments in the Complaint of Respondent No.2 that the said Letter containing wild and defamatory allegations against Respondent No.2, had been authored by the Petitioner, as is amply indicated by surrounding circumstances. The averments made by Respondent No.2 in the Complaint cannot be disbelieved at this stage as they are yet to be proved during the trial.

21. Respondent No.2 has examined CW-2 *Shri Rupak Vaish* from the Resident Welfare Association (RWA), Greater Kailash-1, New Delhi, who is an independent witness and has deposed regarding the publication and circulation of the Letter containing defamatory allegations made by the Petitioner against Respondent No.2. It is wrongly alleged that this Letter dated 04.01.2015 has been discarded by the learned Trial Court. In fact, reliance has been placed upon the objections taken by the Petitioner to conclude that *prima facie* the Petitioner has committed the act of



defamation. However, the authorship, identity, and veracity of the letter dated 04.01.2015 are to be decided during the course of the trial.

22. In addition, the Police Report also clearly stated that it appears to be a defamatory Letter circulated by the Petitioner. In the said letter, Respondent No.2 has been portrayed as a hardened, unscrupulous criminal who regularly indulges in the forgery of documents. The said words are in no way a reproduction or amount to true reporting or interpretation of a judgment, as is sought to be propagated by the Petitioner. Respondent No.2 has reproduced only one set of defamatory allegations, which are part of the subject matter of the present controversy.

23. It is asserted that there are specific averments in the Complaint of Respondent No.2 about the said Letter containing wild and defamatory allegations against him, which have been authored by the Petitioner, as has been amply indicated by surrounding circumstances.

24. The learned Trial Court has also relied upon the Objections dated 22.12.2014 filed by the Petitioner in Test Case No. 42/2014 to conclude that *prima facie*, the Petitioner has committed an act of defamation.

25. It is submitted that under Section 105 Evidence Act, when a person is accused of an offence, the burden of proving the existence of circumstances to establish that the case falls within any of the general exceptions in the Indian Penal Code or within any special exception or proviso contained in any other part of the same Code or any other law defining the offence, lies on the Accused, and till then, the Court shall presume the absence of such circumstances. It is for the Petitioner/Accused to adduce evidence and discharge his burden, and the Court cannot pre-judge *the presence or*



absence of good faith in the exercise of its jurisdiction under Section 482 Cr.P.C.

26. In order to establish the exceptions to Section 499 of IPC, the Petitioner must step into the witness box and prove his defense. The pleas propounded by the Petitioner are baseless and misconceived as actual harm caused to Respondent No.2 by the impugned allegations is a matter of trial. Reliance has been placed on Arundhati Sapru vs. Yash Mehra, 2013 SCC OnLine Del 4521.

27. It is apparent from the defamatory allegations made by the Petitioner that ***the same amount to publication***. The allegations virtually assassinated the character of Respondent No.2 and have been made without any rhyme, reason, or justification. The sole motive behind these allegations was to tarnish the image of Respondent No.2 and cause harassment to him so that his wife drops her rightful claims in respect of her mother's property.

28. It is alleged that the Petitioner's husband, along with the Petitioner and others, has indulged in various illegal acts of forgery of documents, misleading this Court, making false statements, etc., as is evident from a bare perusal of the records of **CS (OS) No.82/2005**, where the Sardar Ravinder Singh (complainant), is one of the Defendants. The aforesaid allegations raised by the Petitioner, are false and baseless.

29. ***There is no merit in the present Petitions, which are liable to be dismissed.***

30. ***A Status Report has been filed on behalf of the State***, wherein details of the cross-litigations between the parties, have been stated. It is submitted that an enquiry was conducted into the alleged Letter received by Mr. Bimal Kapoor, Secretary, RWA GK-I, containing allegedly defamatory language



against Ravinder Singh (Respondent No.2 herein) and his family with regard to property disputes. During the enquiry, Mr. Ravinder Singh filed a copy of the Judgment dated 08.01.2014 passed in CS (OS) No.82/2005, wherein nothing adverse was found against him, as stated in the letter. It seems that the letter containing allegations/defamatory language was posted by the Petitioner/Harkirat Singh Sodhi.

31. Respondent No.2/Ravinder Singh has filed written arguments, wherein the same grounds have been taken as in the pleadings.

Submissions Heard and Record Perused.

32. *In the context of a complaint of defamation, at the stage the Magistrate proceeds to issue process, he has to form his opinion based on the allegations in the complaint and other material (obtained through the process referred to in Section 200/Section 202) as to whether “sufficient ground for proceeding” exists as distinguished from “sufficient ground for conviction”, which has to be left for determination at the trial and not at the stage when process is issued.*

33. Admittedly, there are multiple civil litigations between the parties, pending adjudication. One Civil Suit No.82/2005 seeking partition has, however, been decided vide Judgment dated 08.01.2014.

34. It emerges from Test Case No. 38/2014 and Test Case No. 42/2014 that the rival parties had projected a respective Will of the deceased Sardarni Surinder Kaur Sodhi, wherein both the parties had, in their respective pleadings, alleged the Will propagated by the first party as a forged and fabricated document.



I. Averments Made in Police Complaint:

35. *The first main* allegation made by Respondent No.2/Ravinder Singh in his Complaint was with reference to the Complaint dated 02.08.2014 made to Police Station Tughlak Road, New Delhi, wherein the averment made in Paragraph 11 reads as under:

“Mr. Ravinder Singh Gandoak has earlier also committed such forgeries in respect of his late father's properties and assets and also in respect of his late father's will and other documents, which my sister had informed me earlier.”

36. It was claimed that the statement was defamatory, false, baseless, and sensational and made only to unnecessarily harass the Complainant and harm his hard-earned goodwill and reputation in society.

37. Pertinently, FIR No.149/2014 dated 17.11.2014 under Sections 420/468/471/120B IPC was registered at P.S. Tughlak Road, New Delhi, in regard to forgery, which is still pending adjudication.

38. In this regard, it would be pertinent to refer to the case of Kishore Balkrishna Nand vs. State of Maharashtra & Anr. [2023] 11 S.C.R. 34, wherein the Apex Court considered the question “*whether the allegations made in the complaint addressed to the SDM make out the offence under Section 500 IPC or not?*” The Court held as under:

“12. Section 499 of the IPC reads, thus: “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.”

13. Eighth Exception to Section 499, to which reliance has been placed by the learned counsel, reads as under: “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.”

14. The word “good faith” has been defined in Section 52 of the IPC to mean: “52. ‘Good faith’.—Nothing is said to be done or believed in ‘good faith’ which is done or believed without due care and attention.”

15. We are of the view that no case is made out to put the appellant to trial for the alleged offence. There is no defamation as such.

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

39. In view of the same, at this stage, it is pre-mature, with there being no finding by any Court of competent jurisdiction that these allegations are misplaced or false.

40. *Prima facie*, no case of defamation can be made out on these averments.

II. Averments made in the Pleadings:



41. *The second ground* for alleging defamation is the reference to the Objections dated 12.12.2014 filed by the petitioner in Test Case No.42/2014 titled as *Amita Gandoak vs. State and Anr.*, wherein in Paragraph 14, the following contentions have been made:

*“That it is also relevant to mention here that even previously the **Petitioner’s husband along with petitioner and others have indulged in various illegal acts of forgery of documents**, misleading this Hon’ble Court making false statements, etc. as would be clear from a bare perusal of the records of CS (OS) No. 82/2005 titled as **Devinder Kaur & Anr. Vs. Surjit Singh & Ors.** wherein the husband of the petitioner namely Sardar Ravinder Singh is one of the defendants. The judgment dated 08.01.2014 passed by this Hon’ble Court in the said CS (OS) No. 82/2005 would also be very relevant to expose the real character of the Petitioner and her immediate family members. In fact, the petitioner and her immediate family members have no regard for the truth and can go to any extent so as to cause monetary loss to others including their own close relatives.”*

42. From the bare perusal of the averments made in the aforesaid, it is evident that there is nothing which can be termed as defamatory or harmful to the reputation of Respondent No.2. Pertinently, these averments have been made by the Petitioner while contesting the Testamentary Suits filed *inter se* the parties, which are still pending adjudication, and there is no finding that the averments made by the Petitioner in his objections were not true and if they were intended to defame Respondent No.2 in the eyes of a third party.

43. Insofar as the averments made in the pleadings are concerned, the allegations made by a party in a judicial proceeding, are essentially intended to assert a case which the party believes to be correct and true. Even if the



party loses the case, it cannot be said that the same was made with the sole intent to bring disrepute to the other party. A litigant has the right to take all legal pleas available to him, to prosecute or defend his case. If every averment made in a judicial proceeding is scrutinized through the lens of defamation while the litigation is still pending, it would stifle the right of a party to approach the Court and present their case diligently, without a fear of being roped in the allegations of Defamation.

44. If a statement is made in a judicial proceeding and is alleged to be false, the appropriate remedy lies under Section 340 Cr.P.C. for the offence of perjury under Section 193 IPC and not by way of a separate Complaint for defamation. The intention of such statements is to state a legal claim or defense, not to harm the reputation of the other party within the meaning of Section 499 IPC.

45. In any case, the imputations when made in pleadings need to be considered in view of the law in relation to the same. It has been repeatedly held that by the Courts that this privilege is not absolute.

46. A coordinate bench of this Court in M.P. Singh Sahni vs. State & Ors., in CRL.M.C 3779/2003 decided on 30.05.2013 held as under:

“16. In Bhagat Singh Sethi & Ors. Vs. Zinda Lal AIR 1966 J&K 106(6), on review of case law, while holding that if defamatory statement is made in pleadings absolute privilege is not applicable to cases under the Penal Code in India but qualified privilege applies the learned Judge expressed the opinion that if in a pleading of a party certain matters are alleged which may not strictly be correct but are made in good faith and are made to protect the interest of the maker they are privileged and the person making them cannot be prosecuted or convicted for



defamation. In that case the defamatory statements were alleged to have been made in application seeking an order of attachment before judgment and issue of temporary injunction. The court held that the allegations were made in good faith to protect the interest of the maker in the suit. It was also noticed that no express malice has been pleaded or alleged in the complaint or in the statement of the witnesses before the trial Magistrate. In the present case, like the case before the J&K Court, no express malice has been pleaded or alleged in the complaint or the statement of the complainant before the trial Magistrate. The Criminal proceedings in Bhagat Singh Sethi's case were quashed."

47. Further, another coordinate Bench of this court in Bikramjit Ahluwalia & Ors. vs. Simran Ahluwalia & Anr., in CRL.M.C. 447/2013 decided on 01.05.2015, wherein the court was considering the Complaint under S.499/500 IPC on the basis of S.161 Cr.P.C. statements held that "...the statements made under Section 161 Cr.P.C. are only exempted for usage at any inquiry or trial in respect of any offence under investigation at the time when statement was made. So far as the use of such statement made in a separate proceeding for prosecution of an offence under Sections 499/500 IPC is concerned, the bar of Section 162 Cr.P.C. would not be attracted. Statements under Section 161 Cr.P.C. can claim only 'qualified privilege' and not 'absolute privilege'."

48. This qualified privilege is only a privilege, if the statements made fall within one of the ten exceptions to the S.499 IPC.

49. It may thus, be seen whether the averments made in *inter se* Complaints and pleadings fall within the exceptions under S.499 IPC and thus, protected?



- **Whether Averments Made in Pleadings are in Good Faith:**

50. Now, before we can consider the plea of good faith, the objection in this regard is that it cannot be taken at this stage and that it should be tested at the stage of trial.

51. However, in this regard reference may be made to the case of Iveco Magirus Brandschutztechnik GMBH vs. Nirmal Kishore Bhartiya and Anr., (2024) 2 SCC 86, wherein the Apex Court referred to the case of Aroon Purie vs. State of NCT of Delhi, in SLP (Crl.) Nos.5115-5118/ 2021 decided on 31.10.2022, wherein the Court formulated the question and the answer to it. The question, in paragraph 18, reads as follows:

“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 exception, the proceedings can be quashed at the stage when an application moved under Section 482 of the Code is considered?”

52. After quoting paragraphs 5 and 7 from the decisions in Jawaharlal Darda and Ors vs. Manoharrao Ganpatrao Kapsikar and Anr. AIR 1998 SC 2117 and Rajendra Kumar Sitaram Pande vs. Uttam & Another AIR 1999 SC 1080, respectively, and conscious of the legal position, the Court cautiously proceeded to hold as follows:

“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.”



53. In view of the same, now, we may consider whether the averments in the pleadings are made in ***Good Faith and fall in the exception 9 to S.499 of IPC.***

54. The Petitioner, in the instant case, has primarily taken defence of ***Good Faith*** as provided in Exception 9 to Section 499, IPC, which reads as follows:

“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 interest of the person making it, or of any other person, or for the public good.”

55. ***For the 9th Exception to apply***, two essential ingredients must be satisfied: (i) the imputation must be ***made in good faith***; and (ii) it must be ***for the protection of the interest*** of the person making it, or of any other person, or ***for the public good***.

56. **Section 52 IPC** defines the term ***“good faith”*** as anything which is done or believed with “due care and attention”. The onus to prove that their case falls within an exception lies on the accused.

57. Apex Court considered the question *“whether the allegations made in the complaint addressed to the SDM make out the offence under Section 500 IPC or not?”*, in the case of *Kishore Balkrishna Nand vs. State of Maharashtra & Anr.* [2023] 11 S.C.R. 34. The Court referred to the definition of defamation and held that *“Exception 8 to Section 499 clearly indicates that it is not a defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that*



person with regard to the subject-matter of accusation. Even otherwise by perusing the allegations made in the complaint, we are satisfied that no case for defamation has been made out.”

58. It has been held by the Apex Court in Chaman Lal v. State of Punjab, (1970) 1 SCC 590, that under the 9th Exception to Section 499, 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. It has also been held that the interest of the person has to be real and legitimate when communication is made in protection of the interest of the person making it.

59. But the question which poses itself is the stage at which benefit of Exception can be taken.

60. While examining the question whether the exceptions to Section 499 could be considered at the stage of issue of process under Section 204 CrPC and equally for the High Court examining a petition to quash under Section 482, the Apex Court in Iveco Magirus Brandschutztechnik GMBH (supra) observed as under:

“Although there is nothing in the law which in express terms mandates the Magistrate to consider whether any of the Exceptions to Section 499 IPC is attracted, there is no bar either. The Magistrate is under no fetter from so considering, more so because being someone who is legally trained, it is expected that while issuing process he would have a clear idea of what constitutes defamation. If, in the unlikely event, the contents of the complaint and the supporting statements on oath as well as reports of investigation/inquiry reveal a complete defence under any of the Exceptions to Section 499 IPC, the Magistrate, upon due application of judicial mind, would be justified to dismiss the complaint on such ground and it would not amount to an



act in excess of jurisdiction if such dismissal has the support of reasons”.

61. It was further observed:-

*“60.What the law imposes on the Magistrate as a requirement is that he is bound to consider only such of the materials that are brought before him in terms of Sections 200 and 202 as well as any applicable provision of a statute, and what is imposed as a restriction by law on him is that he is precluded from considering any material not brought on the record in a manner permitted by the legal process. As a logical corollary to the above proposition, what follows is that the Magistrate while deciding whether to issue process is entitled to form a view looking into the materials before him. **If, however, such materials themselves disclose a complete defence under any of the Exceptions, nothing prevents the Magistrate upon application of judicial mind to accord the benefit of such Exception to prevent a frivolous complaint from triggering an unnecessary trial.”***

62. The same principle has been reiterated by the Apex Court in the case Shahed Kamal & Ors. vs. M/s A. Surti Developers Pvt. Ltd. & Anr, 2025 INSC 502. It has been further held that what is “*excepted*”, cannot amount to defamation on the very terms of the provision and that the Magistrate is not in any manner precluded from considering if at all, any of the Exceptions is attracted in a given case.

63. In the instant case, there is nothing to show that this pending litigation, which is yet to be finally adjudicated, has led to any defamation of the Complainant. The Petitioner has only set up a defense in the said proceedings and he is well within his rights to do.



64. Thus, mere averments made in the pleadings, either to prosecute or defend oneself, does not tantamount to an offence of defamation having been committed.

65. The next significant aspect of defamation especially in the context of pleadings is '**publication**' of a defamatory imputation, to establish the pre-requisite of the lowering of estimation must happen in the public eye, to amount as Defamation. But what constitutes as publication?

66. In Charanjit Singh vs. Arun Puri ILR (1982) Delhi 953, the essence of defamation has been stated to be publication of a false statement concerning another person without justification. There can be defence of privilege, fair comment, consent etc.

67. The meaning of "**publication**" in the context of Criminal defamation, was considered by the Apex Court in Mohammed Abdulla Khan (supra) while relying on two judgments of Khima Nand vs. Emperor, (1937) 38 Cri LJ 806 (All); Amar Singh vs. K.S. Badalia, (1965) 2 Cri LJ 693 (Pat), wherein it was observed that "*the essence of publication in the context of Section 499, is the communication of defamatory imputation to persons other than the persons against whom the imputation is made.*"

68. To further clarify the meaning and import of "publication," reference may be made to the case of Dow Jones & Company Inc vs. Gutnick (2002) 20 CLR 575 at [26], wherein the High Court of Australia observed as under:

"Harm to reputation is done when a defamatory publication is comprehended by the reader, the listener, or the observer. Until then, no harm is done by it. This being so it would be wrong to treat publication as if it were a unilateral act on the part of the publisher alone. It is not. It is a bilateral act -



in which the publisher makes it available and a third party has it available for his or her comprehension.”

69. There must necessarily be **publication** which necessarily requires a second party to whom the imputation is made available for his own comprehension and consequently results in lowering of estimation of the Complainant.

70. In the instant case, the allegations have been made in the pleadings but they cannot, by any stretch of interpretation, be claimed to have been circulated in public or having lowered the estimation of the Complainant *in the estimation of right thinking members of society, which tends to make them shun or avoid that person.*

III. Whether Letter dated 04.01.2015 are Defamatory:

71. *Third* document relied upon by the Petitioner was an anonymous Letter dated 04.01.2015, which was received in the RWA, GK-1 which reads as under:



4th Jan 2015

To
Respected
Office Bearers & Members of the Association /
Residents of Greater Kailash-1

Mark A

1 Cd-MM South-City
21/3/2017

We are taking this pain of providing some critical details and information about an office bearer of this Association and request kind cooperation of all members in removal of such tarnished office bearers from their respective posts and also to avoid selection of people of such character in the association.

The information provided is about the Vice President Smt. Amita Gandoak and her husband Sh. Ravinder Singh Gandoak daughter Deepali & son Parveet all residents of M-77, Greater Kailash-1, New Delhi-110048.

We have personally enquired and learnt about these people and the findings are summarized as under: -

1. Smt. Amita Gandoak has been booked under sections 420, 120, 468 & 471 of the Indian Penal Code which means she is accused of cheating, criminal conspiracy and forgery of signatures as well as accounts and an FIR No. 149/2014 has been registered at Tughlaq Road Police Station against her as well as her husband for forging the signatures of her mother. She has forged the signatures to withdraw money from her mother's account and has been accused by the police in this crime.

2. The High Court of Delhi in Case No. CS (OS) No.82 of 2005 has indicted Sh. Ravinder Singh Gandoak for preparing false will of his father to usurp the family properties and he seems to have expertise in forging of documents like will etc.

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3. In the High Court order dated 8th January 2014 details the damning observations by Justice Muralidhar, of the fraudulent conduct of Ravinder Singh Gandoak which depicts that he is a person of extremely fraud nature & character. In continuation to his evil designs, he is now planning and executing his vicious plans in connivance with his wife, son and daughter to swallow the property belonging to the brother of his wife by the same old method of creating forged documents etc.

4. It has come to our knowledge that Ms. Deepali Gandoak is trying to usurp and forcibly take possession by claiming past possession of property of her maternal grand mother in conspiracy with her mother Amita Gandoak, father Ravinder Singh and brother Parveet.

5. Parveet Gandoak is following his father's footsteps and he has also been accused in this FIR for cheating and forgery. He is also becoming an expert in forging wills and documents etc. He along with his accomplices and under the active guidance and planning of his father & mother, has forged some documents to illegally misappropriate the property of his maternal grandmother. He is actively helped by his sister Deepali who is of notorious nature and expert in making false and contradictory statements regarding her stay in the property belonging to her maternal grandmother.

It seems that the entire family is out to make themselves illegally rich, earn money by forgery, conspiracy, cheating etc. In our view, such malicious kind of people should not be allowed to remain in any kind of position in our association & Amita Gandok should be removed from being an office bearer and neither of her family members should be allowed to participate in any further elections or to take part in day to day affairs of the association.

Regards

Group of Concerned Residents

9.1.12
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72. The Letter, aside from referring to the multiple litigations *inter se* the parties, comments were also made about the conduct of Respondent No.2, *of being a person of fraudulent nature and character, and that he, along with his wife, son, and daughter, intend to swallow the property belonging to his wife's mother by the old method of creating forged documents, etc.*

73. It was further mentioned in the letter that Ms. Deepali Gandoak (daughter) was trying to usurp and forcibly take possession by claiming past possession in the property, of her maternal grandmother. Likewise, Parveet Gandoak (son) was following the footsteps of his father and has also been made an accused in the FIR for cheating and forgery. He has become an expert in forging Wills and documents, etc. He, along with the accomplice, under the active guidance and planning of his father and mother, has forged some documents to illegally misappropriate the property. The entire family is out to make themselves illegally rich, earn money by forgery, conspiracy, and cheating, etc. Such malicious kinds of people and Amita Gandoak should be removed from being an office bearer, and neither of her family members should be allowed to participate in any further elections or take part in the day-to-day affairs of the association.

74. It has been rightly agitated by the Petitioner is that this Letter is written by a '*Group of concerned Residents*' and it does not give the names of the persons who have authored it. It is only a presumption that this Letter has been written by the Petitioner merely because the Letter pertains to multiple litigations with regard to the property pending between the parties.

75. There is not even a *prima facie* indication that this Letter was circulated by or at the behest of the Petitioner, from the testimony of CW-



2/Sh. *Rupak Vaish* recorded by the Complainant or from any other circumstance.

76. Mere conjectures and surmises about the Petitioner being an author since the allegations were in reference to the disputes between the two families cannot be sufficient even to make out a *prima facie* case of defamation. In the absence of there being even an iota of evidence of the Petitioner being the author of this Letter, the contents of the same cannot be attributed to him so as to make a case for summoning him under Sections 499/500 IPC.

Conclusion:

77. Even if the entire allegations made in the Complaint filed by the respondent are accepted, no offence of defamation, as defined under Section 499 IPC, is made out.

78. The Apex court in the case of *Iveco Magirus Brandschutztechnik GMBH* (supra) observed,

“However, the tests laid down for quashing an FIR or criminal proceedings arising from a police report by the High Courts in exercise of jurisdiction under Section 482 CrPC not being substantially different from the tests laid down for quashing of a process issued under Section 204 read with Section 200, the High Courts on recording due satisfaction are empowered to interfere if on a reading of the complaint, the substance of statements on oath of the complainant and the witness, if any, and documentary evidence as produced, no offence is made out and that proceedings, if allowed to continue, would amount to an abuse of the legal process. This too, would be



impermissible, if the justice of a given case does not overwhelmingly so demand.”

79. In view of the aforesaid, there is no averment in the Complaint to substantiate the allegations of defamation under Sections 499/500 IPC.

80. The Petitions are hereby, **allowed**, and CC No.89247/2016, along with Summoning Order dated 06.07.2017 and the Order framing Notice, is quashed.

81. The pending Application(s), if any, are accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 20, 2026/R