IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-28891-2022
Pronounced on: 01.08.2025

Kangana Ranaut **…Petitioner(s)**

Versus

Mahinder Kaur **…Respondent(s)**

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Abhinav Sood, Advocate with
Ms. Anmol Gupta, Advocate,
Ms. Achintaya Soni, Advocate,
Ms. Mehndi Singhal, Advocate,
Mr. Dhruv Chowfla, Advocate,
Mr. Nitesh Jhajhria, Advocate
for the petitioner

Ms. G.K. Mann, Senior Advocate with
Mr. Aditya Dassaur, Advocate and
Mr. Armaan Sandhu, Advocate for the respondent

TRIBHUVAN DAHIYA, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of criminal complaint, COMI-01-2021 titled *Mahinder Kaur* v. *Kangana Ranaut*, dated 05.01.2021, Annexure P-5, filed by the respondent under Section 499/500 Indian Penal Code (for short, 'IPC') before Judicial Magistrate First Class, Bathinda, Punjab, and also summoning order dated 22.02.2022, Annexure P-11, passed by the Magistrate in this complaint, along with all subsequent proceedings emanating therefrom.

2. In brief, the complaint has been filed against the petitioner with the allegations that the respondent/complainant belongs to an agricultural

family as her father, husband and children are farmers; income from agriculture is their only source of earning. She used to help her family members in cultivation of agricultural lands. Due to passing of certain new enactments by the Central Government pertaining to agriculturists, farmers in the States of Punjab and Haryana were protesting. As the complainant's family was also affected by the said enactments, they were actively participating in the protests being held under the aegis of different *kisan* (farmers') unions. The complainant was also a part of *dharnas* (sit-ins) and demonstrations since the beginning of the protest. Despite her old age, she along with other protesters went to Delhi to participate in the agitation. However, the petitioner-accused made a retweet consisting of her own comment about the complainant on Twitter (now known as 'X') alleging,

> Ha ha ha she is the same dadi who featured in Time magazine for being the most powerful Indian…. And she is available in 100 rupees. Pakistani jurno's have hijacked international PR for India in an embarrassing way. We need our own people to speak for us internationally.

Along with the retweet the petitioner shared a tweet by one Gautam Yadav carrying the complainant's photograph. It is also alleged that the complainant has absolutely no concern with the lady (*dadi*) from *Shaheen Bagh* who featured in the 'Time' magazine, with whom she has been compared in the tweet. In this manner, the petitioner has made false imputation and defamatory remarks against the complainant hurting her pride, honour, and defaming her on social media. On this account, the complainant has fallen in her own estimation, and also in the estimation of other protesting farmers who, including Gurpreet Singh

s/o Tek Singh and Dharampal Singh s/o Malkit Singh, started inquiring about the matter.

2.1. The complaint was filed in the Court of Judicial Magistrate First Class, Bathinda, on 05.01.2021. To establish the allegations, the statement of complainant/Mahinder Kaur was recorded in preliminary evidence as CW-1. She proved a copy of the retweet uploaded by the petitioner-accused as Exhibit (Ex.) C1, copies of photographs of persons who were killed in *kisan* demonstration in Delhi as Ex. C2, a copy of her Aadhaar Card as Ex. C3, a copy of Aadhaar Card of her husband as Ex. C4. Besides, Gurpreet Singh was examined as CW-2, who supported the complainant's version and also deposed that he was present in the demonstration with the complainant. He checked the petitioner's retweet made on her official account on his mobile phone bearing no.9855445063, and showed it to the complainant. Various Bollywood celebrities and Punjabi singers had commented on and shared the said tweet. He also placed a certificate under Section 65B of the Indian Evidence Act, 1872, on record.

2.2. After recording the preliminary evidence, the Magistrate vide order dated 22.03.2021 called for a report regarding the tweet by recording as under:

> …Perusal of the file shows that accused in the present case is residing beyond the jurisdiction of this Court and accordingly as per Section 202 of the Criminal Procedure Code, 1973, the Court is required either to inquire into the case or direct an investigation to be made by the police officials. Keeping in view the nature of the present case, no investigation is required to be made by the police officials. However, this Court deems it appropriate to call report from the Director, Twitter Communications India Pvt. Ltd.,

> as to whether the alleged tweet has been made by accused Kangana Ranaut daughter of Amardeep Ranaut, resident of A-4, Pali Hill, Bandra, Mumbai (Maharashtra). Report be called for 24.05.2021.

Since report form the Director was not received, the proceedings had to be adjourned from 29.07.2021 to 23.12.2021, when a counsel appeared on behalf of Twitter Communications India Private Limited (TCIPL) by filing an application seeking discharge as a witness. On that date, the Court passed the following order:

> Ms. Shokla Narayananan and Sh. S.K. Sharma filed power of attorney on behalf of the Twitter Communications India Private Limited. An application for discharging Twitter Communications India Private Limited as a witness has been moved. However, applicant has not been summoned as a witness in the complaint in hand nor has it been mentioned in the list of witnesses. Only the report pertaining to the author of the impugned tweet was sought from applicant. Therefore, application, being infructuous, stands dismissed.
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> Learned counsels for Twitter Communications India Private Limited have suffered a statement to the effect that they are engaged only in research, development and marketing and thus, will not be able to supply the information sought by this court.
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> Learned counsel for the complainant has requested for an adjournment for advancing arguments on the point of summoning. File be put up on 14.01.2022 for the same.

The statement of the counsel on behalf of TCIPL was to the effect that the company did not own the www.twitter.com, and was a separate legal entity only engaged in research, development and marketing. Resultantly, having no control over the contents of social media platform ‘Twitter’, it would not be able to furnish the requisite information sought by the Court. Twitter’s content

is managed and hosted by Twitter Inc., a company incorporated under the laws of the United States of America, having its registered office at 1355, Market Street, Suite 900, San Francisco, CA 94103, USA.

2.3. Thereafter, on hearing arguments on the complaint, the petitioner-accused was summoned by the Magistrate vide impugned summoning order dated 22.02.2022.

3. In this factual background, learned counsel for the petitioner has *firstly* contended that the impugned summoning order is not sustainable on account of being violative of Section 202 Cr.P.C. After recording of preliminary evidence by the complainant, the Magistrate had called for a report from Director, TCIPL, and he could not have summoned the petitioner as the report was never received. And the material which was already before him at the time of calling for the report, had not been considered sufficient to issue the process. In support of the contention, he has relied upon the Supreme Court judgment in *Shiv Jatia* v. *Gian Chand Malick and others*, (2024) 4 SCC 289. *Secondly*, it has been contended that the petitioner has made the retweet in good faith, without any intention to harm the complainant's reputation. In the absence of *mens rea*, there was no occasion for the Magistrate to proceed against her and issue the process. The petitioner was entitled to the benefit of Ninth and Tenth Exception to Section 499 IPC which was not even looked into by the Magistrate on the ground that it could not be done at the time of issuing process. This is contrary to the law laid down by the Supreme Court in *Iveco Magirus Brandschutztechnik Gmbh* v. *Nirmal Kishore Bhartiya and another*, (2024) 2 SCC 86, holding that while issuing process for defamation under Section 204 Cr.P.C., the Magistrate is required to form a *prima facie* opinion based upon

the complaint, supporting statements and evidence; and is not precluded from considering the Exceptions to Section 499 IPC if the same are evident from the material on record. *Thirdly*, it has been contended by the learned counsel that the summoning order is a result of non-application of mind by the Magistrate. To indicate thus, he has referred to a sentence in the order '*The accused, in her tweet, posted a picture of the complainant and made a remark that the complainant "is available in 100 rupees".*' In fact, the complainant's picture was retweeted by the petitioner, whereas the Magistrate termed it as a tweet. The order according to him becomes unsustainable on this account also. *Lastly*, it has been contended that the complaint itself is *mala fide* as the complainant has chosen to file it only against the petitioner and not against Adhivakta Gautam Yadav, whose tweet was retweeted by the petitioner. He was the first person who could be accused of defamation, but for no reason complaint was not been filed against him. It shows only for extraneous reasons the complainant has moved against the petitioner, ignoring others.

4. *Per contra*, learned senior counsel for the respondent/complainant, contends that the summoning order is well-reasoned and has been passed by forming an opinion based on the material brought on record which explicitly establishes ingredients of the offences under Sections 499/500 IPC against the petitioner. There is no dispute that the petitioner herself made the retweet in question which is defamatory on the face of it. It contains serious allegations against the person and character of the complainant. The facts have also been duly established on record in the preliminary evidence before the Magistrate, who rightly summoned the petitioner on that basis. The report from the Director, TCIPL, had not been submitted as the company was engaged only in

research, development and marketing, and had no access to the contents of www.twitter.com. A statement to that effect was made by the company's counsel and, therefore, the Magistrate was required to act on the evidence on record and proceed accordingly. Learned senior counsel has also contended that the petitioner never showed any remorse or tendered any apology for the retweet imputing the complainant's character. She is not entitled to the benefit of Ninth and Tenth Exception of Section 499 IPC, as she intentionally made the retweet to harm the complainant's reputation. As per settled law, at the stage of issuing process the Magistrate is only required to see whether a *prima facie* case is made out on the basis of material placed on record. Accordingly, no fault can be found with the impugned summoning order.

5. Submissions made by learned counsel for the parties have been considered.

6. It is apparent on record that after filing the complaint before the Magistrate on 05.01.2021, the respondent/complainant examined herself as CW-1 and Gurpreet Singh as CW-2, in support of her version. Besides, the supporting documents, including a copy of the retweet by the petitioner, were placed on record as Exhibits. Considering the same learned Magistrate, vide impugned order dated 22.02.2022, summoned the petitioner to face trial for offences under Sections 499/500 IPC by recording as under:

> 9. Defamatory statement is one which tends to lower a person's reputation in the estimation of right-thinking members of the society generally or which make them shun or avoid that person. Before embarking on a discussion as to whether sufficient prima-facie material exists for summoning of the accused person, it becomes imperative to set-out briefly the legal benchmark that

is to be satisfied for summoning of an accused for an offence of defamation under section 499 of the IPC-

(i) Making or publishing any imputation concerning any person;

(ii) Such imputation must have been made by words either spoken or intended to be read or by signs or by visible representations;

(iii) The said imputation must have been made with the intention to harm or with the knowledge or having reason to believe that it will harm the reputation of the person concerned.

Such a publication is protected by the ten statutory exceptions provided in this provision itself but the scope of the inquiry under Section 202, CrPC is extremely limited i.e., only to the ascertainment of the truth or falsehood of the allegations made in the complaint –

(i) on the materials placed by the complainant before the Court;

(ii) for the limited purpose of finding out whether a prima facie case for issue of process has been made out; and

(iii) for deciding the question purely from the point of view of the complainant without at all adverting to any defense that the accused may have.

Therefore, the defenses provided under section 499, IPC cannot be looked at this stage according to the law. The defenses have to be pleaded and proved by the person charged with defamation i.e., the entire burden will be on accused to plead and prove the defense on which she may rely upon.

10. The accused, in her tweet, posted a picture of the complainant and made a remark that the complainant “is available in 100 rupees”. Such remark, when seen through the lens of above discussion, prima facie proves that the intent of the accused was to paint the complainant as a person of dubious integrity who is protesting without any cause and just for financial gains. Since the accused is a celebrity having an extensive fan following, the

publications by her tweet invariably reach millions of people. As she holds a position of influence over the masses, she has extra responsibility on her shoulders to verify the truthfulness of the remarks made by her. It is evident from the evidence led by the complainant that the accused made the impugned defamatory remark without going into the truthfulness thereof and furthermore, she even failed to tender any apology to the complainant after knowing the truth.

7. Objection has been taken by learned counsel for the petitioner to the procedure followed for issuance of the process on the ground that after calling for a report from Director, TCIPL, which was never received, the process could not have been issued. The power to issue process is conferred on the Magistrate by Section 202 Cr.P.C. which reads as under:

> **202. Postponement of issue of process.-** (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192 may, if he thinks fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:
>
> Provided that no such direction for investigation shall be made -
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> (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or
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> (b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Court on an officer-in-charge of a police station except the power to arrest without warrant.

7.1. A perusal of the section shows that before proceeding against an accused who resides beyond the Court's jurisdiction, the Magistrate is mandatorily required to inquire into the case himself or direct investigation to be made by a police officer or any other person, for the purpose of deciding whether there is sufficient ground for issuing the process. The inquiry, as defined under Section 2(g) of the Code means, '*every inquiry, other than a trial, conducted under this Code by a Magistrate or Court*'. No particular mode of inquiry has been provided; the inquiry, therefore, refers to application of judicial mind by the Magistrate to the allegations in the complaint along with the statements recorded and material brought on record by way of preliminary evidence, as also to the outcome of investigation ordered or the report called for, with a view to ascertaining the offences alleged are *prima facie* made. A reference in this regard can be made to the Supreme Court judgment in *Mehmood Ul Rehman* v. *Khazir Mohammad Tunda and others*, (2015) 12 SCC 420, where the Court delved into the magisterial duties while issuing process under Section 202 of the Cr.P.C., and held as under:

22. The steps taken by the Magistrate under Section 190(1)(a) CrPC followed by Section 204 CrPC should reflect that the Magistrate has applied his mind to the facts and the statements and he is satisfied that there is ground for proceeding further in the matter by asking the person against whom the violation of law is alleged, to appear before the court. *The satisfaction on the ground for proceeding would mean that the facts alleged in the complaint would constitute an offence, and when considered along with the statements recorded, would, prima facie, make the accused answerable before the court.* No doubt, no formal order or a speaking order is required to be passed at that stage. The Code of Criminal Procedure requires speaking order to be passed under Section 203 CrPC when the complaint is dismissed and that too the reasons need to be stated only briefly. In other words, the Magistrate is not to act as a post office in taking cognizance of each and every complaint filed before him and issue process as a matter of course. There must be sufficient indication in the order passed by the Magistrate that he is satisfied that the allegations in the complaint constitute an offence and when considered along with the statements recorded and the result of inquiry or report of investigation under Section 202 CrPC, if any, the accused is answerable before the criminal court, there is ground for proceeding against the accused under Section 204 CrPC, by issuing process for appearance. *The application of mind is best demonstrated by disclosure of mind on the satisfaction.* If there is no such indication in a case where the Magistrate proceeds under Sections 190/204 CrPC, the High Court under Section 482 CrPC is bound to invoke its inherent power in order to prevent abuse of the power of the criminal court. To be called to appear before the criminal court as an accused is serious matter affecting one's dignity, self-respect and image in society. Hence, the process of criminal court shall not be made a weapon of harassment. (Italics by this Court)

7.2. In view of the aforesaid legal position, non-receipt of report by TCIPL as to whether the alleged retweet has been made by the petitioner, cannot be a ground to divest the Magistrate of jurisdiction under Section 202 Cr.P.C. The report could not be submitted as the company was neither the owner nor in control of www.twitter.com, and was a separate entity engaged only in research, development and marketing. The requirement in law is an inquiry by the Magistrate into the complaint to be satisfied that the offences alleged are *prima facie* made out; receipt or non-receipt of a report called for after recording the evidence, cannot be the sole ground to issue or not to issue the process. The purpose of such a report is to facilitate making an inquiry by the Magistrate, and not the other way round, that is, to make the inquiry dependent on the outcome of the report, as that would amount to denuding the Magistrate of his judicial function of applying mind to the allegations in the complaint with the preliminary evidence led. In the instant case, after inquiry the Magistrate was *prima* facie satisfied that the retweet was by the petitioner, and the facts alleged in the compliant would constitute the offence under Section 499 IPC. Therefore, no exception can be taken to the impugned order issuing process against her without a report by the TCIPL. The order has been passed after due application of mind to the facts of the case, by examining the preliminary evidence in the light of relevant provisions of law. And it is not the petitioner's case that the retweet is not by her. Further, the judgment in *Shiv Jatia* case (*supra*) relied upon by learned counsel for the petitioner has no application to this case. In that matter, the Magistrate was not satisfied as regards sufficiency of the material on record after perusing the statements of witnesses, and had sent the complaint to the police for investigation; but without waiting for the police report issued

process by passing the summoning order. In these circumstances, it was held that the Magistrate was not justified in issuing the process. In the case at hand, out of the two options available under Section 202 of the Cr.P.C., i.e., either to inquire into the case himself or direct investigation by a police officer or any other person, the Magistrate opted for the former and after due application of mind took cognizance of the offence vide the impugned order. Before calling for a report from the company's Director, it was not recorded that the preliminary evidence was insufficient to issue process. This makes it apparent that the report was called only to facilitate the inquiry.

8. Also, there is no substance in the next submission by learned counsel for the petitioner that the retweet was in good faith and in the absence of *mens rea* she was entitled to the benefit of Ninth and Tenth Exception to Section 499 IPC; and that failure of the Magistrate to examine the issue rendered the impugned order unsustainable. The Exceptions read as under:

> *Ninth Exception.*- **Imputation made in good faith by person for protection of his or other's interests.-** It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.
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> *Tenth Exception.*- **Caution intended for good of person to whom conveyed or for public good.-** It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

8.1. A perusal of the Ninth Exception reproduced above shows it is meant to exclude from the offence of defamation an imputation which is made

in good faith by a person for protection of his/her or someone else's interests, or for the public good. The Tenth Exception excludes from defamation a caution which has been made in good faith and is intended for good of the person to whom it is conveyed or of some other person in whom that person might be interested, or for the public good. The petitioner's case is that the Magistrate was mandatorily required to consider whether these Exceptions were attracted in her case. As per the settled law, there is no explicit bar on the Magistrate precluding him from considering whether any of the Exceptions protect the person to be summoned; however, such non-consideration by itself would not render the order issuing process illegal. It is not a case that the complaint, supporting documents as well as the statements of witnesses before the Magistrate establish that the petitioner is entitled to the benefit of Ninth and Tenth Exception to Section 499 IPC, nor has learned counsel for the petitioner been able to show even *prima facie* as to how imputations in the retweet can be said to have been made by the petitioner in good faith for protection of her own interest or of anyone else, nor can it said to be for public good. Similarly, it could not be shown by him that the retweet was intended to convey a caution to the petitioner for her good. The defence under any of these Exceptions is, therefore, not revealed in any manner. Further, the observations in *Iveco Magirus Brandschutztechnik Gmbh* case (*supra*) are also of no help to the petitioner as it has been held, " … *Although there is nothing in the law which in express terms mandates the Magistrate to consider whether any of the Exceptions to Section 499 IPC is attracted, there is no bar either. … 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;…" Accordingly, even if the Magistrate, under a misconception of law, refrained from looking into the Exceptions on the ground that it was not required to be done at the stage of issuing process, it is not fatal to the impugned order which has been passed after applying mind to the material on record in accordance with law, as already discussed.

9. Further, merely because the Magistrate wrongly mentioned the petitioner's *retweet* as *tweet* in the impugned order, it cannot be said that the order is a result of non-application of mind. It goes without saying, to find out non-application of mind the order is to be read in entirety. A reading of the impugned order as a whole, makes it apparent that the Magistrate has duly applied mind to the material on record, and only after recording satisfaction that commission of offence under Sections 499 IPC is *prima facie* made out against the petitioner, the process has been issued, as discussed hereinbefore. Still further, because the respondent has filed a complaint only against the petitioner and not against the person to whom the original tweet has been attributed, in itself cannot be a ground to contend that the complaint is *mala fide*. There is nothing on record, nor could any material be shown by learned counsel for the petitioner which *prima facie* indicates such an intention on the respondent's part in filing the complaint in question. There are specific allegations against the petitioner who is a celebrity, that false and defamatory imputations by her in the retweet have dented the respondent's reputation and lowered her in her own estimation, as also in the eyes of others. Therefore, filing of the complaint to vindicate her rights cannot be termed *mala fide*.

10. In view of the above discussion, there is no merit in the petition, and it stands dismissed.

11. The observations in this judgment will have no bearing on the pending complaint, which will be decided by the Magistrate on its own merits.

(TRIBHUVAN DAHIYA)
JUDGE

01.08.2025
Payal

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*