IN THE HIGH COURTOF DELHIAT NEW DELHI

% Judgment delivered on : 15.09.2025

\+ **CRL.M.C. 2459/2020 & CRL.M.A. 17367/2020**

ANJU RANI & ANR. ..... Petitioners

versus

RAJAN KHURANA ..... Respondent

Advocates who appeared in this case:

For the Applicant : Ms. Deepika V. Marwaha, Senior Advocate with Mr. Dhananjay Kaushal, Mr. Saksham Kalra, Mr. Aaryan Sharma and Mr. Tanishq Sharma, Advocates.

For the Respondent : Respondent in person.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition has been filed seeking to set aside the order dated 23.11.2020 (hereafter "impugned order") passed by learned Additional Sessions Judge ('Revisional Court'), Patiala House Courts, New Delhi in CR No.868/2019, setting aside the order dated 26.09.2019 passed by the learned Metropolitan Magistrate ('Trial Court') and consequently, the petitioners were summoned in relation

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to the offences punishable under Sections 499/500/34/120B and Sections 211/120B of the Indian Penal Code, 1860 ('IPC').

2. By the order dated 26.09.2019, the learned Trial Court dismissed the complaint filed by the respondent/ complainant under Sections 499/500 of the IPC on the ground that the complaints and the RTIs filed by the petitioners were only in the nature of seeking information and taking action against the complainant and his wife. It was observed that no evidence was brought on record by the complainant to show that the allegations made by the accused persons were false or were made with the intention to lower the image of the complainant and his wife.

3. Briefly stated, the facts of the case are, that the wife of the complainant, namely– Mrs. Sanjeevan Prakash, is working as Senior Finance and Accounts Officer at IARI, Pusa, and the petitioners are the neighbors of the complainant. Petitioner No. 2 is also working as a Technical Officer at NBPGR, Pusa Campus. It is alleged that on 18.06.2008, Petitioner No. 2 assaulted the complainant and his wife. The complainant is stated to have been taken to Ram Manohar Lohia Hospital. It is alleged that the complainant was unable to state the correct facts at the time of the MLC as he was under threat and fear and hadwrongly stated that he suffered the injuries due to a fall. It is alleged that the complainant underwent a major operation for his dislocated jaw.

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4. It is alleged that the incident was reported to Dr. S.K. Sharma, Director, who assured the complainant that departmental action would be taken against Petitioner No. 2. However, no such action was initiated. Consequently, on a complaint given by the complainant, FIR No. 91/2008 dated 25.07.2008 came to be registered, under Sections 325/506/509 of the IPC against the petitioners. It is further alleged that, as a counterblast to the said FIR, the petitioners, in collusion with another accused namely– Veersain, registered false and frivolous complaints against the complainant and his wife, thereby tarnishing their reputation.

5. It is alleged that Petitioner No. 1, who is the wife of Petitioner No. 2, acting in concert with other accused persons, lodged a false complaint against the complainant before the Court of Metropolitan Magistrate, pertaining to an imaginary incident of eve-teasing, said to have occurred on 22.06.2022. This resulted in the registration of FIR No. 99/2008 dated 07.08.2008 under Sections 506/509/34 of the IPC against the complainant. The complainant is however stated to be discharged *vide* order dated 03.09.2011, for the allegations having been found to be motivated.

6. It is alleged that Petitioner No. 2 started obtaining personal information regarding the complainant, in order to defame and harass him. An RTI application is stated to have been filed by Veersain, against the complainant seeking information regarding his habit of consuming liquor, *afeem* and gambling and his bad behaviour towards

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girls and women. It is alleged that due to the RTIs filed by them, the wife of the complainant was often called for explanations by the concerned authorities and was subjected to humiliation. It is alleged that the petitioners started filing complaints against the wife of the complainant and made allegations that she abused her official powers and had misused the CGHS token, thereby causing loss to the Govt. of India to the tune of ₹1,00,000/-. It is alleged that while the inquiry regarding the misuse of CGHS token was being conducted, another complaint was lodged against the wife of the complainant *qua* her retention in Delhi after her transfer to Nagpur. It is alleged that another complaint was made by the petitioners in respect of the unauthorised possession of the house at Harbhajan Enclave. It is alleged that the complaints were made by the petitioners so that the complainant is discouraged from pursuing the complaint regarding assault by the petitioners. In this regard, the wife of the complainant is also stated to have made a complaint dated 29.12.2009 to the SHO regarding lodging of false complaints in the department. It is alleged that the complainant and his wife have been subjected to immense humiliation.

7. The learned Revisional Court, while allowing the revision petition filed by Respondent No. 2 and summoning the petitioners for offences punishable under Sections 499/500/120B read with Section 211/120B of the IPC, was of the view that the RTI applications filed by the petitioners were *prima facie* imputing the character and the

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reputation of Respondent No. 2 and his wife, as they were without any basis. The learned Court took note of the discharge of Respondent No. 2 in the FIR filed by Petitioner No. 1 under Sections 506/509/34 of the IPC, the proceedings therein having been found to be motivated. It was also noted that all complaints filed by the petitioners against Respondent No. 2 and his wife were subsequent to the FIR registered at his instance against Petitioner No. 2, for grievous injuries.

8. The learned senior counsel for the petitioners submitted that the order passed by the learned Revisional Court is bad in law as the present complaint lacks the essential ingredients of Section 499 of the IPC, and therefore was rightly dismissed by the learned Trial Court.

9. She submitted that the complaint was liable to be dismissed for non-compliance with Section 204(2) of the Code of Criminal Procedure, 1973 ('CrPC'), since no list of witnesses was filed. In the absence of the same, she contended that the examination of CW-2 (wife of the complainant) was illegal, and her statement ought not to have been considered by the Revisional Court. She submitted that the complaint and the subsequent revision petition were not supported with an affidavit as required under the High Court Rules.

10. She referred to the complaint and submitted that the complainant had acquired information about the alleged defamatory imputations in the year 2009 itself, however the present complaint had been filed belatedly in the year 2014. She submitted that no

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cognizance could have been taken for offence under Section 499 of the IPC, after a period of three years from the date of alleged commission of offence, as the same is barred by limitation in terms of Section 468(2) of the CrPC. In this regard, reliance was placed on the judgement passed by the Hon'ble Apex Court in ***Surinder Mohan Vikal v. A.L. Chopra*** **: (1978) 2 SCC 403**.

11. She submitted that the provisions of Sections 199 and 195 of the CrPC have been ignored by the learned Revisional Court while issuing process against the petitioners, and that the learned Court fell in grave error by invoking the provisions of Section 211 of the IPC in the absence of compliance of Section 195(1)(b)(i) of the CrPC.

12. She contended that the provision of exception 8 under Section 499 of the IPC has been ignored by the learned Revisional Court, as all the complaints and RTIs were in respect of three main issues, pertaining to unauthorised possession of the Government accommodation, illegal retention of the wife of the complainant in Delhi despite her transfer to Nagpur and use of two CGHS cards at the same time.

13. She submitted that Respondent No. 2 has concealed the fact that the civil suit filed by him and his wife, claiming damages for defamation against the petitioners, has also been stayed by this Court on the ground of limitation.

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14. Respondent No. 2 was present in person and submitted that the petitioners resorted to filing false complaints and frivolous RTIs against him and his wife, pursuant to the complaint filed against them regarding assault. He submitted that the petitioners have conspired along with one Veersain, which is the pseudo name for Petitioner No. 1's brother, to defame him and his wife.

15. At the outset, it is relevant to note that the petitioners have invoked the inherent jurisdiction of this Court seeking to set aside the impugned order passed by the learned Revisional Court. It is settled law that the power under Section 482 of the CrPC is to be exercised cautiously and sparingly, especially when Sessions Judge has already exercised revisional power under Section 397 of the CrPC. The Hon'ble Apex Court, in the case of ***Krishnan v. Krishnaveni* : (1997) 4 SCC 241**, had observed as under:

> "***8.*** *The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice.* ***In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct***

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irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order."

(emphasis supplied)

16. The Hon'ble Apex Court in ***Indian Oil Corporation v. NEPC India Limited and Others*** **: (2006) 6 SCC 736**, while delineating the scope of jurisdiction under Section 482 CrPC, held that though the inherent powers of the High Court are to be exercised sparingly and with circumspection, the same can be invoked to prevent abuse of the process of law or to secure the ends of justice, and it was further observed that quashing of a complaint would be justified where the complaint, even if taken at face value and accepted in its entirety, does not disclose the commission of any offence; where the allegations are patently absurd, inherently improbable or so vague that no prudent person can conclude that an offence has been made out; where the complaint is manifestly mala fide or instituted with ulterior motives for wreaking vengeance; where the allegations essentially give rise to a civil dispute devoid of criminality but are sought to be given a criminal colour; and where permitting the proceedings to continue would amount to an abuse of the process of the Court, thereby clarifying that criminal law should not be permitted to be misused as a tool of arm-twisting or pressure in purely civil disputes.

17. The present case is not one where there are concurrent findings by the Revisional Court and Trial Court. In this case, the learned Trial Court dismissed the complaint filed by the complainant under Sections

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499/500 of the IPC. Subsequently, the learned Revisional Court found that sufficient material was on record for summoning the petitioners under Sections 499/500/34/120B and Sections 211/120B of the IPC. The same warrants a scrupulous appraisal of the facts of the case to ascertain whether interference is required to secure the ends of justice.

18. In the present case, the allegations in the complaint are that the petitioners, in collusion with one Veersain, allegedly resorted to a series of false complaints and RTI applications with the intent to malign the reputation of the complainant and his wife. It is alleged that after FIR No. 91/2008 was registered against the petitioners for offences under Sections 325/506/509 of the IPC in relation to the assault incident dated 18.06.2008, they retaliated by filing frivolous complaints and applications. Petitioner No. 1 is alleged to have filed a complaint regarding an incident of eve-teasing said to have occurred on 22.06.2008, pursuant to which FIR No. 99/2008 under Sections 506/509/34 of the IPC was registered against the complainant, though he was later discharged by order dated 03.09.2011.

19. It is further alleged that Petitioner No. 2, acting in concert with the other accused, sought to gather personal information about the complainant and his wife through RTI applications and departmental complaints, thereby causing them harassment and humiliation. The allegations involved imputations that the wife of the complainant had misused her official position, was in unauthorized possession of government accommodation, and had improperly retained her posting

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in Delhi despite an order of transfer to Nagpur. In addition, allegations were made concerning misuse of CGHS facilities, including the use of two CGHS cards, which was said to have caused loss to the Government of India to the tune of ₹1,00,000/-.

20. It is also alleged that an RTI application was filed in the name of Veersain, imputing that the complainant was habituated to liquor, *afeem* and gambling, and that he showed inappropriate behavior towards women. The complainant asserts that such allegations were wholly false and intended to bring disrepute to the complainant and his wife, both personally and professionally. It was alleged that these acts were not only intended to tarnish their reputation in society but also designed to deter them from pursuing the assault case lodged against the petitioners.

21. The gravamen of the petitioners' challenge to the impugned order is that the learned Revisional Court acted without jurisdiction in summoning the petitioners under Section 211 of the IPC in a private complaint, inasmuch as Section 195(1)(b)(i) of the CrPC places a bar on any Court taking cognizance of such an offence, except upon a complaint in writing by the Court before which the alleged offence is committed. In this regard, the respondent has argued that the offence of defamation was committed before any proceedings were instituted.

22. Reliance was placed on the judgement passed by this Court in ***Geetika Batra v. O.P. Batra*: 2009 SCC OnLine Del 232**, wherein it

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was observed that sub-section (1) of Section 195 of the CrPC expressly bars a court from taking cognizance of offences specified in clauses (a) and (b) of this section unless the conditions laid down in these clauses are fulfilled. For an offence under Section 211 of the IPC, which deals with making false charges or fabricating false evidence, a court cannot take cognizance unless a written complaint is filed by the court itself or a superior court. This provision is intended to safeguard the integrity of judicial proceedings and prevent frivolous or vexatious complaints related to court proceedings unless formally initiated by a court itself.

23. From the perusal of the impugned order, the reason for which the petitioners have been summoned for offence punishable under Section 211 of the IPC is not clear. The provisions of Section 211 of the IPC are attracted in case where a person is shown to have levelled false charges against the complainant, knowing them to be false. The CrPC does not define as to what constitutes making of charge of an offence or institution of criminal proceedings. The Hon'ble Apex Court had clarified that making false accusation to any authority bound by law to investigate or to take any steps in regard to it, such as giving information of it to the authorities with a view to investigate and the institution of criminal proceedings itself, that is, setting the criminal law in motion, would fall within the definition of levelling false charges or instituting criminal proceedings. It is further clarified that once the Magistrate takes cognizance of the offence, the same

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amounts to a judicial order or once there is intervention by a Magistrate in his judicial capacity as a Court, there can be no question of instituting the private complaint for an offence under Section 211 of the IPC alleging that such criminal proceedings have been instituted, knowing them to be false, till such time such criminal proceedings come to an end. In such circumstances, it is settled law that the cognizance can be taken only on a complaint instituted as provided in Section 195 (1)(b) of the CrPC. The provision bars taking of cognizance by a Magistrate except on a complaint in writing by a Court. [Ref: ***M.L. Sethi v. R.P. Kapur*** **: 1966 SCC OnLine SC 115;** ***Himanshu Kumar v. State of Chhattisgarh*** **:(2023) 12 SCC 592**]

24. Though it is not clear in the present case as to what led to issuing of summons against the petitioners for offence under Section 211 of the IPC, however, from the narration of facts as made by the learned Court of Sessions, it appears that the provisions of Section 211 of the IPC have been invoked due to the discharge of Respondent No. 2 in the FIR No. 99/2008 instituted at the instance of Petitioner No. 1. In such circumstances, once the Magistrate had taken cognizance in the FIR registered at the instance of Petitioner No. 1, the summons could not have been issued to the petitioners in the absence of a complaint in writing of the concerned Court. No such complaint in writing was ever filed on the order of the concerned Court.

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25. Even otherwise, in the opinion of this Court, the procedure adopted by the learned Court of Sessions for summoning the petitioners for offence under Section 211 of the IPC is erroneous. It is clear that the respondent, in the present case, had never sought prosecution of the petitioners for offence under Section 211 of the IPC. It is though undisputed that the Court is vested with the power to add or alter charge at any stage of the proceedings before the judgment is pronounced, however, such power can only be exercised after the process is issued. The complaint, in the present case, was dismissed at the threshold which led to invoking of the revisionary jurisdiction of the Court of Sessions by the complainant.

26. At that stage, the learned Court of Sessions while exercising power under Section 397 of the CrPC, was only required to satisfy itself as to the correctness, legality or propriety of any finding by the learned Magistrate. The scope of power under Section 397 of the CrPC is to set right a patent defect or an error of jurisdiction or perversity which has crept in the proceedings and on finding any error, the learned Revisional Court could have directed the learned Trial Court to conduct further inquiry into the matter.

27. However, once the relief is not sought by the complainant, no order could have been passed as has been done in the present case, that is, issuing summons for offence under Section 211 of the IPC. The learned Revisional Court, in the opinion of this Court, though could have examined the correctness, legality or propriety of the order

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passed by the learned Trial Court, but could not have altered or expanded the scope of the original complaint itself.

28. The Revisional Court, while referring to the various acts of filing complaints, FIRs and RTI applications by the petitioners, proceeded to issue summons for offence under Section 211 of the IPC, without assigning cogent or detailed reasons as to how the essential ingredients of the said provision were satisfied or how initiation of proceedings thereunder were justified. The Revisional Court failed to appreciate that the original complaint filed by the respondent was confined solely to the alleged offences of defamation under Sections 499 and 500 of the IPC, and not for any offence under Section 211 relating to instituting false charges. The introduction of Section 211 IPC at the revisional stage, without a specific foundation being laid by the complainant himself, is not only legally untenable but also reflects a mechanical exercise of jurisdiction.

29. It is the case of the petitioners that the learned Revisional Court, in order to overcome the bar of limitation, has added Section 211 of the IPC and treated the limitation period as three years reckoned from the date of discharge of the complainant in FIR No. 99/2008.

30. In terms of Section 468(2)(b) of the CrPC, the limitation period for filing a complaint for defamation is one year, however, the learned Revisional Court has erroneously treated the complaint as being within limitation, by invoking Section 211 of the IPC for which the

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limitation to file a complaint is three years, reckoning the limitation period from the date of discharge of the complainant on 03.09.2011. Such an approach not only undermines the statutory scheme of limitation prescribed under the CrPC but also results in impermissibly enlarging the scope of the complaint beyond its original foundation.

31. The allegations in the complaint, relating to purportedly false complaints, RTI applications, and imputations regarding misuse of CGHS tokens, unauthorized retention of government accommodation, and alleged misconduct, all pertain to events of 2008–2009, which were admittedly within the complainant's knowledge at that time. It is submitted that the said complaints and RTI applications pertained to the year 2008-2010, except few complaints made in 2011. The complaint was instituted only in 2014 and was barred by limitation.

32. Once it is held that cognizance could not have been taken under Section 211 of the IPC, the complaint, insofar as it alleges offences under Sections 499 and 500 of the IPC, is barred by limitation. In terms of Section 468(2)(b) of the CrPC, the period of limitation for taking cognizance of the offence of defamation is one year from the date of the alleged act. As the imputations and complaints relied upon by the complainant pertain to the period between 2008 and 2011, and the complaint was instituted only in 2014, the same was clearly beyond limitation and could not have been entertained.

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33. In this regard, reliance was placed on the judgment passed in ***Surinder Mohan Vikal v. A.L. Chopra*** *(supra)*, wherein the Hon'ble Apex Court considered the applicability of the limitation period under Section 468 of the CrPC for filing a defamation case under Section 500 IPC. The Hon'ble Court held that the limitation period for initiating proceedings runs from the date of commission of the alleged offence, and statutes of limitation are intended to prevent stale claims and protect individuals from prolonged uncertainty.

34. The Hon'ble Court further clarified that the date of acquittal or discharge in any prior FIR or proceedings is irrelevant for computing the limitation period. What matters is the date on which the alleged defamatory act occurred. In the case at hand, the complaint was filed beyond the prescribed period, and therefore the impugned order summoning the petitioners is not sustainable.

35. It is pointed out that the FIR No. 99/ 2008 which the complainant states is false and claims that the same constitutes an offence of defamation, was registered on 07.08.2008, and thus, the limitation period of three years shall commence with effect from the date of registration of the said FIR. [Ref: ***Surinder Mohan Vikal v. A.L. Chopra****(supra)*]. The complainant, if aggrieved, could have instituted a complaint for defamation within one year of the passing of the discharge order dated 03.09.2011 or, at the very least, taken the ground that the cause of action arose on account of the said discharge in FIR No. 99/2008. However, even if limitation period is calculated

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from that date, the complaint filed in 2014 was clearly beyond the prescribed period and, therefore, barred by law under Section 468(2)(b) of the CrPC.

15. Issuance of summons in a criminal case is a serious issue and the same cannot be issued in a routine manner and shall not be permitted to be used as a weapon of harassment. In the case of ***Pepsi Foods Ltd. and Another v. Special Judicial Magistrate and Others* : (1998) 5 SCC 749**, the Hon'ble Apex Court had observed as under:

> *"28.* ***Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course.*** *It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion.* ***The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto.He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record*** *and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.*
>
> *29. No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the*

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complaint does not make out any case against him and still he must undergo the agony of a criminal trial....”

(emphasis supplied)

16. In view of the above, in the opinion of this Court, the learned Revisional Court erred in observing that sufficient evidence is available on record to summon the petitioners for the offences under Sections 499/500/34/120B and Sections 211/120B.

17. The present petition is allowed in the aforesaid terms and accordingly, the impugned order is set aside.

18. Pending application also stands disposed of.

AMIT MAHAJAN, J

SEPTEMBER 15, 2025

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