



2026:DHC:5000



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**%  
*Judgment reserved on: 17.03.2026*  
*Judgment pronounced on: 01.06.2026*  
*Judgment uploaded on: 01.06.2026*+ **CRL.M.C. 6012/2025 & CRL.M.A. 25570/2025**

SAMIR KUMAAR MODI .....Petitioner

Through: Mr. Sidharth Agarwal, Senior Advocate with Ms. Simran Lakhwinder Singh, Mr. Toyesh Tewari, Mr. Agastya Sen and Mr. Sharya Mittal, Advocates.

versus

NIRMALA BAGRI .....Respondent

Through: Mr. Mohit Mathur, Senior Advocate with Mr. Karan Sharma and Mr. Mohit Siwach, Advocates.

+ **CRL.M.C. 6013/2025 & CRL.M.A. 25572/2025**

SAMIR KUMAAR MODI .....Petitioner

Through: Mr. Sidharth Agarwal, Senior Advocate with Ms. Simran Lakhwinder Singh, Mr. Toyesh Tewari, Mr. Agastya Sen and Mr. Sharya Mittal, Advocates.

versus

ATUL KUMAR GUPTA .....Respondent

Through: Mr. Mohit Mathur, Senior Advocate with Mr. Karan



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Sharma and Mr. Mohit  
Siwach, Advocates.

**CORAM:**  
**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**

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### **DR. SWARANA KANTA SHARMA, J**

1. By way of this judgment, this Court shall be disposing of two connected petitions preferred by the petitioner, inasmuch as although they assail orders passed in two different complaint cases, the contents of the orders and the factual matrix of the dispute are the same.

2. As set out in the petitions, the petitioner is a businessman, who served as the Executive Director of Godfrey Philips India Ltd. [hereafter 'GPIL'] from January 1994 until September 2024. The respondents herein had preferred separate criminal complaints under



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Sections 190(1)(a) and 200 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'], read with Sections 499 and 500 of the Indian Penal Code, 1860 [hereafter '*IPC*'], i.e., Ct. Case No. 4138/2024 filed by respondent Atul Kumar Gupta and Ct. Case No. 4139/2024 filed by respondent Nirmala Bagri.

3. The said complaints were dismissed *vide* separate but identical orders dated 19.05.2025 passed by the learned ACJM, South East, Saket Courts, Delhi [hereafter '*Magistrate*']. In revision petitions preferred by the respondents, i.e., Crl. Revision No. 353/2025 filed by respondent Nirmala Bagri and Crl. Revision No. 354/2025 filed by respondent Atul Kumar Gupta, the learned ASJ-02, South East, Saket Courts, Delhi [hereafter '*Sessions Court*'] passed separate but identical impugned orders dated 14.08.2025, whereby the orders of the learned Magistrate were set aside and the revisions were allowed. The learned Magistrate was also directed to summon the present accused. In view thereof, the learned Magistrate was pleased to issue summons to the petitioner *vide* the impugned order dated 18.08.2025.

4. The petitioner thus seeks to assail the impugned orders dated 14.08.2025 and 18.08.2025.

#### **FACTUAL BACKGROUND**

5. Briefly stated, the facts of the present case are that on 30.05.2024, meetings of the Audit Committee and Board of Directors of GPIL were held at the company's office in Jasola, Delhi. The petitioner, being a Director and invitee, had arrived to attend the meetings. At the moment of entry to the boardroom, the personal



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security officer of one Mrs. Bina Modi (the petitioner's mother), allegedly acting on her instructions, had obstructed his entry and had assaulted him, causing a fracture to his right index finger. Thereafter, the petitioner was immediately taken to Apollo Hospital, where the MLC confirmed the fracture. Pursuant thereto, on 31.05.2024, the petitioner had lodged a written complaint at Police Station Sarita Vihar. Based on the complaint, MLC, and CCTV footage, an FIR bearing No. 219/2024 was registered for the commission of offences punishable under Sections 325 and 341 of IPC.

6. Subsequently, on 20.06.2024, the respondent Atul Kumar Gupta and on 25.06.2024, the respondent Nirmala Bagri [hereafter collectively referred to as "*respondents*"] had filed Ct. Case No. 4138/2024 and Ct. Case No. 4139/2024 respectively for commission of offence punishable under Sections 499 and 500 of IPC against the petitioner, alleging defamation on the basis of a newspaper report in *The Economic Times* and eventual amplification thereof by the media in form of newspaper reports, clipping and interviews, bearing reference to the alleged incident, which purportedly attributed certain statements to the petitioner. The complainant had examined themselves as well as two other witnesses each, in the pre-summoning evidence.

7. *Vide* identical orders dated 19.05.2025, the learned Magistrate, considering the material placed on record before him, dismissed both the complaints under Section 203 of the Cr.P.C., holding that the newspaper report was hearsay and the alleged defamatory statements



were extracted from the petitioner’s police complaint, falling within Exception 8 to Section 499 of the IPC, and that the essential ingredients of defamation – publication by the accused, intent to harm, and lowering of reputation – were not *prima facie* made out. The relevant portion of order dated 19.05.2025 is set out below:

“16. In the present case, the statements allegedly made by the respondent were part of a complaint submitted to the police — a lawful authority empowered to receive such grievances. There is no material on record to suggest that the complaint was made in bad faith or with malice. The complaint appears to have been made in the course of asserting legal rights and safeguarding personal interests.

17. Treating such lawful recourse as defamatory would be contrary to the intent of the law and would open the floodgates for litigation that undermines the freedom to seek legal redress. If every person making a complaint to lawful authority risks criminal prosecution for defamation, it would effectively deter citizens from accessing justice — a consequence clearly not contemplated by the drafters of the IPC.

18. In addition, from a plain reading of the impugned statement, even assuming to have been made, they do not appear to be defamatory in nature. The statements seem to have been made in an explanatory and precautionary manner, possibly in the backdrop of ongoing disputes and litigation between the parties. There is no direct or explicit imputation against the complainant that could be deemed to harm his reputation or character in the estimation of right thinking members of society.

19. The existence of pre-existing litigation and strained relations between the parties also lends credence to the possibility that the respondent was merely clarifying his stance in a matter already under public discourse. Mere statements of clarification or defensive articulation in absence of any malicious or false imputation, cannot be presumed to constitute defamation.

20. It is well settled that not every statement that may hurt a person’s feelings or cause discomfort amounts to defamation under criminal law. The court must be satisfied that the statements in question are not only defamatory in nature, but



are also made with the requisite *mens rea* i.e., an intention or knowledge to harm the reputation of another.

21. In the present matter, the statements in the interview do not reflect any such intent. There is no prima facie evidence of any statement that could be categorically termed as demeaning, malicious, or defamatory in law.

22. In view of the above, the court is of considered opinion that material placed on record does not disclose sufficient grounds to proceed under section 499/500 IPC. Consequently, the complaint is dismissed under section 203 Cr.P.C.”

8. Subsequent thereto, the respondents herein had preferred revision petitions i.e. Crl. Revision Nos. 353/2025 (by Nirmala Bagri) and 354/2025 (by Atul Kumar Gupta), before learned Sessions Court, who, *vide* impugned order dated 14.08.2025, set aside the order of dismissal of complaint passed by the learned Magistrate and directed issuance of summons in the present case to the petitioner herein. For reference, the relevant portion of the impugned order dated 14.08.2025, passed in Crl. Revision Nos. 353/2025 is set out below:

“40. From the aforesaid testimonies, it can be clearly ascertained that the allegations which were circulated in the newspaper were widely read by the people known to the complainant. The alleged article Ex.CWI/A of Economic Times categorically mentions that it was the interview which was given by the respondent and the entire reporting was pertaining to the conversation of the reporter with the respondent in which there were remarks like “Accusing his mother, her personal security officer (PSO) and Board Members of the Cigarette and Confectionary Makers of causing him grievous hurt .....” Further, Modi has said in his complaint to Sarita Vihar Police Station “my mother and Mr. Bhasin orchestrated this assault and the other Board Members were consenting parties to this assault” The aforesaid imputations were published in the newspaper during an interview given by the respondent and did cause harm to the



reputation of the complainant as she was a person of repute. The aforesaid witnesses examined by the complainant and the documents relied upon by them are sufficient to explain the impact which it caused on the reputation of the complainant. Further, the aforesaid imputations which were published were within the definition of Sec. 499 IPC and the stage of summoning, cannot be given benefit of Exception 8 of Sec. 499 IPC. Further, to spell out defamation out of written matter, the whole writing is to be considered, not to much importance is to be attached to isolated paragraphs. Further, the identity of the complainant with the object defamed is required to be established and since the complainant was a member of the Board Committee of famous company, it was not difficult to establish her identity from the publication in the newspaper. With the aforesaid publication, the description of the event and the attended circumstances suggests with fair certainty, the identity of the complainant which the respondent wanted to defame, it is sufficient to infer the commission of offence of defamation. Further, when the defamation by slander is alleged, the exact words used by the accused need not be proved at the time of pre-summoning evidence and the same may be brought on record subsequently by the complainant. It is sufficient for the purposes of summoning, if witnesses are agreed in a substantial measure on the words of imputation uttered as it is hardly possible or necessary to reproduce every word or expression used, but the position is different when the complainant produces the document along-with the complaint, containing the imputation, as the complainant in the present matter has relied upon the newspaper reporting and had supported the same with the certificate u/sec. 65B of the Indian Evidence Act. If the accused pleads any exception, he must justify the same during trial and the same cannot be taken into consideration at the time of summoning. More so, in the present matter at the time of inquiry u/sec. 202 CrPC, the Ld. Trial Court was only required to see if there were sufficient evidence to summon the accused persons and if Ld. Trial Court require to ascertain or clarify or inquire upon any further facts, could have given the opportunity to the complainant to examine all of its witnesses. Further, in the present matter, the complainant has categorically mentioned in the list of witnesses the name of the newspaper reporter who had taken the interview of the respondent along-with other witnesses and therefore the complainant can examine the witnesses to substantiate her claims even at the stage of trial and the aforesaid opportunity cannot be snatched from the complainant



at the nascent stage. Further, Ld. Trial Court erred by observing that there were litigation pending between the parties that is when there are no pending cases between the complainant and the respondent and therefore any such observations at the stage of summoning was not required to be made by Ld. Trial Court. Since, the article was published in the newspaper and it mentioned that the interview was given by the respondent and the same was pertaining to the Board Members of GPIL and the same being a collection of persons and is absolutely identifiable and distinguishable from the rest of the community and as per the alleged imputation was prevalent towards the board members, therefore prima facie every employee of the Board including the complainant can reasonably be believed to have been defamed by such imputations. Sec. 499 IPC defines defamation and provides inter-alia that whoever makes or publishes any imputation concerning any person entailing to harm or knowing or having reason to believe that such imputation will harm the reputation of such person is set to defame the person and does include that it may amount to defamation if it is made concerning a company or an association or collection of persons as such. Therefore, it is clear that there could be defamation of an individual person and also of collection of persons. The language of Explanation 2 to the aforesaid section in general and any collection of persons would be covered by it, of course that collection of persons must be identifiable with certainty and therefore in the present matter, it was the complainant being the member of the Board of Directors who were present during the meeting and was identifiable. Since the complainant belongs to the group of persons would be covered by Explanation 2 and could therefore be the subject of defamation and the *mens-rea* for the same can be inferred from the fact that the respondent had given his interview to the reporter and the same was published on the very next day of the incident for which he had filed his complaint with the police authorities. Therefore, in my considered view in the present matter, there is prima facie sufficient evidence to summon the respondent/accused for the offence punishable u/sec. 500 IPC.

41. Considering aforesaid appreciation of the facts and circumstances of this case and also the case laws, the impugned order dated 19.05.2025 passed by Ld. Trial Court, stands set aside. The present revision petition stands allowed.

42. Accordingly, Ld. Trial Court is directed to summon the accused/ respondent and proceed further as per law.”



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9. Consequently, the learned Magistrate issued summons to the petitioner under Section 204 of the Cr.P.C. *vide* order dated 18.08.2025, passed in both the complaint case, which is extracted hereunder:

“ Vide order dated 14.08.2025, Ld. Sessions Court has set aside order dated 19.05.2025 passed by Ld. Predecessor of this Court thereby the present complaint was dismissed u/s 203 Cr. PC.

Ld. Sessions Court is directed this court to summon against accused for offence punishable u/s 500 IPC. In view of the order, summons be issued to accused through all modes, returnable for NDOH.

Put up on 13.11.2025.”

#### **RIVAL CONTENTIONS**

10. The learned senior counsel appearing for the petitioner argues that the present complaint cases are nothing but counterblast to FIR No. 219/2024 registered on the complaint of the petitioner. It is submitted that the principal dispute is between the petitioner and his mother, Dr. Bina Modi, against whom allegations were levelled by the petitioner and who is one of the principal accused persons in the said FIR. It is contended that the respondents herein have sought to interject themselves into a dispute in which they were never specifically named by the petitioner, either in the FIR, in his complaint to the police, or in any interview allegedly given by him. It is further argued that permitting criminal defamation proceedings to be initiated merely because allegations made in a police complaint have subsequently found mention in a news report would have far-



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reaching consequences and would result in a flood of retaliatory litigation, and thus, create a chilling effect on persons seeking to approach law enforcement authorities with genuine grievances. The learned senior counsel further submits that the learned Sessions Court exceeded the scope of revisional jurisdiction while passing the impugned order. It is argued that the learned Magistrate, after considering the material on record, had dismissed the complaint, and the learned Sessions Court could not have substituted her own satisfaction for that of the learned Magistrate by re-appreciating the entire material. It is further contended that even assuming the learned Sessions Court disagreed with the view taken by the learned Magistrate, it could at best have remanded the matter for fresh consideration and could not have directed issuance of summons against the petitioner. It is also submitted that the proceedings suffer from a jurisdictional defect since cognizance was taken without compliance with the requirement of notice contemplated under Section 223(1) of the BNSS.

11. On merits, the learned senior counsel argues that no *prima facie* offence of defamation is made out against the petitioner. It is argued that the respondents' grievance is confined to a single statement appearing in a newspaper article, which was nothing but a verbatim reproduction of the allegations contained in the police complaint lodged by the petitioner. It is contended that the statement did not specifically name or identify either of the respondents and merely referred to "other present board members". Therefore, it is contended that the essential ingredients of Section 499 of IPC are not



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satisfied. It is also argued that the petitioner is entitled to the benefit of Exception 8 to Section 499 of IPC even at the stage of summoning, since the statement formed part of a complaint made to lawful authorities in relation to an alleged cognizable offence. The learned senior counsel also submits that the entire complaint is founded upon a newspaper report, which is hearsay and not substantive evidence of the alleged publication by the petitioner. It is argued that apart from relying upon the newspaper article, the respondents have not placed any material on record to establish that the petitioner had independently published or circulated the alleged imputation. In these circumstances, it is contended that the continuation of the present proceedings would amount to an abuse of the process of law and that the impugned orders deserve to be set aside.

12. *On the other hand*, the learned senior counsel appearing for the respondents argues that the learned Sessions Court has committed no error in setting aside the order dated 19.05.2025 passed by the learned Magistrate, as the said order was based on erroneous factual assumptions and incorrect legal propositions. It is argued that the learned Magistrate, while dismissing the complaints, had referred to alleged pre-existing disputes, strained relations, and pending litigations between the parties, despite there being no such averments in the complaints and no material on record suggesting any dispute whatsoever between the petitioner and the respondents. It is contended that, at the stage of summoning, the learned Magistrate was required to confine himself to the complaint and the material



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produced by the complainants and could not have relied upon extraneous considerations. The learned Sessions Court, therefore, rightly interfered with the order and directed issuance of summons. It is further submitted that the learned Magistrate erred in proceeding on the assumption that the impugned article merely reproduced extracts from the petitioner's police complaint. Attention is drawn to the article itself, wherein it is specifically recorded that "Modi told ET", indicating that the statements were made by the petitioner to the newspaper. It is argued that the police complaint itself was not part of the pre-summoning record and, therefore, the learned Magistrate could not have presumed that the article was based upon or reproduced from the complaint. The learned senior counsel contends that statements voluntarily made to media houses do not fall within the ambit of Exceptions 8 or 9 to Section 499 of IPC, since a media organisation cannot be treated as a lawful authority contemplated under the said provision.

13. The learned senior counsel further contends that, at the stage of summoning, the Court is only required to ascertain whether a *prima facie* case is disclosed from the complaint and the material produced by the complainant. It is argued that the complainants had duly placed on record the relevant material, including a certificate under Section 65-B of the Indian Evidence Act, and that examination of the concerned reporter was not necessary at that stage. It is also argued that the truth or otherwise of the allegations and the source of the publication are matters to be examined during trial. As regards the contention based on Section 223 of the BNSS, it is submitted that the



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same is misconceived since the complaint cases were instituted on 25.06.2024, prior to the coming into force of the BNSS on 01.07.2024. It is argued that the proceedings were, therefore, governed by the provisions of the Cr.P.C., and no pre-cognizance hearing was required to be afforded to the petitioner. It is also argued that the statements attributed to the petitioner portray the respondents as persons who had consented to and facilitated a violent assault for monetary or other vested interests, and thus, seriously damaged their reputation. It is contended that the petitioner voluntarily chose to publicise these allegations through various media platforms despite the respondents not being named as accused in the FIR or the charge-sheet filed pursuant thereto. It is therefore argued that the impugned order suffers from no infirmity and the present petitions are liable to be set aside.

14. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondents, and has carefully perused the material available on record.

#### **ANALYSIS & FINDINGS**

15. The issue that arises for consideration before this Court is whether, on the basis of the material placed on record, a *prima facie* case is made out against the petitioner so as to justify his summoning for the offence of defamation under Section 499/500 of IPC.



## A. Grievance of the Complainants

16. This Court has carefully perused the contents of the complaints filed by both the complainants/respondents herein before the learned Magistrate. A reading thereof makes it evident that the grievance of the respondents and the foundation of the allegation of defamation against the petitioner, is confined to a *single statement* appearing in a news article published in The Economic Times (Delhi Edition) newspaper on 01.06.2024. The respondents allege that the defamatory imputation is contained in the line stating that “*the other present board members were consenting parties to this assault.*” For reference, the first paragraph of each of the complaints, filed by respondents, mentions as under:

“1. ...The defamatory statement made by the Accused stating that “the other present board members were consenting parties to this assault” was part of an interview given by Accused...”

17. Similarly, paragraph 7 of their complaints, refers to the following content as defamatory towards them:

“7. The defamatory content..... set out hereinbelow:

*“My mother and Mr. Bhasin orchestrated this assault and the other present board members were consenting parties to this assault ...These people are very influential and moneyed and will attempt to derail the process...”*

## B. The Alleged Defamatory News Articles

18. In order to appreciate the rival submissions advanced on behalf of the parties, it would be apposite to notice the context in which the above statements appeared in the news articles.



19. This Court notes that the impugned news article, published in The Economic Times (Delhi Edition) newspaper on 01.06.2024, carried out reporting on a complaint lodged by the petitioner with the Delhi Police concerning an alleged physical altercation that took place when he had attempted to attend a scheduled board meeting of GPIL. The entire content of the said news article is set out below:

“SAMIR MODI FILES POLICE COMPLAINT AGAINST MOTHER BINA AND OTHERS

---

Says he was assaulted when he tried to enter the board meeting of Godfrey Phillips

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By Kala Vijayraghavan & Rashmi Rajput

Mumbai: Godfrey Phillips executive director Samir Modi, the younger son of KK Modi and Bina Modi lodged a complaint on Friday with the Delhi Police accusing his mother, her personal security officer (PSO), and board members of the cigarettes and confectionary maker of causing him grievous hurt.

“The incident happened on Thursday when I was trying to enter the scheduled board meeting of GP (Godfrey Phillips) at Jasola in Delhi. I was prevented by Bina Modi’s PSO from entering the meeting. When I insisted, he tried to push me and said that I was not allowed to enter the board meeting.” **Modi told ET from his recovery bed.**

Apart from being a member of Godfrey Phillips in which Phillip Morris is a 25% shareholder, Samir Modi also heads consumer businesses such as Colorbar Cosmetics, 24/7 Retail and direct selling platform Modicare. “I suspect the entire attack was premeditated with the aim to prevent me from entering the meeting of the company in which I am a director,” **he added.**

Messages sent to Bina Modi did not elicit a response until press time.

“My index finger has been broken into two and requires a screw and wire to be put together, and I may not regain full function of the finger. There is a break in the joint of my finger. The screw used to fix it will stay with me for a lifetime and my right hand index finger will never be wholly functional, I am informed by medical practitioners,” **Modi has said in his complaint to Sarita Vihar police station.** “This attack was orchestrated because of greed and to deprive me of my rights, my inheritance and with the intention to kill me or make me settle on their dictated terms. I request you to take immediate legal action. My mother and Mr Bhasi orchestrated this assault and the other present board members were consenting parties



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to this assault. Please make sure that the strictest of action is taken. These people are very influential and moneyed and will attempt to derail the process.” **the complaint added...**”

(Emphasis added)

20. Similarly, another online news article relied upon by the complainants, published by The Economic Times on 01.06.2024, on their website, which is a detailed article, reads as under:

**“...Feud in Godfrey Phillips: Samir Modi accuses mother Bina of staging assault on him**

Godfrey Phillips executive director Samir Modi has accused his mother of orchestrating an attack on him, worsening the feud among the late KK Modi's family members over their inheritance.

The younger son of KK Modi and Bina Modi lodged a complaint with Delhi Police on Friday, accusing his mother, her personal security officer (PSO) and Godfrey Phillips directors of causing him “grievous hurt”. Bina Modi is also a director of Godfrey Phillips.

“The incident happened on Thursday when I was trying to enter the scheduled board meeting of GP at Jasola in Delhi,” Modi told ET. “I was prevented by Bina Modi's PSO from entering the meeting. When I insisted, he tried to push me and said that I was not allowed to enter the board meeting.”

A Godfrey Phillips spokesperson rejected the accusation. “These allegations are entirely false and atrocious,” the person said. “The alleged episode occurred outside the board room when the audit committee meeting was in progress at about 12 noon. This has been captured on in-house CCTV cameras, which can be provided to the relevant investigating authorities.”

According to Samir Modi, this happened despite an apparent overture from his mother offering to buy his stake. Following the alleged attack, he resolved not to agree to an exit.

“I had never imagined to be assaulted in my own office,” he told ET late on Friday at his New Friends Colony home in the Capital. “While the court case on settlement of shares is pending, I'll not sell my stake now. The effort is to remove me from the board, which will not happen.”

The offer from his mother had come through a mediator and he'd agreed, Modi said.

**Rs 11,000 Crore Inheritance**



“I had asked (them) to appoint any of the top five auditing firms for valuation and based on that I should get my 25% share,” he told ET. “Two days ago, they had responded with the names of two companies, asking me to select one of them for valuation. On Thursday, when I went for the board meeting my mother's security officer stopped me and didn't let me enter. As I tried, he held my hand and twisted it. Despite the pain, I attended the board meeting and then went to the hospital.”

Apart from being a board member of cigarettes and confectionery maker Godfrey Phillips, in which Phillip Morris is a 25% shareholder, Samir Modi also heads consumer businesses such as Colorbar Cosmetics, 24/7 Retail and direct selling platform Modicate

“I suspect that the entire attack was premeditated with the aim to prevent me from entering the meeting of the company (of which) I am a director,” he said.

“My index finger has been broken into two and requires a screw and wire to be put together, and I may not regain full function of my index finger,” Modi said in his complaint filed at Sarita Vihar police station that's been seen by ET. “The screw used to fix the finger will stay with me for a lifetime and my right-hand index finger will never be wholly functional, I am informed by the medical practitioners.”

While the complaint has been made, a first information report (FIR) hadn't been registered as of press time.

According to Modi, the board meeting had been convened to discuss key matters.

“The agenda had been shared with me that some important decisions were to be taken. Court matters are pending regarding the ownership of the shares of GPI (Godfrey Phillips India) and the matter is sub judice before the Supreme Court,” Modi said in his complaint.

The bone of contention among the promoters of Godfrey Phillips is the distribution of a Rs 11,000 crore inheritance after the death of family patriarch

KK Modi in 2019. Samir Modi, one of the three children of KK Modi and brother of former Indian Premier League boss Lalit Modi, has challenged his mother over her handling of affairs in the Supreme Court. The inheritance includes the family's nearly 50% shareholding in listed Godfrey Phillips, worth well over Rs 5,500 crore at current market prices, as well as shares in other Modi group firms in areas such as cosmetics, retail and direct selling

“This attack was orchestrated because of greed and to deprive me of my rights, my inheritance and with the intention to kill me or make me settle on their dictated terms,” **Modi said in his complaint.** “I request you to take immediate legal action. My mother and Mr Bhasin orchestrated this assault and the other present board members were consenting parties to this assault. Please make sure that the



strictest of action is taken. These people are very influential and moneyed and will attempt to derail the process.”

The reference is to Lalit Bhasin, an independent director. He couldn't be reached for comment.

“I shouted for help and after much commotion, the door of the board meeting was opened and I was let in. I informed my mother, Mrs Bina Modi, of what transpired and how I was assaulted and grievously injured,” Modi said in the complaint. “Rather than sympathising with me, she paid no heed to my fragile condition and shouted at me to sit down and attend the board meeting She told the PSO ‘enough for now’, confirming that she was one of the persons who had given the PSO instructions to attack and injure me.”

The complaint went on to say: “Mr Bhasin insisted that the meeting go on without a break paying no heed to the fact that I was grievously injured. It was almost like Mr Bhasin had orchestrated the assault. I did not relent and insisted on proceedings being recorded in the manner so required by the rules of law.”

Samir Modi has accused his mother of not distributing funds as stipulated in a trust deed executed by his father, according to sources familiar with arguments made by his lawyers at the Supreme Court. He has also accused her of taking charge of the company, violating the letter and spirit of the trust deed. According to him, under the deed, siblings Samir Modi, Lalit Modi and Charu Modi are equal beneficiaries and successors to the companies and assets.

Shriram Subramanian, founder and MD of proxy advisory firm InGovern Research Services, said it's the responsibility of the chairperson and company secretary to ensure civil conduct at board meetings.

“Even if it is a conflict situation, Samir Modi should have been allowed to attend the meeting as executive director and they could have ignored his views in the meeting.” he said. "But decorum has to be maintained in terms of corporate governance and boards can't have a street fight situation.”

(Emphasis added)

21. The other news reports relied upon by the respondents in their complaints refer to and rely upon the news reports published by the Economic Times only, and thus, need not be referred to in the present judgment.



### C. Analysing the Alleged Defamatory Material

22. Having pursued the aforesaid news articles, this Court is of the opinion that these articles published in the newspaper as well as on the website, by the Economic Times, can be divided into two distinct parts. *One part* records what the petitioner is stated to have told the reporter of The Economic Times, whereas *another part* reproduces the contents of the police complaint lodged by the petitioner with Police Station Sarita Vihar.

23. In this regard, this Court is of the view that *one part*, as noted above, contains the petitioner's version of events and his allegations primarily against his mother, Dr. Bina Modi and her PSO. In this portion of the article, the petitioner narrates the circumstances in which he claims to have been prevented from attending the board meeting of GPIL and assaulted on 30.05.2024. For this part, the article uses words like "Modi told ET from his recovery bed", "he added", "the person said", "According to Modi", etc.

24. There is **no dispute** that these portions of the news articles do not concern the respondents herein in any manner. Significantly, the respondents themselves have not alleged any defamation arising from these parts of the news report. These news articles also record that messages sent to Dr. Bina Modi did not elicit any response till the time of publication.

25. *Concededly*, the complainants/respondents herein have not raised any grievance with respect to the portions of the news articles that reproduce what the petitioner is stated to have told the news



correspondent(s) regarding his personal grievances with his mother, Dr. Bina Modi, and pending disputes between them. Further, Dr. Bina Modi herself has not instituted any complaint for defamation in this regard against the petitioner.

26. However, the *second part* of these news articles sets out the allegations made by the petitioner in his police complaint lodged at Police Station Sarita Vihar. This portion has been placed within double quotation marks. This is evident from the use of words such as “*Modi has said in his complaint to Sarita Vihar police station*” and “*the complaint added*”.

27. In this regard, this Court has also taken note of the complaint dated 31.05.2024 submitted by the petitioner at P.S. Sarita Vihar, wherein it was *inter alia* alleged as under:

“...I request you to take immediate legal action. My mother and Mr. Bhasin orchestrated this assault and the other present board members were consenting parties to this assault. Please make sure that strictest of action is taken. These people are very influential and moneyed and will attempt to derail the process...”

28. In the above police complaint, the petitioner sets out what allegedly transpired on 30.05.2024, what injuries were suffered by him, and further alleges that the assault was orchestrated by his mother and that the other present board members of GPIL were consenting parties to the said assault.

29. To reiterate at this stage, the news articles in question, which have been extracted in preceding discussion, insofar as they pertain to the allegations against the respondents herein, contain *verbatim*



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*reproduction* of the complaint submitted by the petitioner to the police authorities **Pertinently**, it is the specific case of respondents herein that they are being referred to, by the petitioner herein, by use of words – ‘other present board members’.

30. This Court also notes that, from a plain reading of the article, there is no other specific or direct imputation made against the respondents individually by the petitioner.

31. **It is, therefore, manifest from the above discussion** that the allegation of defamation, raised by the complainants/respondents herein, is *confined solely* to one line mentioned in the news articles, which has been extracted verbatim from the police complaint filed by the petitioner. The respondents have not alleged defamation on account of any other independent assertion, opinion, or inference drawn by the newspaper, but only with respect to the reproduction of the petitioner’s allegations as contained in his complaint submitted to the police authorities.

**D. FIR stood registered on the complaint of the Petitioner**

32. In the present case, the incident of assault of the petitioner had allegedly taken place on 30.05.2024, pursuant to which the police was called to the hospital and the petitioner’s MLC was prepared. The petitioner had submitted his complaint to the police on 31.05.2024, and the FIR itself came to be registered on 01.06.2024. Although it is not evident as to how the news correspondent accessed the police complaint, particularly as the concerned reporter was not



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examined during pre-summoning evidence by the respondents herein despite her name being mentioned in the list of witnesses, **what remains undisputed and is a matter of record** that on the very day the news articles were published by the Economic Times, i.e. 01.06.2024, the petitioner's complaint had culminated in the registration of FIR No. 219/2024 at P.S. Sarita Vihar, Delhi, against the accused persons for offences under Sections 325 and 341 of the IPC.

33. Thus, the portions of the news articles – which are alleged to be defamatory by the present respondents – form part of a police complaint which stood crystallised into an FIR. The said complaint and the consequent FIR were thereafter subjected to investigation in accordance with law, and this Court was informed during the course of arguments that a charge-sheet in the said case had already been filed.

34. **It is also significant to note**, that even in the complaint cases filed by the complainants/respondents herein, it has been specifically stated in paragraph 7 of the complaints that the alleged defamatory news articles contained portions extracted from the complaint dated 31.05.2024 filed by the petitioner against the security officer of GPIL. This is clearly evident from following:

“7. The defamatory content, including the defamatory interview, that was published in several newspapers (**which also quoted portions from the false and fabricated criminal complaint dated 31.05.2024 filed by the Accused against the security officer posted at the corporate office of GPI**), which were made by the Accused with the personal vested interest



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and the intent to malign the image of the Board of Directors of GPI...”

(Emphasis added)

35. **Most importantly**, the complainants have themselves stated in paragraph 7 of their complaints that the news articles “quoted portions” from the police complaint dated 31.05.2024. Thus, the respondents herein were **fully aware** at the time of filing the complaints before the learned Magistrate, that their allegation of defamation against the petitioner, arose only from one allegation made in the police complaint dated 31.05.2024 submitted by the petitioner, which had already become the subject matter of investigation pursuant to the registration of the FIR. This is also evident from the fact that FIR stood registered on 01.06.2024 whereas the complaints in question were filed on 20.06.2024 (by Atul Kumar Gupta) and 25.06.2024 (by Niramala Bagri) before the learned Magistrate.

**E. Reporting of contents of a police complaint/FIR by news agencies viz. offence of defamation**

36. Suffice it to note that the reporting of the contents of a police complaint or an FIR by news agencies has, on several occasions, been the subject of judicial consideration. Courts have repeatedly examined the extent to which reproduction of such contents can give rise to liability for defamation.

37. The High Court of Bombay, in *Vijay v. Ravindra Ghisulal Gupta*: 2022 SCC OnLine Bom 1315, in respect of news



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reporters/editors reporting the contents of an FIR, has held that mere reporting of the registration of a crime or reproduction of the contents of an FIR, without distortion or embellishment, does not constitute defamation under Section 499 of IPC. It was observed that registration of an FIR is a matter in the public domain and faithful reporting thereof, in exercise of the freedom of speech and expression, cannot be treated as an intentional imputation harming reputation. It was observed as under:

“17. It takes me to another limb of submission. Learned Counsel for the applicants would submit that mere publication of registration of crime would not fall within the ambit of Section 499 of the Indian Penal Code. It is submitted that whatever was registered in the First Information Report against the nonapplicant (complainant), was published in the newspaper, which cannot be termed as defamation. In order to constitute the offence of defamation, the dual requirement is to be met, that the publication must be an imputation, and secondly, there must be an intention to harm the reputation of the person.

18. It is not in dispute that at the instance of the Police report lodged by co-accused Ashok Gupta, Police of Yavatmal City Police Station registered crime no. 313 of 2016 for the offence punishable under Sections 143, 148, 326, 294 and 506 of the Indian Penal Code against the non-applicant (complainant) and 5 others. As far as the news item is concerned, there is no allegation that the news was a distorted version or a colourable exaggeration of the First Information Report. In short, there is no dispute that the crime was registered against the complainant and the news item reflects the true gist of the allegations levelled in the report. Rather the said fact cannot be disputed since the copy of the First Information Report has been produced on record. The core question is whether publication or reporting of registration of crime amounts to the intentional imputation of a named person. Undoubtedly, the Press has great power in impressing the minds of the people and thus it is essential that the person responsible for publishing anything in newspapers should take good care before its publication. No doubt, publication of news on rumour or on hear-say information having no iota of truth is fatal to a Journalist. Herein it is not the case that First Information Report was not at all registered or the distorted news item was published.



19. It was thus inquired from the Counsel for the nonapplicant as to how the action of reporting a news item could be said to be defamatory. It is common knowledge that in daily newspapers at least some space is devoted to the news about the registration of crimes, filing of cases in Courts, the progress of the investigation, arrest of persons, etc. It constitutes news events which public has the right to know. Certainly, the Publishers are to report the true happenings in their newspapers. I may reiterate that there is no dispute that the fact of registration of crime was correctly reported. Filing complaints about defamation on such news items are nothing but an attempt to shut up and stifle the Reporters /informants and to force them to withdraw the report filed against the persons who are allegedly defamed. No reply in this respect was forthcoming from the Counsel of the non-applicant nor has anything in this respect been stated as to how the said act of Editor/Publisher gives rise to the action for libel. If it was held so then no reporting of news could be made till the final outcome of the investigation or the final orders of the last Court. It would deprive the rights of the public to know the happenings.

20. It is the primary function of the Press to provide comprehensive and correct information, especially when it is brought into the public domain. Freedom of the Press is implied from the freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution of India. In other words, the freedom of making a true report regarding the affairs which are in the public domain is a right, which flows from the freedom of speech. The action of defamation about true and faithful reporting is unhealthy for a democratic setup.

21. Registration of a crime is no longer a private affair. The Supreme Court in case of *Youth Bar Association of India vs. Union of India and anr. (2016) 9 SCC 473* has directed that the copies of the First Information Report (barring cases of sensitive nature) shall be uploaded on the website meaning thereby the registration of the First Information Report falls in the public domain.

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24. The tenor of the entire private complaint is that the allegations levelled in the Police report qua complainant Ravindra are totally false. In the complaint of defamation, he pleaded that on the date of the alleged occurrence, he was not present rather he was elsewhere on duty. It is alleged that the publisher of the newspaper without verifying the truthfulness of the news, had published the news item, amounting to defamation. The complaint also bears reference that complainant has been excluded while filing the charge sheet, perhaps under Section 169 of the Code of Criminal Procedure. As a matter of fact, the news item was published within three days from the registration of the crime, therefore, subsequent exclusion from the charge sheet has no bearing at all. Moreover, the news item was based on the true facts i.e. about the registration of crime at the Police Station. The responsibility of the Editor is to publish true facts



and nothing else. The complaint of defamation alleges that the truthfulness of the contents of the First Information Report are not verified. The publisher is not expected to investigate the matter and ascertain the truthfulness of the First Information Report before publishing the news item. The liability and responsibility of the Editor are restricted to a limited extent therefore, the contention in that regard is not acceptable.”

38. A Coordinate Bench of this Court, in *Mahadev I. Todale v. Frankfinn Aviation Services Pvt. Ltd. & Ors.*: 2017 SCC OnLine Del 9135, while giving relief to the investigating officer of a case, who had been arrayed as defendant in a suit for defamation filed for reporting of police complaints and FIR in news channels, held that reporting of police complaints or FIRs, and the progress of investigation does not give rise to cause of action for defamation, so long as the criminal proceedings are pending and the allegations remain unadjudicated. The Court also cautioned against using defamation proceedings as a counter-blast to stifle or derail criminal proceedings lawfully set in motion. It was held as under:

“12. I have at the outset enquired from the counsel for the respondent no. 1/plaintiff as to how the respondent no. 1/plaintiff can maintain a suit for damages for defamation qua what has transpired during the investigation of the FIR and in Court in pursuance thereto, when the outcome of the prosecution is not known as yet.

13. This Court in *Shri Ram Singh Batra v. Smt. Sharan Premi* 133 (2006) DLT 126 also was concerned with a suit for recovery of damages for defamation by publication in the newspapers of the FIR registered against the plaintiff therein and arrest of the plaintiff therein. **It was pleaded that the complaint on the basis of which FIR was registered was false. It was found that the process of criminal law was still on and the plaintiff had not been acquitted or discharged.** It was held (i) that malicious prosecution is actionable as a tort but mere presentation of a false complaint which first seeks to set the criminal law in motion will not furnish an action for damages for malicious prosecution; (ii) that till the plaintiff obtains an order of acquittal or discharge in his favour, no cause of action to file a suit against the defendant on the tort of malicious



prosecution accrues; (iii) that the newspaper reports of registration of FIR against the plaintiff and disclosing the nature of offence alleged of the plaintiff and of arrest of the plaintiff are also not actionable; (iv) **that till it is established that the FIR in question is based on a false allegation, no action is found maintainable on the newspaper reports;** (v) **that till the investigation is on, there can be no cause of action.** Accordingly, the plaint in the suit was rejected.

14. This Court, again in *Vijay Gulati v. Radhika* (2010) 119 DRJ 482 was concerned with the maintainability of a suit for damages for defamatory statements made in complaints made to the police and wide spread and open circulation thereof. **It was held (a) that till the time the charges levelled against the plaintiff are not disproved or not proved, it could not be said that the allegations in the complaint were without any merit; (b) that the allegations in the complaint could not be said to be defamatory; (c) that a suit for damages for defamation cannot be initiated as a surrogate litigation as a counter-blast and to use it as a lever to tame the defendant; (d) that the defendant/ complainant cannot be put on a defensive by initiation of such a suit for damages for defamation; (e) that the suit for damages for defamation cannot be used as a lever to get the dragnet by criminal cases; (f) reliance was placed on *Bira Garari v. Dulhin Somaria* AIR 1962 Patna 229 (DB) laying down that in a case of defamation on the basis of registration of a cognizable offence, it could not be said that the person had been defamed unless and until the said complaint is tested before the appropriate forum; (g) **once a person puts criminal law into action, the other party cannot lodge and bring about a suit for defamation so as to stop those criminal proceedings;** (h) that the appropriate remedy for such a plaintiff would be either to institute a suit for damages for malicious prosecution or to get a case registered under Section 182 Cr.P.C.; (i) that the suit for damages for defamation is pre-mature till the complaint is rejected. Accordingly, the suit held not maintainable and the plaint was rejected.**

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17. The counsel for the respondent No. 1/plaintiff has drawn attention to the averments in the plaint against the petitioner/defendant to the effect (i) that petitioner/defendant has interacted with the other defendants in giving false, baseless and unsubstantiated information to the newspapers; (ii) that the acts of the petitioner/defendant are not in discharge of his official duties; and, (iii) that the petitioner/defendant as the Investigation Officer has no role in prejudging the issue/controversy or the allegations leveled in the FIR.

18. However the said averments in paragraph 2 of the plaint are in the context of the plea therein of no notice under Section 80 of CPC being required to be served on the petitioner/defendant and no permission from the State Government under Section 161 of the



Bombay Police Act, 1951 for prosecuting the petitioner/defendant being required. Else, the respondent No. 1/plaintiff in para 21 of the plaint, qua the petitioner/defendant has merely pleaded that the petitioner/defendant has prejudged the entire issue and has given false and unsubstantiated information to the newspapers and that the said illegal act of the petitioner/defendant has not been done in discharge of his official duty. The respondent No. 1/plaintiff in this regard, in paras 21 & 22 of the plaint, has reproduced the following passages from the newspaper articles: .....

19. It is thus not the plea of the respondent No. 1/plaintiff that the information which the petitioner/defendant is attributed to have supplied to the newspapers is beyond the contents of the FIR or is contrary to the investigation carried out till then.”

39. Similarly, in *Primero Skill & Training Pvt. Ltd. v. Selima Publications Pvt. Ltd.*: 2017 SCC OnLine Del 7619, the Coordinate Bench of this Court reiterated that statements made in police complaints and FIRs, and their faithful reporting by the media, do not give rise to a cause of action for defamation. The Court held that once the contents of an FIR fall within the public domain, particularly in view of the directions of the Supreme Court mandating publication of FIRs, neither the complainant nor the publisher can be proceeded against for defamation merely for reproducing such contents.

“13. Having given further thought to the matter, I remain of the same view as on the day when the suit had come up for admission, that this suit does not deserve to be entertained and deserves to be thrown out at the threshold to save the defendants, who do not appear to be persons with much monetary means, from travelling to Delhi, engaging an Advocate, appearing and contesting this suit at Delhi.

14. My reasons therefor are as under:—

(a) Supreme Court, in *Youth Bar Association of India v. Union of India* (2016) 9 SCC 473, concerned with a petition under Article 32 of the Constitution of India and while issuing guidelines/directions for supply of copy of FIR has inter alia directed that the copies of the FIR (unless the offence is sensitive in nature, like sexual offences, offences pertaining to



insurgency, terrorism and of that category, offences under Protection of Children from Sexual Offences (POCSO) Act, 2012 and such other offences) should, within twenty-four hours of the registration of the FIR, be uploaded on the police website, and if there is no such website on the official website of the State Government so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court for redressal of his grievances and that the decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or a person holding equivalent post.

**(b) As per the law aforesaid declared by the Supreme Court, the contents of FIR, irrespective of whether published in a newspaper as a news event or not, are in public domain. Once the Police itself, as per law declared by the Supreme Court is required to publish the FIR, I fail to see how the defendants no. 1 to 6 as editor/publisher of the newspaper or the defendant no. 7 as complainant, can be proceeded against in an action for defamation for publishing the contents thereof.**

(c) It is not as if the direction aforesaid of the Supreme Court is without regard to the reputation of the persons complained against in the FIR. The law of defamation, which as far as India is concerned is uncodified and based on common law, has always recognised certain situations as privileged, words spoken or written wherein cannot furnish a cause of action for a claim on account of defamation. Supreme Court in *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha* (2007) 3 SCC 184 held that the term "privilege in law" is defined as an immunity or an exemption from some duty, burden, attendance or liability conferred by special grant in derogation of common right. The term "privilege" was stated to be derived from an expression "privilegium" which means a law specially passed in favour of or against a particular person.

(d) The reason is that the law recognises those situations as where a person should have freedom of speech, without being under the fear of being hauled up subsequently for defamation.

(e) As far back as in *Golap Jan v. Bholanath Khettry* it was held by the Division Bench of the Calcutta High Court that though defamation is a good cause of action but even if the complaint to the Magistrate was defamatory still the complainant was entitled to protection from a suit for defamation and this protection was the absolute privilege accorded in the public interest to those who make statements to the Courts in the course of and in relation to judicial proceedings. The Division Bench of the Madras High Court also in *Pedda Sanjivi Reddy v.*



*Kondasari Koneri Reddi* AIR 1926 Mad 521 held that the statements made to the police officer which could only be made with a view to their being repeated on oath before the Magistrate as well as statements in the petition presented to the Magistrate have been invested by the common law of England with absolute privilege which attaches not merely to the actual proceedings of any tribunal exercising judicial function, but to all preliminary steps which are in accordance with the cognised and reasonable procedure of such a tribunal. It was also held that the public policy which renders the protection of witnesses necessary for the administration of justice necessarily involves that which is a step towards, and is part of the administration of justice, namely the preliminary examination of witnesses to find out what they can prove, and consequently statements made by a witness to a litigant or his solicitor in preparing proof are absolutely privileged. A subsequent Division Bench of the Calcutta High Court in *Madhab Chandra Ghose v. Nirod Chandra Ghose* AIR 1939 Cal 477 added that it is a matter of public policy and administration of justice that witnesses giving their evidence on oath in a Court of justice should not have before their eyes the fear of being harassed by suits for damages; the only penalty which they should incur if they give evidence falsely should be an indictment for perjury. No action for libel or slander was held to lie against Judges, counsel, witnesses, or parties, for words written or spoken in the course of any proceeding before any Court recognised by law even though the words were written or spoken maliciously, without any justification or excuse, and from personal-ill-will and anger against the person defamed. It was emphasised that a witness must be protected for a preliminary statement as well. It was further held that though some hardship may be caused to the person defamed but it would be impossible to administer justice, if people were to be afraid to give their testimony.

(f) Subsequently, in *Anjana Saikia (Das) v. Anuradha Das* 2003 SCC OnLine Gau 321 it was held that though an action for defamation by statement in the FIR would lie but only after the FIR case was decided. Similarly, in *Mahavir Singh v. Surinder Singh* 2010 SCC OnLine P&H 9094 also it was held that **mere lodging of the FIR, though it may contain false imputation, does not amount to defaming the person against whom FIR is lodged.** To the same effect is *Kamlesh Kaur v. Lakhwinder Singh* 2008 SCC OnLine P&H 920.

(g) A learned Single Judge of the High Court of Madras in *A.N. Shanmugam v. G. Saravanan* 2015 SCC OnLine Mad 728 held the filing of a suit for defamation in such circumstances to be a process to escape from criminal prosecution and to make the defendant to come to terms. **It was held that if every complainant who lodges the complaint with law enforcing**



agency is to face civil cases for defamation on the premise that the imputations made in the complaint according to the accused are false, many people fearing such actions on the part of the accused may not come forward to lodge a complaint to the law enforcing agency. It was further held that when an imputation has been made in a complaint made to the law enforcing agency with the belief that such agency would take criminal action against the persons against whom such imputations are made, the same provides a valid exception taking such act outside the scope of tort of defamation. It was held that the lodging of the complaint with the police could not be considered to be publication of a defamatory statement and that if any wrong is committed by lodging a false complaint with the police and thereby setting the criminal law in motion, it may amount to malicious prosecution for which action can be taken only after disposal of the criminal case, wherein a specific finding is given to that effect.

(h) With respect to malicious prosecution also, I have in *Gangadhar Padhy v. Prem Singh* 211 (2014) DLT 104 relying on *S.T. Sahib v. N. Hasan Ghani Sahib* AIR 1957 Madras 646 held that action for malicious prosecution is not favoured in law and should be properly guarded and its true principles strictly adhered to, since public policy favours the exposure of a crime and it is highly desirable that those reasonably suspected of crime be subjected to the process of criminal law for the protection of society and the citizen be accorded immunity for bona fide efforts to bring anti-social members of the society to the bar of justice.

(i) Thus there is no cause of action for a claim for defamation in favour of the plaintiff against the defendant No. 7 for the statements made by the defendant No. 7 in the complaint and in the FIR lodged by her.

(j) A Nine Judges Bench of the Supreme Court in *Naresh Shridhar Mirajkar v. State of Maharashtra* AIR 1967 SC 1 reiterated that Journalists have a fundamental right to carry on their occupation under Article 19(1)(g); they have also a right to attend proceedings in Court under Article 19(1)(d); and that the right to freedom of speech and expression guaranteed by Article 19(1)(a) includes their right to publish as Journalists a faithful report of the proceedings which they have witnessed and heard in Court. Freedom of speech and expression guaranteed by Article 19(1)(a) was reiterated to include the freedom of press. It was further held that what takes place in Court is public and the publication of the proceedings merely enlarges the area of the court and gives to the trial that added publicity which is favoured by the rule that the trial should be open and public; it is only when the public is excluded from audience that the



privilege of publication also goes because the public outside then have no right to obtain at second-hand what they cannot obtain in the court itself. It was yet further held that if the matter is already published in open court, it cannot be prevented from being published outside the court room provided the report is a verbatim or a fair account.

(k) I have already hereinabove noticed that **it is not the plea of the plaintiff that what has been published by the defendant Nos. 1 to 6 in their newspaper is not a fair account of the complaint and the FIR lodged by the defendant no. 7.**

(l) The Division Bench of the High Court of Bombay in *Saroj Iyer v. Maharashtra Medical of Indian Medicine, Bombay* (2002) 1 Mh.L.J. 737 held that the Medical Council being a Quasi Judicial Tribunal and the inquiry before it being quasi judicial in nature, there can be no blanket ban for public in attending the enquiry proceedings.

(m) This Court in *Mother Dairy Foods and Processing Ltd. v. ZEE Telefilms Ltd.* ILR (2005) 1 Delhi 87 was concerned with an application for interim relief in a suit by a major supplier of milk and milk products to restrain a television channel from publishing and telecasting a programme purported to be an investigation into manufacturing of synthetic milk. It was the case of the plaintiff that the programme was created and aired to tarnish its image and reputation with the sole objective of sensationalism and to defame. Finding that there was no plea of conspiracy and the plea of malafides as set-forth to be lacking in material particulars qua the persons at whose behest the programme was being aired, interim injunction was denied holding that media being a zealous guardian of freedom of expression and speech, has a right to comment vigorously and fearlessly on matters of public interest and the efforts of the T.V. Channels in unearthing and bringing to the notice of public the menace of manufacturing of synthetic milk was a laudable measure for public good.

(n) I may notice that similarly here, it is in public interest that it be investigated whether PMKVY is being misused to siphon off monies in the name of training, without any real benefit to the purported beneficiaries thereof.

(o) This Court in *Vineet Jain v. NCT of Delhi* (2011) 184 DLT 596 **was concerned with the complaint of the offence of defamation by reporting in the media contents of an FIR registered of offences under Section 294/109/34 of the Penal Code, 1860 IPC read with Section 8 of Immoral Trafficking Act and the raid conducted at a hotel in Delhi. It was held that fair reporting pertaining to a matter of public concern, without insinuations and innuendos i.e. a news item containing statements of true facts emanating from a proper**



**source i.e. police is not actionable for the offence of criminal defamation; a fact pertaining to an FIR being registered with reference to the activities found to be carried out from the Hotel as recorded in the FIR made public by the police, was also held to be not amounting to a criminal defamation.**

(p) The High Court of Bombay also in *SNP Shipping Services Pvt. Ltd. v. World Tanker Carrier Corporation* (2000) 2 Mh.L.J. 570 held that a fair and accurate gist of the findings given by the Court cannot constitute a cause of action for defamation and the plaint was rejected under Order VII Rule 11 of the CPC.

(q) A Constitution Bench of the Supreme Court, in *Sahara India Real Estate* supra relied upon by the counsel for the plaintiff held that the inaccuracy of reporting of court proceedings will be a contempt of court only if it can be said on the facts of a particular case, to amount to substantial interference with the administration of justice; that the privilege granted under Section 4 of the Contempt of Courts Act, 1971 in favour of the person who makes a fair and accurate publication is based on the presumption of 'open justice' in courts which permits fair and accurate reports of Court proceedings to be published. It was held that the media has a right to know what is happening in courts and to disseminate the information to the public which enhances the public confidence in the transparency of court proceedings. It follows from the said judgment that postponement of publication of court proceedings can be applied for to the same court in which the proceedings are pending and not to another court. I am in fact at pains to understand in what context the counsel for the plaintiff has relied on the said judgment. As far as reliance on Swatanter Kumar supra is concerned, the law as expounded and noticed above was noticed therein also but in the facts of that case interim injunction was granted. The same also is of no benefit to the plaintiff. The same is the position of Reliance Petrochemicals Ltd supra.

(r) Mention may lastly be made of my judgment in *Veer Arjun Newspaper Pvt. Ltd. v. Bahori Lal* 2013 SCC OnLine Del 5096 wherein following the aforesaid law it was held that reporting of contents of a complaint is privileged and does not invite a claim for defamation.

(s) Supreme Court recently in *Subramanian Swamy v. Union of India* (2016) 7 SCC 221 was concerned with a challenge to the vires of Sections 499 and 500 of the Penal Code, 1860 constituting defamation as defined therein as an offence, on the ground of the same being violative of Article 19(1)(a) of the Constitution of India. Negating the challenge, Supreme Court held (i) that while in a democracy, an individual has a right to



criticize and dissent but his right under Article 19(1)(a) is not absolute and he cannot defame another person as that would offend the victim's fundamental right to reputation which is a facet of Article 21 of the Constitution and one fundamental right cannot be given higher status in comparison to the other and what is required is proper balancing of the two and harmonious construction in light of objective of fraternity and fundamental duties envisaged under Article 51A(e) and (j) of the Constitution; (ii) that Article 19(2) envisages “reasonable restrictions”; right to say what may displease or annoy others cannot be throttled; (iii) that there can be no cavil that the right to freedom of speech and expression is a right that has to get ascendance in a democratic body polity but at the same time the limit has to be “proportionate” and not unlimited; (iv) that the restrictions should not be excessive and should be in public interest; (v) the test of reasonableness cannot be determined by laying down any abstract standard or general pattern—it would depend upon the nature of the right which has been infringed or sought to be infringed and the ultimate impact i.e. the effect on the right has to be determined; (vi) that the principles of proportionality of restraint are to be kept in mind by the Court.

(t) Notice may also be taken of *Shreya Singhal v. Union of India* (2015) 5 SCC 1 which was concerned with the challenge to the vires of Section 66A of the Information Technology Act, 2000 on the ground of being violative of Article 19(1)(a) of the Constitution of India. It was held (a) that the fundamental right of freedom of speech and expression requires free flow of opinion and ideas and an informed citizenry is a pre-condition for meaningful governance and the culture of open dialogue is generally of great societal importance and the ultimate truth is evolved by free trade in ideas in a competitive marketplace of ideas; (b) that it is only beyond a certain threshold that Article 19(2) is kicked in; and, (c) that wider reach and range of circulation over internet cannot justify restriction of freedom of speech and expression on that ground alone and that virtues of electronic media cannot become its enemies.

(u) Applying the tests aforesaid also, no cause of action in favour of plaintiff or against any of defendants is disclosed...”

(Emphasis added)

40. **Therefore**, it is well-settled that reporting of the contents of an FIR, without embellishment, distortion, or addition, cannot be covered under the definition of defamation under law.



F. Exception 8 to Section 499 of the IPC

41. At this stage, it is apposite to note that Exception 8 to Section 499 of the IPC protects an accusation made in good faith to a person having lawful authority over the subject matter of such accusation. The same is set out below:

*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.

42. In essence, it provides that making an allegation to a competent authority, for the purpose of seeking redressal or lawful action, does not amount to defamation. In the present case, the petitioner squarely claims the protection of the said exception.

43. The Hon'ble Supreme Court, in *Iveco Magirus Brandschutztechnik GmbH v. Nirmal Kishore Bhartiya & Ors.*: 2023 SCC OnLine SC 1258, has held that even at the stage of summoning, the Magistrate is not precluded from examining whether any of the Exceptions to Section 499 of IPC are *prima facie* attracted. It was observed that if the material placed before the Magistrate itself discloses a complete defence under any of the Exceptions, the Magistrate is duty-bound to apply judicial mind and prevent a frivolous complaint from resulting in an unnecessary criminal trial. The relevant observations are as under:

“59. Thus, when a Magistrate taking cognisance of an offence proceeds Under Section 200 based on a *prima facie* satisfaction that a criminal offence is made out, he is required to satisfy himself by looking into the allegations levelled in the complaint,



**the statements made by the complainant in support of the complaint, the documentary evidence in support of the allegations, if any, produced by him as well as statements of any witness the complainant may choose to produce to stand by the allegations in the complaint.** Although we are not concerned with Section 202 here, if an inquiry or an investigation is conducted thereunder, it goes without saying that the reports should also be looked into by the Magistrate before issuing process Under Section 204. However, there can be no gainsaying that at the stage the Magistrate decides to pass an order summoning the Accused, examination of the nature referred to above ought not to be intended for forming an opinion as to whether the materials are sufficient for a 'conviction'; instead, he is required to form an opinion whether the materials are sufficient for 'proceeding' as the title of the relevant chapter would indicate. Since the Accused does not enter the arena at that stage, question of the Accused raising a defence to thwart issuance of process does not arise. **Nonetheless, the fact that the Accused is not before the Magistrate does not mean that the Magistrate need not apply his judicial mind. Nothing in the applicable law prevents the Magistrate from applying his judicial mind to other provisions of law and to ascertain whether, prima facie, an "offence", as defined in Section 2(n) of the Code of Criminal Procedure is made out. Without such opinion being formed, question of "proceeding" as in Section 204 does not arise.**

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

61. **Since initiation of prosecution is a serious matter, we are minded to say that it would be the duty of the Magistrate to prevent false and frivolous complaints eating up precious judicial time. If the complaint warrants dismissal, the Magistrate is statutorily mandated to record his brief reasons.** On the contrary, if from such materials a prima facie satisfaction is reached upon application of judicial mind of an "offence" having been committed and there being sufficient ground for proceeding, the Magistrate is under no other fetter from issuing process. Upon a



prima facie case being made out and even though much can be said on both sides, the Magistrate would have no option but to commit an Accused for trial, as held in Chandra Deo Singh (supra) .....

62. In the context of a complaint of defamation, at the stage the Magistrate proceeds to issue process, he has to form his opinion based on the allegations in the complaint and other material (obtained through the process referred to in Section 200/Section 202) as to whether 'sufficient ground for proceeding' exists as distinguished from 'sufficient ground for conviction', which has to be left for determination at the trial and not at the stage when process is issued. **Although there is nothing in the law which in express terms mandates the Magistrate to consider whether any of the Exceptions to Section 499, Indian Penal Code is attracted, there is no bar either. After all, what is 'excepted' cannot amount to defamation on the very terms of the provision. We do realize that more often than not, it would be difficult to form an opinion that an Exception is attracted at that juncture because neither a complaint for defamation (which is not a regular phenomenon in the criminal courts) is likely to be drafted with contents, nor are statements likely to be made on oath and evidence adduced, giving an escape route to the Accused at the threshold. However, we hasten to reiterate that it is not the law that the Magistrate is in any manner precluded from considering if at all any of the Exceptions is attracted in a given case; the Magistrate is under no fetter from so considering, more so because being someone who is legally trained, it is expected that while issuing process he would have a clear idea of what constitutes defamation. If, in the unlikely event, the contents of the complaint and the supporting statements on oath as well as reports of investigation/inquiry reveal a complete defence under any of the Exceptions to Section 499, Indian Penal Code, the Magistrate, upon due application of judicial mind, would be justified to dismiss the complaint on such ground and it would not amount to an act in excess of jurisdiction if such dismissal has the support of reasons."**

(Emphasis added)

44. In the facts of the present case, it is crucial to take note of the decision in *Kishore Balkrishna Nand v. State of Maharashtra & Anr.*: (2023) 8 SCC 358, wherein the Hon'ble Supreme Court had quashed the summons issued to the petitioner therein, for offence under Section 499 of IPC, in a complaint filed alleging that a defamatory complaint had been filed by the accused/petitioner



therein before the SDM. It was held by the Hon'ble Supreme Court that Exception 8 to Section 499 IPC was clearly attracted, and issuance of process by the concerned Magistrate was quashed.

**G. Whether the Impugned Order is liable to be set aside?**

45. In the impugned order, the learned Sessions Court has taken the view that Exception 8 is not available to the petitioner on the ground that the interview was given to a news agency, which is not a public authority. *However*, this reasoning clearly overlooks a crucial aspect of the matter – that the respondents herein have not assailed the contents of the petitioner's interview to the news agency. Their grievance is confined only to one line in the news articles, which is a verbatim reproduction of the petitioner's police complaint and the consequent FIR, as discussed above in detail. The complaint, forming the basis of the impugned line in the news articles, was admittedly made to a public authority, i.e. the police, in relation to an alleged cognizable offence. Importantly, an FIR stood registered on the said complaint and was subjected to investigation in accordance with law.

46. Had the petitioner, while interacting with the news correspondent(s) of the Economic Times, made any additional allegations against the respondents herein, beyond what was stated in the police complaint, the position might have been different. That, however, is not the case here.

47. From a plain reading of the news articles, it is evident that the statement complained of is nothing but a reproduction of the



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accusation made by the petitioner to the police authorities. **In these circumstances**, this Court is of the opinion that Exception 8 to Section 499 of IPC is clearly attracted in the present case, and the continuation of criminal proceedings for defamation cannot be sustained.

48. This Court also notes that the defamation complaints filed by the respondents herein contain detailed discussion on how the police complaint filed by the petitioner herein was false and fabricated. This Court is however of the considered opinion that the question as to whether the allegations contained in the FIR are found to be true or false falls within the domain of the investigating agency and, thereafter, the learned Trial Court who will adjudicate the matter as per law. The veracity of such allegations, the evidence in support thereof, and the exact manner in which the alleged incident took place are all matters that are required to be investigated by the police during investigation. These issues cannot be adjudicated or pre-judged in proceedings relating to defamation.

49. If such an approach were to be permitted, it would lead to a situation where any person named as an accused in an FIR would become entitled to initiate criminal defamation proceedings against the complainant on the plea that the allegations are false. Further, where a police complaint or FIR, which is otherwise available in the public domain and accessible online (save in sensitive cases), is reported by news agencies, without exaggeration or modification, the complainant as well as the publisher of such news articles could be



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exposed to defamation proceedings. This would inevitably result in two parallel criminal proceedings arising out of the same incident – one being the substantive criminal case instituted by the victim, and the other being a defamation case initiated by the accused.

## H. Conclusion

50. Therefore, **to sum up**, the present case is one where the petitioner cannot be said to have made or disseminated any false or defamatory imputation against the respondents herein. A plain reading of the news articles in question makes it evident that the portion attributed to what the petitioner told the news correspondent(s) does not pertain to the present respondents/complainants, but pertains to his mother Dr. Bina Modi. The only segment of the news articles, complained of by the respondents, is a single line stating that the *'other present board members were consenting parties to the assault'*. As already noted above, this line is a verbatim reproduction of the allegation made by the petitioner in his police complaint dated 31.05.2024, which culminated into an FIR registered on 01.06.2024 and was thereafter subjected to investigation, resulting in filing of a charge-sheet, and the said line was mentioned in the news articles under double quotation marks, followed by the words 'complaint added'. The said line was not any independent statement made by the petitioner to the news correspondent(s), but a reproduction of an accusation made by him to a public authority, i.e. police, in the course of invoking the criminal law. In these circumstances, the essential ingredients of the offence



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of defamation under Sections 499 and 500 of IPC are not made out at the threshold, considering the applicability of Exception 8 to Section 499 of IPC.

51. Accordingly, this Court is of the view that the impugned orders directing issuance of summons to the petitioner cannot be sustained in law and are therefore set aside, and the consequential proceedings emanating therefrom are also quashed.

52. The petitions are accordingly allowed in above terms and disposed of. Pending applications are also disposed of.

53. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**JUNE 01, 2026/zp**

*T.D.*