



\$~45 & 48

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% *Date of decision: May 07, 2025*  
+ **CRL.M.C. 3204/2025**

**FOUNDATION FOR INDEPENDENT JOURNALISM**

Office F-44, Bhagat Singh Marg,  
Gole Market, Bharat Singh Marg,  
New Delhi-110001.

.....Petitioner

Through: Mr. Shadan Farasat, Senior Advocate  
with Mr.Sarim Naved, Mr. Saad  
Uzzaman, Mr Saurabh Sagar,  
Ms.Natasha Maheshwari, Mr.Zeeshan  
Ahmad, Advocates

Versus

**DR. AMITA SINGH**

D/o Late Sh. Chandra Pal Singh  
R/o U-15/44, FF, Town Houses,  
DLF Phase-3, Gurgaon,  
Haryana-122010.

.....Respondent

Through: Mr. Amit Singh Chauhan, Mr. Syed  
Hamza G., Mr. Udit Chauhan &  
Mr. Varun Vats, Advocates

48

+ **CRL.M.C. 3224/2025**

**AJOY ASHIRWAD MAHAPRASHASTA**

S/o B.S. Mohaprasastha  
R/o R-44, Shaheed Bhagat Singh Marg,  
Gole Market, New Delhi-110001.

.....Petitioner

Through: Mr. Shadan Farasat, Senior Advocate  
with Mr.Sarim Naved, Mr. Saad



Uzzaman, Mr Saurabh Sagar,  
Ms.Natasha Maheshwari, Mr.Zeeshan  
Ahmad, Advocates

Versus

**DR. AMITA SINGH**

D/o Late Sh. Chandra Pal Singh  
R/o U-15/44, FF, Town Houses,  
DLF Phase-3, Gurgaon, Haryana.

.....Respondent

Through: Mr. Amit Singh Chauhan, Mr. Syed  
Hamza G., Mr. Udit Chauhan & Mr.  
Varun Vats, Advocates

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T (oral)**

1. The above two Petitions have been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as "BNSS"*) read with Article 227 of the Constitution of India on behalf of the Petitioners seeking quashing of the Summoning Order dated 13.01.2025, passed in Criminal Complaint No. 32203/2016 dated 12.05.2016, whereby the Ld. JMFC has summoned the Petitioners under Section 499/500 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*).

2. *Briefly stated*, the Complainant/Respondent-Smt. Amita Singh is a Professor and Chairperson of Centre for Study of Law and Governance (CSLG) at Jawaharlal Nehru University. She filed a Complaint dated 12.05.2016 for the offence punishable under Section 500/501/502 IPC.

3. The Complainant-Smt. Amita Singh alleged that the Respondents/Petitioner had imputed the preparation of a Dossier by her



allegedly depicting that JNU is a “*Den of Organised Sex Racket*”, etc. She claimed that the Respondent No.2- who is the Petitioner- Sh.Ajoy Ashirwad Mahaprastha had published an Article on a digital news portal, “*The Wire*”, owned by the Petitioner-Foundation for Independent Journalism. The imputation was circulated/re-circulated/tweeted/re-tweeted by the other accused persons by adding their own comments which were also defamatory in nature. She claimed that she became a victim of hate campaign after the publication of the defamatory Articles by the accused persons including the Petitioners. Consequently, her reputation as a renowned Professor was tarnished and she suffered losses in terms of professional opportunities.

4. To substantiate her allegations in the pre-summoning evidence, the Complainant-Smt. Amita Singh examined herself as CW1 and reiterated the averments made in the Complaint dated 12.05.2016. She also examined CW2-Professor Bupinder Zutshi, who deposed that several teachers and students of JNU demanded her resignation as Chairperson of CSLG because of the content of the Dossier. He also deposed that the reputation of the Complainant-Smt. Amita Singh was shattered because of the false allegations circulated in the social media. People who used to hold Smt. Amita Singh in high esteem, did not want to have any academic or other programmes with her.

5. CW3-Dr. Rahila Sikandar and CW4-Dr. Nazia Khan also deposed to similar effect.

6. CW5-Sh. Manu Singh, an alumnus of JNU, deposed that he used to hold Smt. Amita Singh in high esteem and had utmost respect, but it was affected and dented after reading the Article written by Respondent No.2-



Petitioner-Sh. Ajoy Ashirwad Mahaprastha and published by Respondent No.1-Petitioner, The Wire.

7. Smt. Amita Singh, however, did not press her Complaint against the Respondent No.4-Aftab Alam, Respondent No.5-Naveen Gaur, Respondent No.9-Lenin Kumar and Respondent-No.10 Umar Khalid, who had written the comments on the Article and were dropped by her.

8. Initially, on 12.05.2016, the Respondent/Complainant-Smt. Amita Singh has filed a Complaint against the Petitioner and other accused persons. The Statement of the Respondent/Complainant-Smt. Amita Singh was recorded by the Ld. JMFC and relying on the statement of the Respondent/Complainant-Smt. Amita Singh and the witnesses produced by her, issued summons to “The Wire” and the Respondent No.2/Petitioner-Sh. Ajoy Ashirwad Mahaprastha on 07.01.2017.

9. This Summoning Order was challenged in CrI.M.C.2792/2017 under Section 482 Cr.P.C. by the Petitioner before this Court which was allowed and the Summoning Order was set aside on 29.03.2023 on the grounds that the Complaint is not accompanied by the Section 65-B Certificate under the *Indian Evidence Act, 1872* and the alleged defamatory article.

10. The Respondent/Smt. Amita Singh preferred a Criminal Appeal No.1471/2024 before the Supreme Court of India on 09.05.2023 which was allowed *vide* Order dated 24.07.2024 primarily on the ground that since the offending Article had not been placed on record, the Court ought not to have decided the matters on merits. The case was thus, remanded back to the Ld. JMFC.

11. Ld. JMFC referred to the alleged defamatory material Ex.CW1/2



(colly) to Ex.CW-1/8 and observed that there was sufficient material on record to summon the Respondent No.1/Petitioner, The Wire, an online publication run by the Petitioner; Respondent No.2/Petitioner- Sh. Ajoy Ashirwad Mahaprastha, author of the article, Respondent No.3-Kavita Krishnan and Respondent No.6-Sanjeev Chandan for the offence under Section 500 IPC.

12. Aggrieved by the Summoning Order dated 13.01.2025, the present Petitions have been filed by the petitioners, for quashing on the ground that Ld. JMFC has failed to comply with the provisions contained under Section 223, BNSS before issuing the Impugned Summons. The Accused should have been given a Notice and in its absence, they have been deprived of their right to be heard before issuance of the Summons.

13. The Ld. JMFC erred in not considering that the Dossier which is the main subject matter of the Complaint, was released by a panel of which the Respondent/Complainant-Smt. Amita Singh herself was a part in the Press Conference dated 14.03.2016 and the same has not been denied by her in the Complaint dated 12.05.2016. The Petitioner had merely reported faithfully the proceedings of the Press Conference and the contents of the Dossier.

14. The Ld. JMFC has conflated the allegations against all the Accused and held the Petitioner responsible for allegation with which he had nothing to do and were attributable to the other persons who were named in the Complaint dated 12.05.2016.

15. The Impugned Order wrongly proceeds on the assumption that the Article imputed that the Respondent was communal, abusive, foul mouth etc., whereas the Impugned Article nowhere makes such imputation. It is



important to note that the Impugned Order fails to highlight any specific passage in the Article which can be considered defamatory.

16. Furthermore, the Respondent/Complainant-Smt. Amita Singh has suppressed her communications with the “The Wire” and also the Petitioner-Sh. Ajoy Ashirwad Mahaprashasta’s response made on the website “*www.thewire.in*”, wherein it was clearly stated that due verification was carried out by the Petitioner of the information which was published. The Respondent/Complainant-Smt. Amita Singh did not refer to this positive assertion of due verification having been made and has even suppressed her communication as well with the Petitioner-Sh. Ajoy Ashirwad Mahaprashasta and his Reply. She has proceeded to claim before the Court that she had been named in the Article without any verification. She has sought to mislead the Ld. Court which amounts to abuse of process of the Law. Reliance has been placed on *K.K. Kuda vs. Chief Enforcement Officer, Enforcement Directorate and Another* (2015) 12 SCC 298.

17. The Petitioner Sh. Ajoy Ashirwad Mahaprashasta submits that he is a Journalist and faithfully reported a Press Conference. If such prosecution for defamation is allowed to continue, it would end the Press independence in the country.

18. The allegations made by the Respondent/Complainant-Smt. Amita Singh were vague and did not disclose any offence let alone defamation. Reliance has been placed on *Subramanian Swamy vs. Union of India and Ors.* (2016) 7 SCC 221, wherein it was held that the learned Magistrate must examine the Complaint and the evidence led by the Complainant before arriving at a conclusion of there being any defamation. Judicial process



should not be used as an instrument of oppression or needless harassment.

19. A prayer is, therefore, made that the Impugned Order dated 13.01.2025 be quashed.

20. *Learned counsel for the Respondent/Complainant-Smt. Amita Singh*, who appeared on advance Notice, contended that the provisions of BNSS are not applicable to the present case for the simple reason that the Complaint was filed in the year 2016 and the first Summoning Order was made in 2017. The said Order was under challenge and it got finally decided by the Apex Court on 24.07.2024, whereby the matter was remanded back for reconsideration after permitting additional documents to be brought on record. Since the subsequent Orders made by this Court and the Apex Court was only a continuation of the summons which got issued way back in 2017, the provisions of BNSS would not be applicable in terms of Section 531(2)(a) BNSS.

21. It is, therefore, submitted that there is no merit in the present Petition, which is liable to be dismissed.

22. **Submissions heard and record perused.**

23. The Complaint, the subject matter of the present Petition, was admittedly filed on 12.05.2016 for the offences under Section 499/500/501/502 IPC. It was made in respect of an Article published on 26.04.2016 by the Petitioner on its website “*www.thewire.in*” and authored by Sh. Ajoy Ashirwad Mahaprashasta. The first Order of Summoning was made on 07.01.2017 which was challenged before this Court and the Summoning Order was quashed on 29.03.2023 as the alleged defamatory article was not supported with a Certificate under section 65B of the Indian



Evidence Act, and the evidence presented by the Respondent/Complainant-Smt. Amita Singh was not sufficient to constitute the offence of defamation. The matter then went to the Apex Court which remitted the matter to the Ld. Trial Court for *afresh* consideration on 24.07.2024 which ultimately resulted in the Impugned Order of Summoning dated 13.01.2025.

24. It is evident from the above narration that the Complaint had its genesis in the year 2016 and it was pending before the Apex Court on 01.07.2024 on which date the BNSS was made applicable. The legislature being cognizant of the difficulties that may arise in regard to the applicability of Cr.P.C. or BNSS in the pending proceedings, provided Section 531 which dealt with ***Repeal and Savings***. Clause 2 of Section 531 BNSS reads as under :

***“531. Repeal and savings.***

***(1) ...***

***(2) Notwithstanding such repeal-(a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973, as in force immediately before such commencement (hereinafter referred to as the said Code), as if this Sanhita had not come into force;(b) all notifications published, proclamations issued, powers conferred, forms provided by rules, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the said Code and which are in force***



*immediately before the commencement of this Sanhita, shall be deemed, respectively, to have been published, issued, conferred, specified, defined, passed or made under the corresponding provisions of this Sanhita;(c) any sanction accorded or consent given under the said Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Sanhita and proceedings may be commenced under this Sanhita in pursuance of such sanction or consent.*

*(3) ...”*

25. This clause was considered by the High Court of Rajasthan in *Krishan Joshi vs. State of Rajasthan* 2024 SCC Online Raj. 2042, wherein it was noted that Section 531(2) BNSS is critical for ensuring legal continuity and stability. It provides that ongoing proceedings which had already got initiated under the old Code, would not be disturbed by the new Code i.e. BNSS. This provision ensured that justice was not delayed or denied due to procedural changes. The right of the accused in the FIR and/or under trials and/or in the trials or appeals and the legal expectations formed under the law, had been duly protected. There is, therefore, no retrospective application of the new Code i.e. BNSS to the matters that were already *pending*.

26. Similarly, in the case of *Partha Sarthi Sarkar vs. Nagpur District Court* 2025 SCC OnLine, Bombay 343, the High Court of Bombay observed that Section 531(2)BNSS made it evident that it is the Cr.P.C. that would be applicable to any Appeal, Application, Trial, Inquiry or Investigation *pending immediately before the day on which BNSS came into force*.



27. The learned Senior Counsel for the Petitioner had argued that because on 01.07.2024, there was no Complaint pending since the same had been dismissed by this Court vide Order dated 29.03.2023. There was no pending matter and thus, it is BNSS which would be applicable, giving a right to the Petitioner to be heard before the Summoning Order was passed.

28. There cannot be any more specious argument, considering that it is well settled law and does not need reiteration that the Appeal, Revision is a continuation of the original proceedings. It is not as if the Complaint dated 12.05.2016 which was directed to be re-heard by the Apex Court on 24.07.2024, would be deemed to be a fresh Complaint and all the proceeding held in 2016 have become non-existent. The only direction by the Apex Court was to hold further enquiry as was done by the Ld. JMFC, who took further documents on record and thereafter, made a reassessment before summoning the Petitioners.

29. Clearly, it does not need any reiteration that this Summoning Order dated 13.01.2025 emanates from the Complaint that got filed in the year 2016. Consequently, the provisions of Cr.P.C. would be applicable in terms of Section 531(2)(a) BNSS. Therefore, as per the provisions of Cr.P.C. no Notice was required to be served on the Petitioners before any Order of Summoning was made. There are no merit in the present Petitions which are hereby dismissed. The pending Application(s) if any, are disposed of accordingly.

30. It is hereby clarified that there is no expression on the merits of the case for which the parties are at liberty to pursue a legal remedy, if so desired.

2025:DHC:3767



**(NEENA BANSAL KRISHNA)  
JUDGE**

**MAY 07, 2025/va**