

Reserved on : 12.02.2026
Pronounced on : 21.02.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.3379 OF 2025 (GM - RES)

BETWEEN:

SMT. ROHINI SINDHURI, IAS
AGED ABOUT 39 YEARS,
W/O. SRI G.SUDHIR REDDY,
RESIDENT OF "ARAVINDAM",
PLOT NO.30, CENTRY ARTIZEN,
NITTE MEENAKSHI COLLEGE ROAD,
BSF CAMPUS, YELAHANKA,
BENGALURU – 560 064.

... PETITIONER

(BY SRI C.V.NAGESH, SR.ADVOCATE A/W
SRI VARDHAN REDDY, ADVOCATE)

AND:

SMT. ROOPA DIVAKAR MOUDGIL
AGED ABOUT 49 YEARS,
W/O SRI MUNISH MOUDGIL,
RESIDENT OF NO.60,
RICHMOND ROAD,
NEAR HOSMAT HOSPITAL,
BENGALURU – 560 025.

EMAIL:ipsroopa@gmail.com

... RESPONDENT

(BY SRI D.R.RAVISHANKAR, SR.ADVOCATE A/W
SRI JAYSHAM JAYASIMHA RAO, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, PRAYING TO PASS AN APPROPRIATE DIRECTION OR ORDER SETTING ASIDE THE ORDER DTD. 13.01.2025 PASSED BY THE VII ADDL. CHIEF JUDICIAL MAGISTRATE, BANGALORE CITY IN PCR NO.15068/2024, AGAINST THE PETITIONER HEREIN, WHO IS ARRAIGNED AS ACCUSED FOR THE ALLEGED COMMISSION OF AN OFFENCE WHICH IS MADE PENAL UNDER SECTION 500 OF THE INDIAN PENAL CODE, WHICH IS PRODUCED AS ANNEXURE-A; AND (B) PASS AN APPROPRIATE WRIT, DIRECTION OR ORDER QUASHING THE COMPLAINT FILED BY THE RESPONDENT HEREIN IN PCR NO.15068/2024 ON THE FILE OF THE VII ADDL. CHIEF JUDICIAL MAGISTRATE, BANGALOR CITY, AGAINST THE PETITIONER HEREIN WHO IS ARRAIGNED AS ACCUSED FOR THE ALLEGED COMMISSION OF AN OFFENCE WHICH IS MADE PENAL UNDER SECTION 500 OF THE INDIAN PENAL CODE, WHICH IS PRODUCED AS ANNEXURE-M; (C) PASS AN APPROPRIATE WRIT, DIRECTION OR ORDER QUASHING THE RECORDING OF ALL FURTHER PROCEEDINGS IN PCR NO.15068/2024 ON THE FILE OF THE VII ADDL. CHIEF JUDICIAL MAGISTRATE, BANGALORE CITY, AGAINST THE PETITIONER HEREIN WHO IS ARRAIGNED AS

ACCUSED FOR THE ALLEGED COMMISSION OF AN OFFENCE WHICH IS MADE PENAL UNDER SECTION 500 OF THE INDIAN PENAL CODE WHICH IS PRODUCED AS ANNEXURE-A.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.02.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking the following prayer:

- (a) "pass an appropriate writ, direction or order setting aside the order dated 13-01-2025 passed by the VII Additional Chief Judicial Magistrate, Bangalore City, in P.C.R.No.15068 of 2024, against the petitioner herein, who is arraigned as accused for the alleged commission of an offence which is made penal under Section 500 of the Indian Penal Code, which is produced as Annexure-A.

AND

- (b) pass an appropriate writ, direction or order quashing the complaint filed by the respondent herein in PCR No.15068 of 2024 on the file of the VII Additional Chief Judicial Magistrate, Bangalore City, against the petitioner herein who is arraigned as accused for the alleged commission of an offence which is made penal under Section 500 of the Indian Penal Code, which is produced as Annexure-M;

AND

- (c) pass an appropriate writ, direction or order quashing the recording of all further proceedings in PCR No.15068 of 2024 on the file of the VII Additional Chief Judicial Magistrate, Bangalore City, against the petitioner herein who is arraigned as accused for the alleged commission of an offence which is made penal under Section 500 of the Indian Penal Code which is produced as Annexure-A;

AND/OR

- (d) Such other order/s as this Hon'ble Court deems fit, proper and necessary, in the interest of justice."

2. Facts, in brief, germane are as follows: -

2.1. The petitioner is an officer of the Indian Administrative Service belonging to the Karnataka Cadre. Several averments with regard to encomiums of the petitioner are narrated in the petition which would not be necessary to be noticed to the issue projected in the *lis*. The respondent is an officer of the Indian Police Service. The petitioner avers in the petition that she comes across a Facebook post on 18-02-2023 on the Facebook page of the respondent bearing the name D Roopa Moudgil, in which the respondent is said to have posted several derogatory remarks against the petitioner concerning various issues. Chat conversations are shown as deleted. Alleging that these messages which were deleted were pictures of the petitioner sent by herself was

what was projected on the Facebook page. Further allegation is that the petitioner had constructed a massive bungalow in Jalahalli, but had not reported the same in her immovable property returns while filing periodically by All India Service Officers and so on and so forth. The petitioner on the said posts, which according to the averment in the petition were per se defamatory, had to institute a suit in O.S.No.25288 of 2023 seeking perpetual injunction restraining the defendants from in any way or in any mode making false and defamatory statements/allegations. An ad interim order of injunction was passed by the civil Court in O.S.No.25288 of 2023 at a later point of time in the said suit.

2.2. The issue is not with regard to the proceedings before the civil Court. On the score again that it was per se defamatory, the petitioner files a private complaint invoking the provision for the offence which is made penal for defamation under the IPC i.e., Section 500. In the private complaint, cognizance is taken and C.C.No.7870 of 2023 is registered. The said order of taking of cognizance was called in question by the respondent before this Court in Criminal Petition No.4575 of 2023. The said criminal

petition comes to be dismissed. The matter was taken up to the Apex Court by the respondent. The Apex Court heard the matter, directed the parties to arrive at a settlement and contemporaneously directed the respondent to delete all the posts that were allegedly defamatory, which the respondent is said to have complied. Later, the respondent is said to have withdrawn the SLP filed before the Apex Court.

2.3. After the said withdrawal, the impugned complaint comes to be filed by the respondent on 09-12-2024 in P.C.R.No.15068 of 2024 alleging that the petitioner has also indulged herself in making derogatory remarks against the respondent by calling her mentally unsound or ill. The said private complaint is registered post the BNSS i.e., 01-07-2024. Procedures stipulated under the BNSS are followed by issuing notice to the petitioner and the petitioner furnishing her reply, after which cognizance is taken and process is issued against the present petitioner. Calling in question the entire proceedings in PCR No.15068 of 2024 the present petition is preferred.

3. The matter appeared before this Court as it is the roster bench on 08-01-2026. This Court passed the following orders on different dates:

08-01-2026:

"Learned counsel appearing for the petitioner Sri B.A.Belliappa and the learned counsel for the respondent Sri Jaysham J.Rao would submit that they have no objection for the Court to take up the subject matter.

In the light of the said submission, list the matter on 29.01.2026.

Interim order granted earlier is extended till the next date of hearing."

29-01-2026:

"Heard the learned Counsel Sri B.A.Belliappa, appearing for the petitioner and the learned senior counsel Sri D R Ravishankar, appearing for the respondent.

This Court, on 08.01.2026, had passed the following order:

"Learned counsel appearing for the petitioner Sri B.A.Belliappa and the learned counsel for the respondent Sri Jaysham J. Rao would submit that they have no objection for the Court to take up the subject matter.

In the light of the said submission, list the matter on 29.01.2026.

Interim order granted earlier is extended till the next date of hearing."

This Court is of the opinion that if the parties could arrive at a settlement, it would give a quietus to the litigation between them.

Therefore, the respective learned counsel shall seek instructions with regard to exploration of the possibilities of settlement. The parties shall be present at 1.30 p.m. on 31.01.2026.

Interim order granted earlier is extended till the next date of hearing.

List this matter on 31.01.2026."

31-01-2026:

"This Court on 29-01-2026 had passed the following order:

"Heard the learned Counsel Sri B.A.Belliappa, appearing for the petitioner and the learned senior counsel Sri D R Ravishankar, appearing for the respondent.

This Court, on 08.01.2026, had passed the following order:

"Learned counsel appearing for the petitioner Sri B.A.Belliappa and the learned counsel for the respondent Sri Jaysham J. Rao would submit that they have no objection for the Court to take up the subject matter.

In the light of the said submission, list the matter on 29.01.2026.

Interim order granted earlier is extended till the next date of hearing."

This Court is of the opinion that if the parties could arrive at a settlement, it would give a quietus to the litigation between them.

Therefore, the respective learned counsel shall seek instructions with regard to exploration of the possibilities of settlement. The parties shall be present at 1.30 p.m. on 31.01.2026.

Interim order granted earlier is extended till the next date of hearing.

List the matter on 31.01.2026.”

The parties and their respective counsels on record Sri B A Belliappa, learned counsel appearing for petitioner, Sri D R Ravishankar, learned senior counsel and Sri Jaysham Jayasimha Rao, learned counsel for the respondent had appeared for an in-camera proceedings. The parties were further directed to explore the possibilities of a settlement. They have sought time.

Therefore, list this matter on 04-02-2026 to report settlement if any, failing which, the matter would be considered on its merit.”

04-02-2026:

“The parties to the *lis* would submit that they are not agreeable for terms of settlement. Therefore, the matter would be heard on its merit as was indicated earlier.

List this matter on 06.02.2026 at 2.30 p.m.

Interim order granted earlier, stands extended till the next date of hearing.”

06-02-2026:

“Learned counsel Sri.Vardhan Reddy, appearing for the petitioner submits that learned counsel Sri.B.A.Belliappa has given 'No Objection' and is wanting to engage another counsel.

Therefore, list this matter on 12.02.2026.

Arrangement and argument be made on the said date.

Interim order granted earlier, stands extended till the next date of hearing.”

12-02-2026:

“With the consent of the learned Senior Counsel Sri.C.V.Nagesh appearing for the petitioner and learned Senior

Counsel Sri.D.R.Ravishankar, appearing for the respondent, the matter is heard.

Reserved.

Interim order granted earlier, stands extended till the disposal of the petition.”

(Emphasis supplied)

This Court was then informed that there was no settlement between the parties and, therefore, with the consent of parties the matter was heard and reserved.

4. Heard Sri C.V.Nagesh, learned senior counsel appearing for the petitioner and Sri D.R. Ravishankar, learned senior counsel appearing for the respondent.

SUBMISSIONS:

PETITIONER:

5. Learned senior counsel for the petitioner would make three-fold submissions - **first submission is**, that stories or articles that the respondent put up were per se defamatory. What

the petitioner has said is only a retaliation to those defamatory statements. Therefore, they would become statements in good faith, which come within the explanation/exception-9 of Section 499 of the IPC and never become an offence under Section 500; **the second submission is**, that the complaint is registered after a delay of close to two years, that too rendering falsehood insofar as cause of action is concerned. It is his submission that the cause of action arose in the year 2023, but the complaint is registered on 09-12-2024 contending that further cause of action had arisen on 12-11-2024; **the third submission is**, with regard to the order of taking of cognizance bearing no application of mind. On all these grounds, the learned senior counsel would submit that the proceedings before the concerned Court in the impugned P.C.R must be obliterated, failing which it would become an abuse of the process of law.

RESPONDENT:

6.1. Per contra, the learned senior counsel appearing for the respondent would vehemently refute the submissions in contending that if retaliation to defamation is made, it would on the face of it

be defamatory. There can be no better illustration of defamation. The petitioner has also called the respondent that she is of unsound mind or mentally ill. This is a matter of trial as to what extent and what was the reason for expression of those statements against the respondent. At the stage of taking of cognizance this Court should not interfere with the order so passed.

6.2. The learned senior counsel further submits that there is no delay in the case at hand. The coordinate Bench dismissed the petition filed by the petitioner on a particular date, wherein the respondent had challenged the cognizance taken and registering of criminal case. This was challenged before the Apex Court. Up to 18-11-2024 the proceedings were before the Apex Court, during which the Apex Court had directed the parties to settle the issue. When the settlement talks failed before the Apex Court and the respondent having withdrawn the SLP before the Apex Court, immediately thereafter the subject PCR is preferred within 30 days of the dismissal of SLP. Therefore, there can be no delay in the case at hand.

6.3. Insofar as exception is concerned, the learned senior counsel would take this Court through the order passed in favour of the petitioner by the coordinate Bench. This very ground of exception was projected by the respondent before the coordinate Bench where she was the petitioner. The coordinate Bench had clearly rejected the ground of ninth exception that was projected by the respondent on the score that exception is always a matter of evidence. The same principle is applicable to the petitioner also. He would, therefore, submit that all these matters are to be thrashed out in a full-blown trial, as it is defamation versus defamation. Insofar as the order of taking cognizance is concerned, the learned senior counsel would submit that it is a very lengthy order which considered all the aspects and at the stage of taking cognizance the concerned Court need not indulge in a roving enquiry or an expedition towards discovery of truth. It is only a matter of trial. He would thus seek dismissal of the petition.

7. Both the learned counsel appearing for the petitioner and the respondent have relied on certain judgments which would bear consideration in the course of the order *qua* their relevance.

8. I have given my anxious consideration to the submissions made by the respective learned senior counsel and have perused the material on record. In furtherance whereof, the following issues arise for my consideration:

ISSUES FOR CONSIDERATION:

- (i) Whether the complaint and the resultant proceedings get vitiated on the ground of delay?**
- (ii) Whether Exception 9 to Section 499 of the IPC can protect the petitioner from further trial in the impugned proceedings?**
- (iii) Whether the order of taking of cognizance suffers from non-application of mind?**

CONSIDERATION:

ISSUE NO.1:

Whether the complaint and the resultant proceedings get vitiated on the ground of delay?

9. The dates and link in the chain of events though are a matter of record, they would require a skeletal reiteration. On two dates i.e., on 18-02-2023 and 19-02-2023 it is said that the respondent has posted derogatory or defamatory statements/stories on her Facebook page. A suit is filed by the petitioner in O.S.No.25288 of 2023 seeking permanent injunction in which temporary injunction is granted against the respondent. Contemporaneously, the petitioner also invokes Section 200 of the Cr.P.C., registers a private complaint for offences punishable under Section 500 of the IPC. On 24-03-2023 the concerned Court orders issuance of process against the respondent. The respondent then prefers Criminal Petition No.4575 of 2023 seeking to quash the proceedings in P.C.R.No.1901 of 2023, which had by then become C.C.No.7870 of 2023. On 21-08-2023 the coordinate Bench rejects the challenge of the respondent. The plea of the accused is then recorded.

10. After receipt of a copy from the hands of this Court in Criminal Petition No.4575 of 2023, the respondent prefers SLP before the Apex Court on 11-12-2023. From 12-12-2023 till

07-11-2024 the matter was pending before the Apex Court. The orders passed by the Apex Court on different dates are as follows:

11-12-2023:

“To enable the learned senior counsel appearing for the petitioner to take instructions, list this matter on 13.12.2023.”

13-12-2023:

“List on 14th December, 2023.”

14-12-2023:

“As of today, we find that there is no understanding between the parties about appointing a mediator.

To enable the petitioner to file appropriate undertaking, as discussed in the Court, list tomorrow i.e. 15th December, 2023.”

15-12-2023:

“The affidavit of the petitioner affirmed today is taken on record.

The learned senior counsel appearing for the respondent states as regards clause (B) of paragraph 2 of the affidavit, in case any specific post is not get taken down, he will communicate the same to the learned counsel appearing for the petitioner. The undertaking incorporated in the affidavit is taken on record.

List on 12th January, 2024.

In the meanwhile, the Criminal Case subject matter of this petition will not proceed further.

We direct the respondent to place on record copies of the proceedings filed by her. It will be always open for the respondent to produce a copy of the affidavit filed in this petition by the petitioner in the pending Civil Suit.

Considering the fact that we are making an attempt to resolve all the disputes pending between the parties, none of them shall give any interview or any information to the media, social and print, in any form."

12-01-2024:

"We give one more opportunity to the contesting parties to work out a solution which will be in the interest of both of them.

List on 16th February, 2024.

In the meanwhile, the interim relief granted earlier by this Court to continue."

16-02-2024:

"Notwithstanding the grant of time, the parties are unable to sort out the issues.

Considering the nature of the controversy, the parties will be well-advised not to make any public statements regarding any of the litigations pending in different Courts.

List on 7th May, 2024.

In the meanwhile, the interim relief granted earlier by this Court to continue."

07-05-2024:

"List on 15th May, 2024 (Wednesday) for directions on the top of the Board.

In the meanwhile, the interim relief granted earlier by this Court to continue."

15-05-2024:

"Notwithstanding grant of time by this Court to the parties, they are not able to reconcile their differences.

We direct the petitioner to place on record copy of deposition of the respondent recorded in the complaint.

List on 11th July, 2024.

In the meanwhile, interim relief granted earlier by this Court to continue."

11-07-2024:

"From the affidavit filed by the petitioner, it appears that that the petition under Section 482 of the Cr.P.C. was filed before the High Court when recording of evidence had not commenced and only after the petition under Section 482 of the Cr.P.C. was dismissed, the recording of evidence commenced.

Notice has been issued.

List for hearing on 13th August, 2024.

Interim order granted by this Court to continue till further orders."

13-08-2024:

"List on 24th September, 2024 in the first five matters."

24-09-2024:

"Applications for exemption from filing official translation are allowed.

Delay condoned.

Leave granted.

To be listed for hearing on 6th November, 2024 in the first five cases.

Interim order granted earlier by this Court to continue, pending disposal of this appeal.”

06-11-2024:

“List tomorrow i.e. 7th November, 2024 at 2.00 p.m.”

07-11-2024:

“The learned senior counsel appearing for the appellant, on instructions of the appellant who is personally present in the Court, seeks permission to withdraw this Appeal with liberty to agitate all the issues which are raised in this Appeal before the Trial Court.

Accordingly, the Appeal is disposed of as withdrawn.

All permissible contentions which can be raised by the appellant as well as the respondent before the Trial Court are kept open.

It is obvious that the complaint will be decided on its own merits without being influenced by any observations made by the High Court in the impugned order.”

(Emphasis supplied)

The SLP thus comes to be disposed of on 07-11-2024. Within 30 days thereafter, the respondent prefers a private complaint alleging offence punishable under Section 500 of the IPC against the petitioner. The learned senior counsel for the petitioner has

projected that there is delay on the part of the respondent in preferring the private complaint.

11. The SLP, as observed hereinabove, was preferred on 11-12-2023 after obtaining certified copy from this Court. The matter was pending consideration before the Apex Court and settlement talks were on. On 07-11-2024 the SLP comes to be withdrawn. The contention of delay is thus devoid of substance. The chronology of events noted hereinabove unmistakably reveals that from December 2023 until November 2024 the matter remained sub-judice before the Apex Court, where efforts at amicable resolution of the dispute between the parties were actively pursued. **To expect the respondent to initiate parallel criminal proceedings, during the pendency of settlement negotiations would be antithetical to both propriety and prudence.** The complaint having been filed within 30 days of withdrawal of the SLP, **the explanation offered is not only plausible but entirely acceptable.** Therefore, the proceedings are not vitiated on this count, i.e., on the ground of delay in registration of the complaint.

ISSUE NO.2:

Whether Exception 9 of Section 499 of the IPC can protect the petitioner from further trial in the impugned proceedings?

12. The next plank of submission of the learned senior counsel for the petitioner is resting upon Exception 9 to Section 499 of the IPC, predicated on the assertion of good faith. Section 499 reads as follows:

"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.

Illustrations

(a) A says—"Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

(c) A draws a picture of Z running away with B's watch intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

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.

Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—Publication of reports of proceedings of courts.—It is not defamation to publish a 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.

Illustrations

(a) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(b) But if A says—"I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

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.

Illustrations

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z—“Z's book is foolish; Z must be a weak man. Z's book is indecent; Z must be a man of impure mind”. A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(e) But if A says—“I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine.” A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

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.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring

in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

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.

Illustration

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

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.

Illustrations

(a) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

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.”

Exception-9 of Section 499 of the IPC deals with defence of making statements in good faith. The petitioner, as observed hereinabove, had registered a complaint for offence punishable under Section 500 of the IPC. The respondent had preferred criminal petition challenging the entire proceedings instituted by the present petitioner, in Criminal Petition No.4575 of 2023 which comes to dismissed on 21-08-2023. The main contention of the present respondent in the said petition was that she had made those statements in good faith and was entitled to the benefit of the ninth exception. The coordinate bench declines to accept the said contention by the following observation:

“....

11. If the statements posted on a private account as well as the statements made before the print media are examined, I am more than satisfied that petitioner/accused is bound to face a criminal trial. The question as to whether the posts made on a face book account and the statements made before the print media fall under exceptions is a matter of trial. **In order to claim good faith, the accused must show that before making the alleged imputation, she has made enquiry**

with due care and attention. In order to establish good faith and bonafides, it has to be seen that the circumstances under which imputations were made and published. It is only during full-fledged trial, it can be ascertained as to whether imputations were made with any malice. It is only in an full-fledged trial, it can be assessed as to whether there are reasons to accept that petitioner had taken care and caution and as to whether there is preponderance of probabilities that petitioner acted in good faith."

It bears emphasis that this very plea was urged by the respondent in the earlier proceedings and was repelled by a coordinate bench of this Court, which held in unambiguous terms that question of good faith is a matter of evidence to be adjudicated in the crucible of a full fledged trial. The order is quoted hereinabove. **The law does not countenance a differential application of principle. What was held to be triable issue for one party cannot metamorphose into a shield for the other at the threshold stage.** The adage "what is sauce for the goose, is sauce for the gander" becomes apposite, in the circumstances obtaining in the case at hand.

13. The legal position stands fortified by plethora of judgments of the Apex Court. The Apex Court considers the issue of exception being projected at the preliminary stage in a case of defamation. A three Judge Bench of the Apex Court in **SEWAKRAM SOBHANI v. R.K. KARANJIA**¹, holds as follows:

“....”

9. A bare perusal of the offending article in Blitz shows that it is per se defamatory. There can be no doubt that the imputation made would lower the appellant in the estimation of others. It suggested that he was a man devoid of character and gave vent to his unbridled passion. It is equally defamatory of Smt Shukla in that she was alleged to be a lady of easy virtue. We need not dilate on the matter any further. It is for the accused to plead Ninth Exception in defence and discharge the burden to prove good faith which implies the exercise of due care and caution and to show that the attack on the character of the appellant was for the public good.”

The Apex Court was considering a case of defamation and the plea put up was that it was done in good faith and was protected under the 9th exception. The Apex Court holds that it is for the accused to plead 9th exception in defence and discharge the burden to prove in good faith. Therefore, it is a matter of evidence. The concurring view of another learned Judge in the very judgment is as follows:

¹ (1981) 3 SCC 208

"... .."

15. The prayer in the application before the High Court was merely to quash the order dated November 30, 1977 of the learned Chief Judicial Magistrate, Bhopal and not to quash the complaint itself as the High Court has done. But, that was only a technical defect and we do not take serious notice of it in an appeal under Article 136 of the Constitution where we are very naturally concerned with substantial justice and not with shadow puppetry. The position now is this: **The news item in the Blitz under the caption "MISA Rape in Bhopal Jail" undoubtedly contained serious imputations against the character and conduct of the complainant. In order to attract the Ninth Exception to Section 499 of the Penal Code, 1860, the imputations must be shown to have been made (1) in good faith, and (2) for the protection of the interest of the person making it or of any other person or for the public good. "Good faith" is defined, in a negative fashion, by Section 52 of the Penal Code, 1860 as follows: "Nothing is said to be done or believed in 'good faith' which is done or believed without due care and attention". The insistence is upon the exercise of due care and attention. Recklessness and negligence are ruled out by the very nature of the definition. The standard of care and attention must depend on the circumstances of the individual case, the nature of the imputation, the need and the opportunity for verification, the situation and context in which the imputation was made, the position of the person making the imputation, and a variety of other factors. Good faith, therefore is a matter for evidence. It is a question of fact to be decided on the particular facts and circumstances of each case. So too the question whether an imputation was made for the public good. In fact the First Exception of Section 499 of the Penal Code, 1860 expressly states "Whether or not it is for the public good is a question of fact". "Public good" like "good faith" is a matter for evidence and not conjecture.**

... ..

18. Several questions arise for consideration if the Ninth Exception is to be applied to the facts of the present case. Was the article published after exercising due care and attention? Did

the author of the article satisfy himself that there were reasonable grounds to believe that the imputations made by him were true? Did he act with reasonable care and a sense of responsibility and propriety? Was the article based entirely on the report of the Deputy Secretary or was there any other material before the author? What steps did the author take to satisfy himself about the authenticity of the report and its contents? Were the imputations made rashly without any attempt at verification? Was the imputation the result of any personal ill will or malice which the author bore towards the complainant? Was it the result of any ill will or malice which the author bore towards the political group to which the complainant belonged? Was the article merely intended to malign and scandalise the complainant or the party to which he belonged? Was the article intended to expose the rottenness of a jail administration which permitted free sexual approaches between male and female detenus? **Was the article intended to expose the despicable character of persons who were passing off as saintly leaders? Was the article merely intended to provide salacious reading material for readers who had a peculiar taste for scandals? These and several other questions may arise for consideration, depending on the stand taken by the accused at the trial and how the complainant proposes to demolish the defence. Surely the stage for deciding these questions has not arrived yet. Answers to these questions at this stage, even before the plea of the accused is recorded can only be a priori conclusions. "Good faith" and "public good" are, as we said, questions of fact and matters for evidence. So, the trial must go on."**

It is clearly held that it is a question of fact to be decided on particular facts and circumstances of each case. Whether or not the statement is made for public good is a question of fact and public good, like good faith, is a matter of evidence

and not conjecture. The Apex Court refuses to answer the exception, on the score that it was not a stage to answer.

14. The Apex Court, later, in **IVECO MAGIRUS BRANDSCHUTZTECHNIK GMBH v. NIRMAL KISHORE BHARTIYA**², while considering offences under Sections 499 and 500 of the IPC has observed as follows:

"...."

63. Adverting to the aspect of exercise of jurisdiction by the High Courts under Section 482CrPC, in a case where the offence of defamation is claimed by the accused to have not been committed based on any of the Exceptions and a prayer for quashing is made, law seems to be well settled that the High Courts can go no further and enlarge the scope of inquiry if the accused seeks to rely on materials which were not there before the Magistrate. **This is based on the simple proposition that what the Magistrate could not do, the High Courts may not do. We may not be understood to undermine the High Courts' powers saved by Section 482CrPC; such powers are always available to be exercised *ex debito justitiae* i.e. to do real and substantial justice for administration of which alone the High Courts exist. 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 482CrPC 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**

² (2024) 2 SCC 86

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.

64. Based on our understanding of the law and the reasoning that we have adopted, issue of process under Section 204 read with Section 200CrPC does not ipso facto stand vitiated for non-consideration of the Exceptions to Section 499 IPC unless, of course, before the High Court it is convincingly demonstrated that even on the basis of the complaint and the materials that the Magistrate had before him and without there being anything more, the facts alleged do not prima facie make out the offence of defamation and that consequently, the proceedings need to be closed.”

(Emphasis supplied at each instance)

The Apex Court holds that the applicability of Exceptions to Section 499 of the IPC hinges upon factual determination necessitating evidence and cannot ordinarily be adjudicated at the stage of cognizance or quashing. Good faith, by its very nature, is not presumed; it must be pleaded, proved and established by demonstrating due care, caution and absence of malice. The enquiry into such matters is impermissible at this insipient stage.

ISSUE NO.3:**Whether the order of taking of cognizance suffers from non-application of mind?**

15. The third plank of submission of the learned senior counsel is, attack to the order of taking cognizance on the contention that the order of cognizance does not bear any application of mind. The said submission, on the face of it, is unacceptable. The entire order of taking cognizance is as follows:

"ORDERS ON ISSUANCE OF PROCESS

The complainant has filed this private complaint seeking to take cognizance of the offence punishable under Section 500 of IPC against the accused.

2. After receipt of complaint, sworn statement of complainant has been recorded and in support of her case, the complainant has placed copy statement made before media and publication of that statement in X website, Kannada Prabha Newspaper, Public TV English website and website of Vistara news.com and same have been marked as Ex.C1 to 5. The complainant has produced Hash Certificate issued by experts with certificate under section 63(4)(c) of Bharatiya Sakshya Adhinyam along with Ex.C1 to 5.

3. After recording sworn statement of complainant, notice was issued to accused as required under proviso of sub-section 1 of Section 223 of Bharatiya Nagarik Suraksha Sanhita, 2023. In response to the notice, accused has appeared through learned counsel and filed objection along with documents.

4. Heard learned counsel for respective parties and perused materials on record.

5. The following points arise for consideration of this court.

1. Whether there is prima facie case to issue process against the accused?
2. What order?

6. The above points are answered as hereunder:

Point No.1: In the affirmative.

Point No.2: As per final order for the following:

REASONS

7. Point No.1: The case of the complainant is that the complainant is an Indian Police Service (IPS) Officer and presently serving as Inspector General of Police (Internal Security), Government of Karnataka. The complainant secured 43 all India Rank in UPSC exam held in the year 2000. She has married an IAS Officer and she comes well educated family with her sister being an IRS officer and her husband being an IPS Officer of the Tamil Nadu. The complainant has served as District Police Head of Dharwad District in 2004 and she arrested and executed a non-bailable warrant against the then Chief Minister of Madhya Pradesh at Hubli. In the year 2013 she has served as DCP, City Armed Reserve, Bengaluru and she has withdrawn 216 excess gunman kept unauthorised by as many as 81 politicians. In the year 2020 the complainant brought out tender irregularities in Nirbhaya-Safe City project and due to her proactive efforts, the tender cost about ₹953 crores was cancelled and fresh tender was called by reducing ₹463 crores and thereby saved ₹500 crore to the public exchequer. Further, complainant also served as head of District Police of Gadag, Bidar, Yadgir, DIG of CID, IGP of Home Guards. DIG Prison, SP of Cyber Crime, thereby the complainant has reached higher echelons of service of her hard work and dedication to duty. Further, complainant was conferred President's Medal, Kempegowda Award of State Government also conferred ward from Channels of Zee Kannada, Asianet Suvarna, Anti-

Corruption Academy, Lions Club and Newspaper Association. She invited by Harvard University Students Association to deliver speech at "India Fest" at Harvard, USA and also invited by Kaduna, Nigeria to be the chief guest and key note speaker and she was selected by Israel Embassy as youth Ambassador and complainant is having popularity in social media by X about 1,11,000 followers. Such being the reputation of the complainant in the society as IPS Officer, on 19-02-2023 the accused being a responsible IAS Officer, has made defamatory press note stating that complainant is suffers from mental ailment and negatively suggested there is serious issue with the complainant and denigrates the complainant as an officer, which was telecasted on various media channels, posted in social media and also published in many daily newspapers. The statement made by accused is defamatory and factually incorrect and baseless, which assassinated character of the complainant.

8. The accused has appeared through learned counsel and filed objection along with documents. In the statement of objections, it is contended by accused that the present complaint filed by complainant is nothing but a counter blast to the complaint filed by accused/respondent against the complainant herein on 28-02-2023 for malicious acts of causing defamation to accused. The complaint filed by accused herein was registered as PCR No.1901 of 2023 by the Hon'ble XXIV ACMM Court and after recording sworn statement it was registered as CC No.7870 of 2023 and directed to issue process against complainant herein, the said case was arose on 18.02.2023 when the complainant made multiple unprovoked false and defamatory allegation on Facebook page against accused. The respondent is an IAS Officer belonging to Karnataka Cadre and hails from highly educated and respected family. She has served with distinction for over a decade in the Indian Administrative Service, she was instrumental in introducing various new schemes for effective implementation of programmes brought by the State Government as CEO of Mandya and also served as Deputy Commissioner of Hassan. She is instrumental of launching online portal 'Spandana' which is Grievance Redressal System at District level in the first time. When she was serving as Deputy Commissioner of Mysore took measures to save Government Lands in spite of stiff resistance from rich powerful and influential land mafia. While serving as

Endowment Commissioner she has Introduced Integrated Temple Management System (ITMS), which is an online platform whereby devotees get complete information of all-important temples in the State under the concept of "Daiva Sankalpa" scheme. The respondent has earned the appreciation and affection of not only her superior and subordinate officer but also that of the public at large and she is held in high esteem by one and all who are known to her for her good conduct, character, honesty, integrity and uprightness. That being so, as per document No.1 submitted along with objection, the respondent came across a Facebook post dated 18-02-2023 which is Facebook of complainant (document No.1 submitted along with objection) bearing 'D Roopa Moudgil' alleged that no IAS officer would go for a settlement with an MLA or politician regarding their official service rendered and for the first time she heard about that when respondent went settlement with Sa Ra Mahesh, an MLA. Further, the complainant has uploaded photos of respondent projecting with negative connotation and falsely alleging that they were sent by respondent to 'three IAS Officers', so, she has made serious and unreachable allegation against the respondent with touches her character and conduct knowing fully well that same are false and far from truth. Thereafter, complainant has shared a photograph of WhatsApp chat conversation claiming the same to be that of respondent (document No.3 submitted along with objection) and it was shown as deleted. Apart from that in a phone conversation with an activist the complainant has alleged that due to behaviour of respondent, her house is not in order and that respondent is like cancer and entices everyone into her fold and is behind her (respondent) husband since the last 8 years and has used in the said conversation with Gangaraju most derogatory words and clip of same still available in the media at large like Kannada Prabha Newspapers (document No.4 submitted along with objection). The above said posts/comments/ allegations made by complainant on her Facebook page and before media is per se defamatory. She has made another comment on her Facebook dated 22-02-2023 (document No.5 submitted along objection) asking the media to focus on corruption issue against respondent despite of direction of Government dated 20-2-2023.

9. Thereafter, the respondent has filed complaint before XXIV ACJM Court on 28-02-2023 against complainant and after

recording sworn statement cognizance was taken and issued process by registering CC No.7870 of 2023 which is produced as document No.6, aggrieved by said order, the complainant preferred Criminal Revision Petition No.4575 of 2023 before Hon'ble High Court of Karnataka seeking quash the said order and same was dismissed, copy of the said order is produced as document No.7. Thereafter, the complainant has filed a Special Leave Petition before Hon'ble Supreme Court against the order passed in Crl.R.P.No.4575 of 2023, after hearing the matter, the Hon'ble Supreme Court directed the complainant to delete all the posts made by her on Facebook against respondent within 24 hours and to file affidavit to that effect and copy of the said order and affidavit filed in that regard is produced as Document No.10 and 12. Subsequently, the complainant has filed a civil suit O.S.No.1269 of 2024 against respondent and copy of plaint and written statement is produced as document Nos. 13 and 14. For these reasons the respondent has sought for dismissal of complaint.

10. The learned counsel appearing for complainant during the course of argument has submitted that the signed press statement dated 19-02-2023 released by the accused against the complainant calling her an mentally ill, which were circulated in several newspapers, media channels and on social media platforms such as X Website, has assassinated and bring down the credibility of the complainant in the society which would baseless comments and it is become a habit only for the purpose of defame the 'complainant'. The accused has wrongly and baseless alleged that the complainant posts her opinions and shares her thoughts on face book only to remain as the center of attention and news to show that press statements which is having viewed by public at large by 183.1K views, 810 likes. The said online article still there on the internet.

11. Per contra, the learned counsel appearing for the accused during the course of argument has submitted that after coming into force BNSS a provision has been inserted so as to provide an opportunity to accused to hear before taking cognizance while issuing process. The present complaint is filed by complainant to counter blast the complaint filed by accused against complainant in C.C.No.7873 of 2023 to take cognizance for offence punishable under Section 500 of IPC based on defamatory statement made by complainant on her Facebook

against accused/respondent as shown in documents No.1 to 3 on 18-02-2023 and 19-02-2023 which is derogatory statement touches the character of respondent not only personal also official capacity. After that the State Government on 20-02-2023 has issued a direction directing the complainant herein not to post such statement. The order of taken cognizance in said case was questioned by accused before Hon'ble High Court in CrI.R.P.No.4575 of 2023 was dismissed and the complainant has questioned said order of Hon'ble High Court before the Hon'ble Supreme Court in Special Leave Petition. Thereafter, when the matter pending before Hon'ble Supreme Court, complainant filed civil suit in O.S.No.1269 of 2024 against respondent for damages for defamation. Therefore, the complainant having knowledge about alleged defamatory statement dated 19-02-2023 since above said proceedings and sleeping from those days, at this juncture filed present complaint suppressing said facts, which is replica of said proceedings, counterblast to said complaint and afterthought, so the complainant has not approached the Court with clean hands. When respondent was called by media regarding said complaint, to defend her reputation she made such Ex.C1 alleged statement on 19-02-2023 which comes under exception-9 of Section 499 IPC. The New three Codes came into force from 01-07-2024, the alleged act done before that date should have done under old Codes that is IPC and Cr.P.C. as such the date of alleged statement is 19-02-2023 would come under IPC and procedure which needs to be Cr.P.C. not new Code, so complaint should not have been entertained and court has not got jurisdiction and hence complaint is deserves to be dismissed with exemplary cost.

12. The learned counsel appearing for the complainant in the reply, has submitted that it is clear case of complainant that Ex.C1 press media statement made by accused on 19-02-2023 is defamatory, which is subject matter of the case, if it is not defamatory statement, then respondent has to answer how it does not make defamation, in order to ascertain whether that alleged statement is defamatory or comes under exception-09 of Section 499 of IPC full fudge trial is required. The prescribed period for limitation to take cognizance is 3 years from 19-02-2023 and complaint is in time. The Hon'ble Supreme Court has suggested the complainant to take back statement posted in media, it was not direction. So far as not applicable of New Code is concerned, Section 358 and 531 of BNSS has clearly states

that if complaint is filed after 01-07-2024 procedure of BNSS has to be follow, if provisions of New Codes are not applicable as argued by the learned counsel for respondent, the complainant need not argue the matter at this stage, the court can take the cognizance of offence after recording sworn statement. Hence, prayed for take cognizance of offence punishable under Section 500 of IPC and issue process against accused.

13. On careful perusal of complaint, sworn statement of complainant, objection statement and documents placed on record, it is seen that the complainant has relied on a signed defamatory press statement dated 19-02-2023 made by accused against complainant, which is marked as Ex.C1 and publication of that statement in X Website, Kannada Prabha Newspaper, Public TV English website and website of Vistara News.com and same have been marked as Ex.C2 to Ex.C5. Further allegation is the statement made by accused is defamatory statement which assassinated and bring down the credibility of the complainant in the society. In order to ascertain prima facie material, it would be useful to reproduce Ex.C1 press statement dated 19-02-2023 which read as under:

ಮಾಧ್ಯಮ ಹೇಳಿಕೆ.

ಮಾನಸಿಕ ಅಸ್ವಸ್ಥತೆ ಒಂದು ಬಹು ದೊಡ್ಡ ಸಮಸ್ಯೆ. ಅದನ್ನು ಸೂಕ್ತ ವೈದ್ಯಕೀಯ ಚಿಕಿತ್ಸೆ ಮತ್ತು ಕೌನ್ಸಿಲಿಂಗ್ ಮೂಲಕ ಗುಣಪಡಿಸಬೇಕು. ಜವಾಬ್ದಾರಿಯುತ ಸ್ಥಾನದಲ್ಲಿರುವವರು ಮಾನಸಿಕ ಅಸ್ವಸ್ಥತೆಗೆ ಒಳಗಾದರೆ, ಅದು ಸಮಾಜಕ್ಕೆ ಬಹುದೊಡ್ಡ ಅಪಾಯಕಾರಿ ಬೆಳವಣಿಗೆ.

ರೂಪಾ ಐಪಿಎಸ್ ರವರು, ಜವಾಬ್ದಾರಿಯುತ ಸ್ಥಾನದಲ್ಲಿದ್ದು, ನಮ್ಮ ಮೇಲೆ ವೈಯಕ್ತಿಕ ಹಗೆಯನ್ನು ಸಾಧಿಸಲು ಮಾನಸಿಕ ಸ್ಥಿಮಿತತೆಯನ್ನು ಕಳೆದುಕೊಂಡಿರುವವರ ರೀತಿಯಲ್ಲಿ ವರ್ತಿಸುತ್ತಿದ್ದಾರೆ.

ಐಪಿಎಸ್ ರೂಪಾ ರವರಿಗೆ, ಇದೊಂದು ಅಭ್ಯಾಸವಾಗಿ ಬಿಟ್ಟಿದೆ. ಅವರು ಇತ್ತೀಚಿನ ವರ್ಷಗಳಲ್ಲಿ ಎಲ್ಲಾ ಹುದ್ದೆಗಳಲ್ಲಿ ಇದೇ ರೀತಿಯ ಆಧಾರರಹಿತ ಆರೋಪಗಳನ್ನು ಮಾಡುವ ಮೂಲಕ - ಮಾಧ್ಯಮಗಳ ಗಮನ ಸೆಳೆಯುವ ಹಾಗೂ ತಾವು ದ್ವೇಷಿಸುವ ವ್ಯಕ್ತಿಗಳ ಮೇಲೆ ವೈಯಕ್ತಿಕವಾಗಿ ಹಗೆತನ ಸಾಧಿಸಲು ಕೀಳುಮಟ್ಟದ ಪ್ರವೃತ್ತಿನ್ನು ಪ್ರದರ್ಶಿಸುತ್ತಿದ್ದಾರೆ. ಅವರು ಯಾವಾಗಲೂ ಸುದ್ದಿಯಲ್ಲಿರಬೇಕು ಎನ್ನುವುದನ್ನು ಬಯಸುತ್ತಾರೆ ಹಾಗೂ ಅದಕ್ಕೆ ಬೇಕಾದಂತಹ

ಪೋಸ್ಟ್ ಗಳನ್ನು ತಮ್ಮ ಸಾಮಾಜಿಕ ಮಾಧ್ಯಮದ ಪುಟಗಳಲ್ಲಿ ಹಾಕುವ ಮೂಲಕ ಸುದ್ದಿಯ ಕೇಂದ್ರಬಿಂದುವಾಗಲು ಯತ್ನಿಸುತ್ತಿದ್ದಾರೆ.

ಜವಾಬ್ದಾರಿಯುತ ಸ್ಥಾನದಲ್ಲಿದ್ದು ಒಳ್ಳೆಯ ಕೆಲಸಗಳ ಕಡೆ ಗಮನ ಹರಿಸುವುದನ್ನು ಬಿಟ್ಟು ಒಬ್ಬ ವ್ಯಕ್ತಿ ಅಥವಾ ಇನ್ನೊಬ್ಬರನ್ನು ಗುರಿಯಾಗಿಸಿಕೊಂಡು ಅವರ ತೇಜೋವಧೆ ಮಾಡುವುದೇ ಅವರ ಪ್ರಾಥಮಿಕ ಕೆಲಸ ಎಂದು ತೋರುತ್ತದೆ. ಅದರಲ್ಲೂ ನನ್ನ ವಿರುದ್ಧ ಯಾವುದೋ ವೈಯಕ್ತಿಕ ಹಗೆಯನ್ನಿಟ್ಟುಕೊಂಡು ಸುಳ್ಳು ವೈಯಕ್ತಿಕ ನಿಂದನೆಯ ಅಭಿಯಾನವನ್ನು ನಡೆಸುತ್ತಿದ್ದಾರೆ.

ಸಾಮಾಜಿಕ ಮಾಧ್ಯಮಗಳಿಂದ ಹಾಗೂ ವಾಟ್ಸಾಪ್ ಅಪ್ ಸ್ಟೇಟ್ ಗಳಿಂದ ಸ್ಪೀಡ್ ಶಾಟ್ ಗಳ ಮೂಲಕ ಸಂಗ್ರಹಿಸಿರುವ ಪೋಟೋಗಳನ್ನು ನನ್ನ ತೇಜೋವಧೆ ಮಾಡಲು ರೂಪಾ ಐಪಿಎಸ್ ರವರು ಬಳಸಿದ್ದಾರೆ. ಈ ಪೋಟೋಗಳನ್ನು ನಾನು ಕೆಲ ಅಧಿಕಾರಿಗಳಿಗೆ ಕಳುಹಿಸಿದ್ದೇನೆ ಎನ್ನುವ ಸುಳ್ಳು ಆರೋಪ. ಮಾಡಿರುವ ಅವರು ಸದರಿ ಅಧಿಕಾರಿಗಳ ಹೆಸರನ್ನು ಬಹಿರಂಗಪಡಿಸಬೇಕು ಎಂದು ಅಗ್ರಹಿಸುತ್ತೇನೆ.

ನನ್ನ ವಿರುದ್ಧ ರೂಪಾ ಐಪಿಎಸ್ ರವರು ರೂಪಾ ರವರ ಮೇಲೆ ಸರ್ವೀಸ್ ಕಂಡಕ್ಟ್ ರಾಲ್ಸ್ (ಸೇವಾ ನಡತೆ ನಿಯಮಗಳ) ಉಲ್ಲಂಘನೆಗಾಗಿ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಕೋರಿ ನಾನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ದೂರು ಸಲ್ಲಿಸಿದ್ದೇನೆ. ಹಾಗೂ ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆಯ ವಿವಿಧ ಸೆಕ್ಷನ್ಗಳ ಅಡಿಯಲ್ಲಿ ರೂಪಾ ಐಪಿಎಸ್ ರವರ ಮೇಲೆ ಎಲ್ಲಾ ರೀತಿಯ ಕಾನೂನು ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳುತ್ತೇನೆ.

ಇಂತಹ ಆಧಾರರಹಿತ ಆರೋಪಗಳಿಂದ ನಾನು ಸ್ವಲ್ಪವೂ ವಿಚಲಿತಳಾಗದೆ, ಸರ್ಕಾರಿ ಅಧಿಕಾರಿಯಾಗಿ ನನ್ನ ಕರ್ತವ್ಯಗಳನ್ನು ಶ್ರದ್ಧೆ ಮತ್ತು ನಿಷ್ಠೆಯಿಂದ ಮುಂದುವರಿಸುತ್ತೇವೆ ಎಂಬ ಅಂಶವನ್ನು ಇಂತಹ ಫುಲ್ಲ್ ವ್ಯಕ್ತಿಗಳ ಗಮನಕ್ಕೆ ತರಬಯಸುತ್ತೇನೆ.

ಸಹಿ

ದಿನಾಂಕ: 19ನೇ ಫೆಬ್ರವರಿ 2023

ಶ್ರೀಮತಿ ರೋಹಿಣಿ ಸಿಂಧೂರಿ

14. Thereafter, the above statement has been published in X website, Kannada Prabha Newspaper, Public TV English website and website of Vistara News.com. said publication are being marked as Ex.C2 to 5. As contended by respondent/accused, Ex.C1 alleged statement is made by accused on 19-02-2023 and it was published X Website, News Channel, is an admitted fact. The specific contention of the respondent/accused is alleged statement comes under the Exception-9 of section 499 of IPC because it was made in good faith to protect interest of herself when she was called by media about complaint filed by her against complainant herein on basis

of defamatory statement. **In order to ascertain as to whether that statement was made by accused in good faith and to protect her interest, whether there was any malice, whether accused made any inquiry before she made that allegation, whether there are any reasons to accept version that she acted with care and caution and whether there is preponderance of probability that accused acted in good faith, it requires full fledged trial, these facts can be ascertained only after full fledged trial.**

15. **Therefore, by considering the averment of complaint and documents placed on record and contention of accused, at this stage, the complainant has established prima facie case to take cognizance offence punishable under 500 of IPC and issue process against accused. Hence, this Court answered above in the affirmation.**

16. Point No.2: in view of discussion made above on point No.1 his Court proceed to pass the following

ORDER

Cognizance of offence punishable under Section 500 of IPC is taken.

Office is directed to register the case in Register No.III and issue process against accused, if complainant furnished list of witnesses as required u/s 227(2) of BNSS.

Returnable by 22-02-2025.

Sd/-

VII Addl.CJM, Bengaluru"

(Emphasis added)

The order of taking of cognizance is quoted in its entirety *supra*. The concerned Court has painstakingly rendered reasons for taking cognizance and issuing process. The order of taking cognizance runs into 16 pages; not 16 pages of flow of ink, but flow of reasons, as it is trite that the Court at the stage of taking cognizance, is not to take an expedition towards discovery of truth. It is only a peripheral obligation to record reasons as to why the Court is entertaining the complaint and issuing summons to the respondent to answer in a full-fledged trial. It should bear reasons is the settled principle of law. It does bear reasons in the case at hand, not inadequate, but more than adequate. In fact, the entire spectrum of the case of the petitioner and the respondent is considered while taking cognizance and issuing process. The Court also records that under the BNSS, once the private complaint was registered, a notice is issued to the present petitioner, the petitioner appears, files a reply and the reply is considered, cognizance is taken and summons are issued.

16. **The order reveals a meticulous and exhaustive consideration of the complaint, sworn statements, objections and documentary material.** The learned Magistrate has adverted to rival contentions, framed points for consideration and recorded cogent reasons for arriving at a prima facie satisfaction. **It is trite that at the stage of issuance of process, the Court is not expected to conduct a mini trial or embark upon a roving enquiry into the disputed facts. The order impugned reflects neither mechanical exercise nor abdication of judicial duty. On the contrary, it manifests due application of mind commensurate with the stage of the proceedings.**

17. Insofar as the judgment relied on by the learned senior counsel appearing for the petitioner concerning taking of cognizance as held by the Apex Court in **SUNIL BHARTI MITTAL V. CENTRAL BUREAU INVESTIGATION - (2015) 4 SCC 609**, the observations of the Apex Court that there should be sufficient ground for proceeding against the accused under Section 204 CrPC has been completely complied with, in the case at hand. The order

of taking cognizance is elaborate, as quoted hereinabove. Therefore, the said judgment would not become applicable to the facts obtaining in the case at hand.

18. Insofar as the other judgment of the Apex Court in the case of **LALANKUMAR SINGH v. STATE OF MAHARASHTRA – 2022 SCC OnLine SC 1383**, which only follows its earlier judgment in the case of SUNIL BHARTI MITTAL again would not become applicable to the facts obtaining in the case at hand.

19. Further, the judgment of the Apex Court in the case of **HARBHAJAN SINGH v. STATE OF PUNJAB – 1965 SCC OnLine SC 118**, it is considered in the case of **IVECO supra**. Therefore, the said judgment has already borne consideration in the course of the order.

20. In **SHAHED KAMAL v. A. SURTI DEVELOPERS [Crl.A.No.2033 of 2025]** the Apex Court follows the judgment in **IVECO supra** and certain circumstances to be considered by this

Court while dealing with cases concerning the ninth exception to Section 499 of the IPC. The said judgment is rendered on a circumstance altogether different.

21. Therefore, the submission of the learned senior counsel for the petitioner that the order of taking cognizance does not bear application of mind has no legs to stand as it does bear abundant application of mind. Beyond this if the concerned Court had considered the issue, it would have been that the Court has undertaken a roving inquiry of deciphering evidence at the stage of cognizance. Therefore, the tri plank submissions of the learned senior counsel for the petitioner viz., *(i) delay in registering the complaint; (ii) the petitioner being protected by the exception and (iii) the order of taking cognizance being unreasoned*, all would tumble down. It is for the petitioner also to come out clean in a full-blown trial, like what the coordinate Bench had held in the case of the respondent for her to come out clean in a full-blown trial.

22. Finding no merit in the petition, the petition stands ***rejected.***

Impugned order of any kind operating shall stand dissolved.

**SD/-
(M.NAGAPRASANNA)
JUDGE**

Bkp
CT:MJ