* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on: 01st August, 2025***

***Pronounced on: 17th November, 2025***

\+ **CRL.M.C. 1313/2021 & CRL.M.A. 6790/2021**

**MS. NILANJANA BHOWMICK**
R/o. N-601, 6 Floor, Antriksh Golf View-1
Sector-78, Noida, Gautam Buddha Nagar
Uttar Pradesh-201301 .....Petitioner

Through: Mr. Ashwin Vaish, Advocate

versus

**RAVI NAIR**
R/o. F-16/4, DLF Phase-1
Gurgaon, Haryana .....Respondents

Through: Mr. R. Gopal, Advocate

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

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

**1.** Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed on behalf of Petitioner, *Smt. Nilanjana Bhowmick*, for quashing of Criminal Complaint No. 33305/2016, for the offence under Sections 499 and 500 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*), along with Summoning Orders dated 11.11.2014 and 29.10.2018 of the Court of the Ld. Metropolitan Magistrate, New Delhi.

**2.** ***The Complainant/Respondent, Sh. Ravi Nair,*** stated that he is a person working in the field of human rights, running an organization under

the name and banner of South Asia Human Rights Documentation Centre (SAHRDC), and is regularly invited to deliver lectures and speak at various national and international platforms.

**3.** He is the recipient of the M.A. Thomas National Human Rights Award (1997) and was honoured as the Ida Beam Distinguished Lecturer at the University of Iowa in October 2000. The Complainant has also delivered a lecture at Harvard Law School in November 2005.

**4.** Further, he has served as an International Consultant to the Technical Advisory Services Programme of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its training initiatives in Nepal, and has previously conducted Workshops in Armenia for the UN Human Rights Mechanisms. The Complainant was also a member of the Curriculum Development Committee of the University Grants Commission (UGC) for the inclusion and teaching of Human Rights Law across universities in India.

**5.** The Complainant asserts that through his hard work, integrity, and impartial approach, he has earned and maintained an excellent reputation in his field over many years, though his work and activities have remained under public scrutiny. He states that he is a public-spirited citizen who has taken up various socio-political causes and runs a reputed human rights organization known as the *South Asia Human Rights Documentation Centre* (SAHRDC). This Trust was established to conduct research, documentation, and reporting on human rights issues, and its research papers and reports are regularly shared with various international bodies and published on their official websites. The Complainant thus, enumerates his work and contribution in the national and international arena and claims to have

earned a reputation for himself. He stated that he is a recipient of several national and international awards and has earned an excellent reputation in society through his work.

**6.** On 14.12.2010, the Petitioner/Accused No. 1, ***Smt. Nilanjana Bhowmick*** published an article titled *"**Accountability of India's Nonprofits under Scrutiny**"*, wherein she allegedly defamed the Complainant by **implying** that he and his organization were involved in *money laundering.* The Complainant states that he came to know of these allegedly false and defamatory statements, through his acquaintances in the field of human rights.

**7.** On 20.12.2010, the Complainant sent an email to the Editor of *Time*, the website on which the said Article was published, stating that the accusations levelled against him and his NGO were false. He specifically contended that the statement suggesting that the European Anti-Fraud Office (OLAF) had indicted him and his NGO was untrue, and further stated that the Petitioner had never contacted him for comment. However, no response was received.

**8.** On 26.09.2014, the Complainant learnt from his former colleague, Ms. Rineeta Naik, that the defamatory Article continued to remain accessible online without restriction. He received a similar email from Ms. K. Sharada on 09.10.2014. It is asserted that the original Article continues to remain publicly accessible through the internet.

**9.** Consequently, the Respondent Ravi Nair filed a Complaint under Section 200 Cr.P.C. against four respondents, namely *Petitioner*, Bureau Chief of Times Magazine, [Particulars not mentioned], Editor of the Times; *Mr. Adarsh Rao*, blogger of website ngopost.org and *Ms. Parul Gupta*,

Editor, website ngopost.org.

**10.** In support of his Complaint, ***Sh. Ravi Nair*** examined only himself and deposed as *CW-1*, wherein the contents of the Complaint were reiterated. It was deposed that the Complainant has been grossly defamed by the publication and re-publication of the defamatory Article, in breach of the internal policies and guidelines. *No other witness has been examined at the pre-summoning stage.*

**11.** At the stage of the summoning, the Ld. MM dropped Accused No. 2 the Editor of the Times, from the proceedings on the request of the Complainant as his particulars could not be obtained.

**12.** Pursuant thereto, the Ld. MM issued summons under Sections 499 and 500 IPC on 29.10.2018 to the Petitioner, ***Smt. Nilanjana Bhowmick,*** as well as Accused No.3 and 4 (*blogger and editor of ngopost.org)*. However, vide Order dated 26.09.2025 the Ld. MM compounded the case against *Accused No. 3, Ms. Adarsh Rao*, as she had already published an apology. Accordingly, the Complaint stands compounded qua Ms. Adarsh Rao.

**13.** ***Aggrieved by the Complaint and the consequent summoning, the Petitioner has challenged the Complaint and the summoning Order*****.** She states that she is a permanent resident of Sector 78, Noida since 2008, where she resides with her husband and children. She is an award-winning journalist, known for her independent and fearless reporting.

**14.** The Complaint as well as Order taking cognizance and issuing summons dated 11.11.2014 and 29.10.2018, have been challenged on the ***ground*** that the mandatory *provision of Section 202 Cr.P.C. has not been complied*, as all accused persons including the Petitioner, reside outside the jurisdiction of the Ld. MM.

**15.** Further, it is claimed that the Impugned Article is not based on false assertions or is contrary to the record and judicial findings, nor is it the case that the Respondent's Trust was never investigated by any authority on allegations of money laundering. On *31.03.2008, an FIR bearing No. RC-DAI-2008-A-0014* was registered by the Central Bureau of Investigation (CBI) under *Sections 6 and 23 of the Foreign Contribution (Regulation) Act, 1976, and Section 120-B IPC,* based on a written Complaint dated 26.03.2008 by the Assistant Director, FCRA, Ministry of Home Affairs, *against SAHRDC and its Director/Trustees, including the present Respondent.* It is also important to note that on 29.07.2010, a ***Closure Report*** was filed by the CBI in the aforesaid FIR.

**16.** It is asserted that the Article was based on facts, as law enforcement Agencies had indeed investigated the Respondent's Trust at the relevant time, a fact that the Respondent has never expressly denied. The *bonafide* of the Petitioner is evident from the Article itself, which clearly records that "*Nair has denied all wrongdoing*."

**17.** It is further asserted that the Complaint is barred by limitation as the Complaint was filed on 07.12.2014 after *an unexplained delay of four years*, as the Article was published on 14.12.2010. The Complainant admittedly objected to the Article in 2010, but chose not to take any legal action at that time. It is not the Complainant's case that the Article was republished within three years, prior to the filing of the Complaint.

**18.** The Respondent has alleged that *any re-publication*, if at all, was carried out by Accused Nos. 3 and 4, who are unrelated to the Petitioner (Accused No.1) and Accused No.2. However, the *Summoning Ord*er erroneously assumes without basis, that Accused Nos. 3 and 4 republished

the Article on NGO Post (*ngopost.org*) with the permission of Accused Nos. 1 and 2.

**19.** It is further submitted that the Complainant *has failed to produce any evidence to establish that the alleged imputation lowered his moral or intellectual character in the estimation of others,* in terms of Explanation 4 to Section 499 IPC, and has not examined any witness to establish that the alleged defamatory material was published to any third person.

**20.** *Accordingly, it is prayed that the Criminal Complaint No. 33305/2016 as well as the Summoning Orders dated 29.10.2018, be quashed.*

**21.** ***Respondent/Complainant in his Reply*** has asserted that the Order dated 29.10.2018 of the Ld. MM is legal, proper, and based on specific averments and the statement of the Complainant, which are duly corroborated by numerous electronic documents exhibited before the Court. The Petitioner in the impugned Article dated 14.12.2010, had compiled false, distorted, and defamatory information alleging non-accountability and transgressions by NGOs, without ever contacting the Respondent, though she conveniently included the line, "***Nair has denied all wrongdoings.***" The Petitioner had failed to respond to or deny the grievances raised by the Complainant in his email to the Editor, *Time Inc*.

**22.** It is further submitted that the accused persons have already appeared before the Ld. Trial Court pursuant to the Impugned Order under Section 204 Cr.P.C. and are fully entitled to raise all their pleas before that Court. The Petitioner, if aggrieved by any final Order, may then invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C.

**23.** The Respondent has claimed due compliance of Section 202 Cr.P.C. by asserting that despite best efforts, he could not ascertain the residential

address of the Petitioner. Had it been otherwise, the summons issued by the Ld. Trial Court on 29.10.2018 would have been served promptly and not after a delay of 26 months, when the Petitioner appeared on 11.02.2021.

**24.** Furthermore, where an offence of defamation is evident from documentary material, no postponement of process under Section 202(1) Cr.P.C. is necessary. Reliance is placed on the judgments in *Tej Kishan Sandu v. State & Anr.*, Crl. M.C. No. 292/2013 (decided on 02.05.2013) and *Abhishek Agrawalla v. Boortmalt NV & Anr.*, Crl. Rev. P. 8/2010 (decided on 14.02.2011).

**25.** The Respondent, *to explain the limitation*, has contended that the web-based publication *constitutes continuous defamation*, as the offending Article remains accessible worldwide and each access constitutes a fresh publication under Section 472 Cr.P.C., thereby extending the period of limitation. The Respondent claims that he came to know of the continued availability of the Article through emails dated 26.09.2014 and 09.10.2014 from Ms. Rineeta Naik and Ms. K. Sharada, respectively.

**26.** It is further alleged that republication of the Article required prior permission from Time Inc. and that the Petitioner, being associated with Time Inc. as its *New Delhi Bureau Chief, was aware of and complicit* in the continued online availability. Reliance is placed on *State of Rajasthan v. Sanjay Kumar*, (1998) 5 SCC 82.

**27.** *It is, therefore, prayed that the present Petition be dismissed*.

**28.** ***A Rejoinder has been filed on behalf of the Petitioner***, reiterating the contents of the Petition. It is submitted that the Respondent has suppressed the fact of having faced investigation and has attempted to mislead the Court. He has himself admitted that the allegations of money laundering are

false and that a *Closure Report* had already been filed. It is submitted that the Article merely reported that the Authorities, at the relevant time, were looking into the activities of the Trust, and not that the Complainant had been declared guilty.

**29.** *Accordingly, a prayer is made that the present Petition be allowed*.

***Submissions Heard and Record Perused***.

**30.** At the outset, a preliminary objection is taken by the Petitioners to challenge the Impugned Order dated 29.10.2018, on the ground that they are residents of outside Delhi, and the mandatory procedure of enquiry under Section 202 Cr.P.C. has not been followed by Ld. MM, and therefore, the impugned Order of summoning, is liable to be quashed.

**31.** Section 202, Chapter XVII Cr.P.C. deals with *commencement of proceedings before Magistrate.* The Magistrate has a duty to elicit all facts having regard to the interest of an absent accused person and also to bring to book a person or persons against whom the allegations have been made.

**32.** Section 200 Cr.P.C. provides for examination of Complainant. It states that the Magistrate taking cognizance of the offence on Complaint, shall examine both the Complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and signed by the Complainant and the witnesses and also by the Magistrate.

**33.** Section 202 Cr.P.C. provides for *postponement of issue of process in case the person* is *residing beyond the jurisdictional area* of the Magistrate. It reads as under:-

> ***S. 202 Postponement of issue of process:*** *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;……"*

**34.** If after, consideration of the pre-summoning evidence, it is found that no offence is made out, the Complaint may be dismissed under Section 203 which is a pre-issuance of process stage.

**35.** In the case of *Nagawwa v. Veeranna Shivalingappa Konjaalgi*, 1976 SCC (Cri) 507, the Apex Court held that scope of enquiry under Section 202 Cr.P.C. is extremely limited only for settlement of truth or falsehood of the allegations made in the Complaint:

(i) *on the material 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 defence that the Accused may have.*

**36.** Likewise, in the case of *Matthew v. State of Kerala*, 1992 SCC (Cri) 88, it was held by the Apex Court that before issuance of summons, the Magistrate must satisfy that *there are sufficient ground for proceeding* with the Complaint.

**37.** Similarly, in the case of *Adalat Prasad v. Rooplal Jindal*, 2004 SCC (Cri) 1927, three Judges Bench of the Apex Court while considering the Sections 200/202 and 204 Cr.P.C., had explained that the process may be issued under Section 204 Cr.P.C. only if he is satisfied that there is

sufficient ground to proceed with the Complaint. What is important is the satisfaction of the Magistrate, either by examination of the Complainant and the witnesses or the enquiry contemplated under Section 202 Cr.P.C., to prove that there is sufficient ground for proceeding with the Complaint.

**38.** It was also explained in the case of *Vijay Dhanuka v. Najima Mamtaj*, (2014) 14 SCC 638, that the summoning Order must reflect whether or not there are some allegation in support of the offence and there is sufficient ground for proceeding against the Accused.

**39.** The objective of pre-summoning evidence especially under S.202 Cr.P.C. was succinctly stated by the Apex Court in the case of *Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel*, (2012) 10 SCC 517. It has explained that the objective of this provision is to enable the Magistrate to verify whether sufficient grounds exist to proceed against the accused. It observed as under:

> "***20.*** *Section 202 of the Code* ***has twin objects****; one, to enable the Magistrate to scrutinise carefully the allegations made in the complaint with a view to prevent a person named therein as accused from being called upon to face an unnecessary, frivolous or meritless complaint and* ***the other,*** *to find out whether there is some material to support the allegations made in the complaint."*

**40.** What is significant is whether there is sufficient evidence to summon and not whether the evidence is sufficient for conviction. The Code does not permit an accused person to intervene in the course of inquiry by the Magistrate under Section 202 and has absolutely no locus and is not entitled to be heard on the question whether the process should be issued against him or not. Therefore, it is incumbent upon the Magistrate to ensure by recording

pre-summoning evidence, that the person is not unnecessarily harassed by summoning in a matter which has no basis.

**41.** In the light of the aforesaid proposition of law, it may be considered if these pre-requisites of summoning the Petitioner, were satisfied. The Ld. MM had duly recorded the statement of the Complaint Ravi Nair, who had deposed about the contents of his Complaint and had also proved the copy of the Article, *his email and other requisite documents* in support thereof. There was specific allegations of he being defamed by an Article written by the Petitioner and had asserted that *he was defamed as harm was caused to his reputation.*

**42.** The testimony of the Complainant and all these documents were duly considered by the Ld. MM while summoning the Petitioners *vide* summoning Order dated 29.10.2018. There was due compliance of S.202 Cr.P.C.

**43.** Therefore, this preliminary objection is without merit and is rejected.

***Whether the Article published by the Petitioner was defamatory:***

**44.** The genesis of the Complaint by the Respondent was an Article titled "***Accountability of India's Nonprofits under Scrutiny,***" authored by the Petitioner, which was published on 14.12.2010 in the magazine "*Time*."

**45.** The Article generally discussed about the alleged transgressions in the working of the NGOs and the "*unscrupulousness*" in India's sprawling non-profit sector. It noted that as per the Home Ministry statistics, foreign funding in Indian NGOs saw a 56% increase in the 2005-06 and 2006-07 fiscal years. It further went on to cite the data to show that as per the latest available data of 2008, total foreign aid in India was 2.15 billion dollars.

**46.** It further stated that however, according to NGO Watchdog, almost half of that money was being misused, mostly to support high administrative costs of running these organizations. The reference was made to NGO watchdog Credibility Alliance, which had stated in a letter that they are helping some Indian child and also noted "*there are many NGOs who won't even show you their accounts*."

**47.** It was further asserted that Indian non-profits are overspending on overheads. CEO of Save the Children was quoted to say that about 14% of its funds are spent on administration. "*It is impossible to distinguish administrative cost from program cost because it is all set up for delivering programs*." Instead of focusing on how money gets allocated, "*he should look at the impact created at ground level*."

**48.** Thereafter, there is a paragraph which pertained to the NGO of Respondent and was objectionable to him. It read as under:

> *"....but there are other uncomfortable questions that also call the credibility of a lot of Indian NGOs into question. Chief among them is businesses using NGOs for money laundering.* ***India's federal investigation agency is currently looking into money-laundering and fund-misappropriation charges against one of the country's most prominent human-rights activists Ravi Nair. Nair and his NGO, the South Asian Human Rights Documentation Centre, were indicated by the European antifraud agency in October of last year, though Nair has denied all wrongdoing****..."*

**49.** According to the Petitioner, these lines about him were of serious concern to him, for which he protested by writing through an email dated 20.12.2010, wherein he stated that he had never spoken to the correspondent (Petitioner), and he never had any kind of contact with her. He protested that

"i*n keeping with the high ethical standards generally followed by time, your correspondent has done further investigation and at least obtained my version of events* ***before making an averment through innuendo and insinuation i.e. defamatory.*** *Such statements have serious implications for my professional reputation and my rights to due process and the presumption of innocence. It is difficult enough to be doing front line human rights work without time contributing to the Governmental witch-hunt*." …"*I trust you will take appropriate action in the matter*."

**50.** From the aforesaid Article and the response of the Respondent, it is evident that there was no defamatory statement made against him, but there was only a reference *about Indian Federal Investigation Agency currently looking into money laundering and false misappropriation charges against the country's most prominent human rights Activist Ravi Nair and his NGO, as was indicated by European Anti-Fraud Agency in October of last year*, which is actually correct.

**51.** It needs no restatement that the Press has a primary function of correctly and comprehensively reporting the information, especially when it is brought into the public domain. The Bombay High Court in *Vijay v. Ravindra Ghisulal Gupta* Crl. Appl. No. 393/2022, observed that bringing an action of defamation upon the true and faithful reporting, is *unhealthy for a democratic setup*. Therefore, so long as the reporting has been done which is not incorrect, to slam a case of defamation against every such reporting is against the obligation more than the right of the press to report the incident.

**52.** The Supreme Court in the case of *R. Rajagopal v. State of Tamil Nadu,* (1994) 6 SCC 632 observed that any publication based upon public records including Court records, cannot be objected to as it is a legitimate

subject for comment by press and media. It would be sufficient for the members of press or media to prove that they acted after a reasonable clarification of the facts; *it is not necessary for the press to prove that what had been written is true.*

**53.** Likewise, in *Jawaharlal Darda v. Manoharrao Ganpatrao Kapsikar*, (1998) 4 SCC 112 the Apex Court observed that the Accused if publishes a report in ***good faith believing the version to be true,*** then it cannot be said to be intended to harm the reputation of the Complainant.

**54.** Similarly, in *Veer Arjun Newspaper Pvt. Ltd. v Bahori Lal*, 2013 SCC OnLine Del 5096 the Coordinate Bench of this Court observed that while reporting on factual matters as part of its activity of publication, the newspapers cannot be burdened with the liability of consequences of defamation. Likewise, in *Rustom K. Karanjia v. Krishnaraj M.D. Thackersey*, AIR 1970 Bom 424, similar sentiment was stated that journalists have a right to make fair comments over any controversy and concern public interest. ***It is, however, their duty to ensure that the facts asserted are accurate and truthful regardless of how defamatory they may sound. Public interest is served only when there is integrity in the investigation.***

**55.** The Apex Court in the case of *Jaideep Bose* (supra), highlighted the critical need for accuracy and fairness in media reporting. The duty of the media to report the incident for the benefit of the public, but with a corresponding duty to remain truthful to the incident, was also highlighted in *Gaurav Bhatia v. Naveen Kumar* 2024 SCC OnLine Del 2704.

**56.** Recently the Apex Court in *Bloomberg Television Production Services India (P) Ltd. v. Zee Entertainment Enterprises Ltd.*, (2025) 1 SCC

741, observed that in Suits relating to defamation by media entities or journalists, the courts must strike a balance between the fundamental right to free speech and the competing rights to reputation and privacy.

**57.** Further, it would also be pertinent to refer to the observations made by the Apex Court in the case of *Ram Jethmalani v. Subramaniam Swamy*, 126 (2006) DLT 535, wherein it was observed that ***the truth or justification is a complete defense.*** The standard of proof of truth is not absolute, but is limited to establishing *that what was spoken was substantially correct*. ***Fair comment offers protection for the expression of opinion.***

**58.** It is not in dispute about the Registration of RC-DAI-2008-A-0014 was registered on 31.03.2008 for alleged offences under Sections 6 and 23 of the *Foreign Contribution (Regulation) Act, 1976*, read with Section 120-B IPC, pertaining to the period 1999 - 2007, against *SAHRDC*, the NGO run by the Complainant.

**59.** It is quite evident that there was an RC registered and the investigations carried out into the *foreign funds* being received by the NGO. The reporting is factually correct and it did not state that the Complainant was indicted in the said investigations. There is no denial by the Petitioner that on the indication of European Anti-Fraud Agency, the Indian Federal Agency had looked into these aspects of the NGO of the Complainant. Whatever discomfort such allegation or investigation may have caused to the Respondent, it cannot be termed as defamatory as no part of the reporting was incorrect. To say that by *innuendoes and insinuations*, there were some acts being attributed to the Complainant is an oversensitive, attitude of the Complainant, and would not be sufficient to constitute defamation.

**60.** Reputation has been recognised as a glorious amalgam and unification of virtues which makes a man feel proud of his ancestry and satisfies him to bequeath it as a part of inheritance for posterity by the Apex Court in *Om Prakash Chautala vs. Kanwar Bhan and others* (2014) 5 SCC 417. Every individual is entitled to cherish and vociferously cherish and protect his reputation, but it must also be emphasized that it is not so fragile that it would get sullied by such reporting, as in the present case.

**61.** The manner in which a Journalist or an Article Writer presents the facts, is his skill of writing, but when the reported matter is factually correct, then it cannot be termed as an act of defamation by the Complainant. Here also, the complainant is only trying to build a case of defamation by *asserting that there were certain insinuations and innuendos in the Article,* but that in itself, cannot be held to be sufficient to make it a case of defamation.

**62.** In the light of the aforesaid discussions, it cannot be said that the two lines written against the NGO of the Complainant or for the complainant were *per se* defamatory when in fact it only stated a fact which may be non-palatable to the Complainant.

**Malice and Wrongful Intention to Cause Harm:**

**63.** Another aspect which may also be considered is that *Criminal defamation* Section 499 requires proof of ***wrongful intention to cause harm*** **to the reputation** of another, which may be termed as "*malice*", which is an essential ingredient to establish defamation.

**64.** In *Jeffrey J. Diermeier v. State of West Bengal*, (2010) 6 SCC 243 defined "*malice in fact*," as an *ill intention results in a deliberate unlawful act causing harm. To constitute* Defamation, the imputation to be made with

*intent, knowledge, or reason to believe that it will harm* another's reputation, as held.

**65.** In the case of *Ram Jethmalani (supra)* it was held that the defence of *fair comment* can be defeated *if the Plaintiff proves that the defamer acted with malice.*

**66.** The petitioner has tried to establish malice and wrongful intention by asserting that a Closure Report in the RC had already been filed on 29.07.2010, while this Article was published subsequent thereto on 14.12.2010, reflecting the ill intention of the Petitioner.

**67.** However, there is nothing on record to show that the Petitioner was aware about the submission of Closure Report in the Court on 29.07.2010 which is evident from a rider that "***though Nair has denied all wrongdoing***." The entire narrative of the Article was a comment on the general working and funding of the NGOs in which as an illustration, reference was made to the NGO of the Petitioner against which, undeniably investigations were carried out. No malice or wrongful intention can be gathered from the entirety of circumstances.

***Whether there was Lowering of Reputation in Public Estimation:***

**68.** *The next relevant aspect to constitute defamation is the 'publication' of a defamatory imputation.*

**69.** The meaning of "*publication*" in the context of Criminal defamation, was considered by the Apex Court in *Mohammed Abdulla Khan (supra)* while relying on two judgments of *Khima Nand vs. Emperor*, (1937) 38 Cri LJ 806 (All); *Amar Singh vs. K.S. Badalia*, (1965) 2 Cri LJ 693 (Pat), wherein it was observed that "*the essence of publication in the context of Section 499,* ***is the communication of defamatory imputation*** *to persons*

*other than the persons against whom the imputation is made*."

**70.** To further clarify the meaning and import of "*publication*", reference may be made to the case of *Dow Jones & Company Inc vs. Gutnick* (2002) 20 CLR 575 at [26], wherein the High Court of Australia observed as under:

> *"Harm to reputation is done* **when a defamatory publication is comprehended by the reader, the listener, or the observer**. Until then, no harm is done by it. *This being so it would be wrong to treat publication as if it were a unilateral act on the part of the publisher alone. It is not. It is a bilateral act - in which the publisher makes it available and a third party has it available for his or her comprehension."*

**71.** In *Subramanian Swamy (supra)*, the Apex Court has observed that *the law relating to defamation protects the reputation of each* ***individual in the perception of the public at large.*** *It matters to an individual in the eyes of the society. Protection of individual right is imperative for social stability in a body polity and that is why the State makes laws relating to crimes*.

**72.** The Calcutta High Court in *Dipankar Bagchi v. State of West Bengal*, 2009 SCC OnLine Cal 1877, has succinctly observed that for an offence of defamation, evidence to show that the reputation has been lowered in the estimation of others is essential.

**73.** On similar lines, another bench of Calcutta High Court in *Aveek Sarkar and Ors. v. State of West Bengal and Anr*, 2025 SCC OnLine Cal 6942 has observed as under:

> *20. Moreover it is settled law that* ***no one can be defamed in his own eyes. In the present case admittedly no witness was examined before issuance of process, in whose eyes the complainant was defamed****. It may be that a large number of people is the reader of the said newspaper but that does not mean that in the eyes of all those readers, the complainant/organization has been defamed, unless any such*

*reader comes before the court and disclose that in their eyes, the reporting has defamed the complainant/organization.*

**74.** In the case of *Ram Jethmalani (supra) it was* held that the standard of proof is not that the Court has to agree with the opinion, but is limited to determining ***whether the views could honestly have been held by a fair-minded person on the facts known to him.***

**75.** In essence, any statement which has a tendency to *injure the reputation of the person or lower him in the estimation of members of the society, results in loss of reputation and is defamatory*.

**76.** In the light of the aforesaid proposition of law, it is evident that the essential pre-requisite to establish that *the alleged imputation had in fact, lowered his reputation in the estimation of others* for summoning the Petitioner was not satisfied. Afterall, reputation is not what you think about yourself; it is wat others think about you.

**77.** However, in the present case, no independent witness was examined by the Complainant to establish that Complainant's reputation had been lowered in their eyes, after reading the Article. Mere assertion by the Complainant that he "*felt defamed"* is not sufficient to satisfy the ingredients of Section 499 IPC. **The mandatory requirement of establishing loss or harm to reputation in public estimation, has not been fulfilled.**

***Whether Complaint was barred by Limitation:***

**78.** Another issue which needs to be considered is the issue of limitation in filing of the Complaint. The offence of defamation is punishable under Section 500 IPC *with a maximum sentence of two years*. As per S.468 Cr.P.C., the limitation is of two years, for filing the Complaint.

**79.** In the present case, the Article got published in the magazine 'Times' on 14.12.2010, about which the Complainant came to know immediately, as he wrote an email dated 20.12.2010 protesting to the lines in the Article pertaining to him and his NGO.

**80.** However, the Complainant has asserted that on 26.09.2014, his colleague, Ms. Rineeta Naik and Ms. Sharada, brought to his notice through email Ex. CW1/C1 and email dated 09.10.2014 Ex. CW1/C2 respectively, that the Article was still in circulation and available on the website of NGO Post *of Time King.* The Complainant thus, asserted that this Article was republished by NGO Post blog, *thereby giving a fresh lease to the period of limitation.*

**81.** This contention raises the very interesting question of whether a fresh cause of action arises every moment if the offending material is left on the webpage which can be viewed by others at any time, or whether the cause of action arises only when the offending material is first posted on the webpage/internet. These may be termed as a ***Single Publication Rule*** or a ***Multiple Publication Rule***, respectively.

**82.** There were two conflicting legal positions on the issue. The United Kingdom originally followed the Multiple Publication Rule, a position also adopted in countries like Australia, Canada, and Germany. However, the UK has recently amended its law and now follows the Single Publication Rule.

**83.** The other principle of *Single Publication Rule* was essentially being followed in USA and France.

**84.** Earlier, UK Rule was that every time an Article or statement is published or republished, it created an individual, discrete, actionable,

defamatory statement upon which one can sue, generally, which is known as Multiple Publication Rule.

**85.** This Rule was first developed in England in the case of *Duke of Brunswick v. Harmer*, (1849) 14 QB 185. In the said case, the Duke was given a copy of the Newspaper in 1847, which contained material defamatory of him, which had been published 17 years earlier. While upholding the claim for damages as being within limitation, *the Court held that the limitation period of 06 years re-started when Duke viewed the publication.*

**86.** The Multiple Publication Rule was defined in a Consultation paper (*the Multiple Publication Rule CP 20/09*) by the UK Government as follows:-

> *(i) The effect of the Multiple Publication Rule is that* ***limitation*** *starts from the date of the last publication of the defamatory statement, allowing the affected party to sue many years after the statement was first made.*
> *(ii) This Multiple Rule has been followed by the Australian Courts in Dow Jones (supra). The High Court of Australia explicitly rejected calls to abolish the said rule in favour of the Single Publication Rule, by observing that the if this policy is adopted, it would be impossible for publisher on the internet to protect itself from all the laws in every jurisdiction of the world.*

**87.** This Multiple Publication Rule was followed in *Berezovsky v. Michaels, (2000) 1* WLR 1004 and *Loutchansky v. Times Newspapers Ltd.,* (2002) QB 783. The concern was raised about the maintenance of archives and re-publication of the material every time. *Moorland, J,* observed as under:

> *"Archive material is stale news and its publication cannot rank in importance with the dissemination of*

> *contemporary material. Nor do we believe that the law of defamation need inhibit the responsible maintenance of archives. Where it is known that archive material is or may be defamatory, the attachment of an appropriate notice warning against treating it as the truth will normally remove any sting from the material."*

**88.** In *Godfrey v. Demon Internet Limited*, (2001) QB 201, same rule was applied to the internet publication. The Judge observed that, "*In my judgment the defendants, whenever they transmit and whenever there is transmitted from the storage of their news server a defamatory posting, publish that posting to any subscriber to their ISP who accesses the newsgroup containing that posting."*

**89.** However, in an Appeal preferred against this case before European Court of Human Rights (ECHR), reported as *Times Newspaper Limited v. United Kingdom* (2009) EMLR 14, while recognizing the importance of the press in disseminating information and acting as a public watchdog, it was observed that the press also had the responsibility to protect the rights and reputation of the private individuals about whom it wrote. ***It was thus, held that interference with the rights of the press, as in the facts of the case, was not disproportionate.*** It was thus, concluded that newspapers could continue to maintain archives without fear of litigation had they placed a notice with the archived material, thereby indicating that it was a subject of litigation or had been found to contain defamatory comments, a solution offered by the Court of Appeal in that case. Since the action had been initiated within 18 months of the publication taking place, it was held that the defendant had not been required to defend an action many decades after the publication had been made.

**90.** It was further held that while an aggrieved Applicant must be afforded a real opportunity to vindicate his rights to reputation, libel proceedings brought against a Newspaper after a significant lapse of time, may well, in the absence of exceptional circumstances, give rise to a disproportionate interference with press freedom.

**91.** The ECHR did not interfere with the decision of the English Court on the facts of the case, but it indicated that if the action was brought after a significant lapse of time, the situation could well have been different.

**92.** The ***Canadian Courts and the Australian Courts followed this Multiple Publication Rule,*** and rejected the Single Publication Rule.

**93.** However, the ***American Courts accepted the Single Publication Rule***. As propounded by the American courts, it stated that the publication of a book, periodical, or newspaper containing defamatory material, gives rise to only one cause of action for defamation, which implies that the limitation period starts to run at the time when the first publication is made even if copies continue to be sold several years later.

**94.** This Single Publication Rule was developed in 1938 in respect of Newspapers, in the case of *Wolfson v. Syracuse Newspapers, Inc*, (1939) 279 NY 706. Then it was applied in 1948 to the case of *Gregoire v. G.P. Putnam's Sons*, (1948) 298 NY 119. The facts of this case were that a Book was originally put on sale in 1941 and was reprinted several times and was still was being sold from the stock, in 1946. It was held by the *New York Court of Appeal* that the limitation would commence to run from 1941, when the book was first put on sale. This Single Publication Rule is encapsulated in American Law Institutes Uniform Single Publication Act, 1952.

**95.** This Rule was followed in the New York Court of Appeal. In the case of *Firth v. State of New York* (2002) NY int 88. This Appeal presented the first occasion for the Court to determine how the defamation jurisprudence developed in connection with traditional mass media communications, applies to communications in the cyber space in the modern information age. In that case, Report had been published at a Press Conference on 16.12.1996 and was placed on the internet on the same day. The claimant, however, did not filed a Suit for over a year. The Court found that the ***limitation period*** started when the information was first placed on the website and not from each hit received.

**96.** ***Levine, J.*** observed that in addition to increasing the exposure of publishers to stale claims, if Multiple Publication Rule is applied to a communication distributed *via* mass media, it would permit a multiplicity of claims leading to potential harassment and excessive liability and draining of judicial resources. It was further held that the policy in spelling the original adoption of a ***Single Publication Rule***, "*are even more cogent when considered in connection with the exponential growth of the instantaneous worldwide ability to communicate through the internet*."

**97.** The alternative would give, "*even greater potential for endless retriggering of the statute of limitations, multiplicity of suits and harassment of defendants.*" It was held that if the Single Publication Rule is not upheld with regard to internet publications, then "*inevitably there would be serious inhibitory effect on the open pervasive dissemination of information and ideas over the internet, which is of course its greatest beneficial promise."* The Court rejected that republication, re-triggered the period of limitation. The only justification for the **exception** to Single Publication Rule was that

the subsequent publication *is intended to and actually reaches a new audience.*

**98.** The question whether the Single Publication Rule applies to Publication on the net, was considered by the Superior Court of New Jersey, Appellate Division, in *Scott Churchill v. State of New Jersey*, 378 N.J. Super. 471, wherein it was held that New Jersey follows the Single Publication Rule for mass publications, under which the Plaintiff alleges defamation as a single cause of action, which arises at the first publication of an alleged libel, regardless of the number of copies of the publication distributed or resold. It rejected the traditional Multiple Publication Rule, under which each repetition of a libel, for example, each sale of a publication, would create a new cause of action.

**99.** It was observed that the Single Publication Rule prevents the constant tolling of the statute of limitations, effectuating express legislative policy in favor of a short statute of limitation period for defamation. It also allows ease of management, whereby all the damages suffered by the plaintiff are consolidated into a single case, thereby preventing potential harassment of defendants through multiplicity of suits. The Single Publication Rule is more consistent with modern practices of mass production and widespread distribution of Multiple Publication Rule.

**100.** This question was again considered by the Superior Court of New Jersey, Appellate Division, in *Solomon v. Gannett Co. Inc* (Docket No. A-6160-11T4) decided on 26.06.2013. A plea was taken that the Suit for defamation was not time-barred because it had been re-published each time the Defendant changed advertisements on the site to reach a new or broader audience. The Court disagreed and held the Suit to be time-barred.

**101.** Pertinently, this ***Multiple Publication Rule*** has been abolished in Ireland by introduction of Defamation Act 2009. The Amendment notes that for the purpose of bringing a defamation action within the meaning of Defamation Act 2009, the date of accrual of the cause of action shall be the date on which the defamatory material ***is first published***, and where the statement is published through the medium of internet, the date on which it is first capable of being viewed or listened to through that medium.

**102.** Likewise, **United Kingdom** has changed the law with the enactment of Defamation Act, 2013. Section 8 introduced the ***Single Publication Rule.*** It provided that the cause of action against the person for defamation in respect of subsequent publication, is to be treated as having accrued on the date of first publication. It does not apply in relation to the subsequent publication, if the manner of that publication is materially different from the manner of the first publication.

**103.** All the aforesaid judgments as narrated above, were considered by a Coordinate Bench of this Court in the case of *Khawar Butt v. Asif Nazir Mir and Ors.*, 2013 SCC OnLine Del 4474, wherein reference was also made to the Article by ***Ursula Connolly titled "Multiple Publication and Online Defamation– Recent Reforms in Ireland and the United Kingdom,*** published in 2012 in Harvard Law Review, Vol. 123:1315 and an Article titled-*The Single Publication Rule and Online Copyright: Tensions Between Broadcast Licensing and Defamation Laws",* apart from the UK Government Consultation Paper, *"The Multiple Publication Rules CP 20/09,* and it was concluded that it is the policy of the law of limitation to bar the remedy beyond the prescribed period; that legislative policy would stand defeated if the mere continued residing of the defamatory material or Article

on the website were to give a continuous cause of action to the Plaintiff to sue for defamation libel. However, if there is republication resorted to by the Defendant with a view to reach the different or larger sections of the public in respect of the defamatory article or material, it would give rise to a fresh cause of action.

**104.** Though this judgment of *Khawar Butt* (supra), was in the context of Civil Suit for defamation, but fundamentally the same rule of limitation would apply even to the cases of defamation under the Cr.P.C. The principle of Single Publication would be applicable in the present case.

**105.** The Article first got published on the *Times* website on 14.12.2010. The Complainant had further asserted that on 26.09.2014, Ms. Rineeta Naik, *via* email, brought to his notice that the article was still in circulation and was available on website of *Times Inc* which is Ex.CW1/CI. Likewise, Ms. Sharda also gave similar information *vide* email Ex.CW1/CII. Complainant claimed that this defamatory article had been republished on 26.12.2010 on the Website *NGO Post* and is exhibited as Ex.CW1/E.

**106.** It is asserted by the Complainant that this republished article does not mention of any protest or Complaint sent by the him to *Time Inc.* and he had not contacted Accused No.3/Ms. Adarsh Rao, blogger, *NGO post* and Accused No.4/Ms. Parul Gupta, Editor, *NGO post* before republication of defamatory article.

**107.** Pertinently, there is no averment whatsoever on behalf of the Complainant that the alleged republication was done by the Petitioner. In fact, Accused No.3/Ms. Adarsh Rao and Accused No.4/Ms. Parul Gupta have been arrayed as the persons responsible for this alleged republication, who have not approached this Court.

**108.** Be as it may, the limitation for filing a Complaint of *criminal defamation* as per Section 468 Cr.P.C, is three years. Therefore, the Complaint to claim defamation *vis-à-vis* this Article that got first published by the Petitioner in 2010 is patently barred by limitation, as the Complaint was filed on 11.11.2014.

**109.** The Complainant has relied upon the case of *Sanjay Kumar* (supra), to contend that the period of limitation must be computed from the date of knowledge of the offence. However, the said case is in regards to offences under Drugs & Cosmetics Act and the same is not applicable to the facts at hand.

**110.** In any case, it is pertinent to note that the Complainant was admittedly aware of the original Article as early as December 2010, yet chose to remain silent for nearly four years, when the Complaint was filed on 11.11.2014. It is therefore, held that this Complaint was patently barred by limitation.

***Conclusion:***

**111.** Accordingly, it is held that no offence of defamation is disclosed against the Petitioner, Nilanjana Bhowmick. Also the Complaint is barred by limitation. Nilanjana Bhowmick is hereby discharged and the proceedings in Criminal Complaint No. 33305/2016 against the Petitioner, is quashed.

**112.** The Petitions stand disposed of in the above terms. Pending Application(s), if any, disposed of, accordingly.

**(NEENA BANSAL KRISHNA)**
**JUDGE**

**NOVEMBER 17, 2025**
*N*