

IN THE COURT OF MS. NEHA MITTAL
ADDITIONAL CHIEF JUDICIAL MAGISTRATE-03
ROUSE AVENUE DISTRICT COURT, NEW DELHI

CNR No. DLCT12-000176-2026

Ct. No. 08/2026

PS: Barakhamba

Parvesh Sahib Singh Vs. Saurabh Bharadwaj



10.10.2026

ORDER ON COGNIZANCE

1. The complainant has filed the present complaint under Section 223 BNSS for the alleged commission of offence of defamation punishable under Section 356 BNS by the proposed accused Saurabh Bharadwaj.

2. The complainant has stated that he is a public figure currently serving as Cabinet Minister in the Government of NCT Delhi, holding portfolios including PWD, Legislative Affairs, Irrigation and Flood Control, Water and Gurudwara Elections. He has been Member of Parliament (2014-2024) and is presently Member of Legislative Assembly from New Delhi since 2025.

3. The genesis of the present complaint are the alleged defamatory tweets and videos posted by the proposed accused on his X(twitter) handle @Saurabh_MLAgk and one video posted on YouTube. For the sake of convenience and better appreciation of facts, the contents of the said tweets are being reproduced as under:

**NEHA
MITTAL**

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:20:34 +0530

Tweet on 15.05.2026 at 02:19 PM

“Mother of the victim said about some political connection of school. A person closed to Minister Parvesh Verma has thanked the Minister for making him trustee in it.

Why is Minister @ashishsood_bjp not making this Trust’s file public? How can Minister Parvesh Verma make someone trustee in a private school’s trust ? Why was this facebook post deleted?”

Tweet on 15.05.2026 at 05:25 PM

“This was a facebook post. In it, ‘Amarjeet Singh Babboo’ is thanking Minister @p_sahibsingh for being appointed as a Trustee of SS Mota Singh School.

This man is a close associate of Minister Parvesh Verma, so how could Parvesh Verma make him a trustee in a trust worth nearly Rs. 500 crore? Does the trust belong to Parvesh Verma? Why isn’t CM @gupta_rekha and @ashishsood_bjp making the file of this trust public? Why has the trust’s file disappeared?”



Tweet on 16.05.2026 at 09:27 AM

“Listen Minister Parvesh Verma @p_sahibsingh. We are not afraid of your defamation lawsuits. It has been 14 days since this rape case, you have been the MP for this area since last 10 years, now you are a Minister, but your mouth has not opened.

You did not say that you will ensure justice for this 3 year old girl. Your close associate ‘Amarjeet Singh Babboo’ is thanking you for making him the school’s trustee via facebook post, you didn’t say anything then and it was not even considered as defamation.

You did not say, where the school trust file went missing in the Government or that your Government will make the file public. You did not say that you will file defamation case against your close associate ‘Amarjeet Singh Babboo’. You did not say that you will talk to Police Commissioner to ensure justice.

You and your Government may do whatever you can, I am not afraid of your defamation case.”

4. It is alleged by the complainant that the proposed accused has lowered the reputation of the complainant in the eyes of the public by making above-said insinuations of corruption, nepotism and file suppression. Apart from the above quoted tweets, the proposed accused also posted some videos casting allegations of use of influence by the complainant to favor some accused in a POCSO case and other allegations pertaining to a school trust and appointment of the complainant’s alleged close associate ‘Amarjeet Singh Babboo’ as a trustee. It is alleged that the proposed accused made these statements without any verification or due diligence, solely with ulterior motive of gaining political mileage and tarnishing the image of the complainant. The transcript of the videos is also being reproduced for ready reference-

Digitally
signed by
NEHA
MITTAL
Date:
2026.10.10
14:21:00
+0530

Transcript of video dated 15.05.2026:

“April mein picchle maheene ek facebook par post daali gayi. Uss Facebook par jo post daali gayi usko Amarjeet Singh Babbu karke ek vyakti hai jinko Parvesh Verma sahab ka kareebi bataya jata hai unhone ye post Facebook par daali aur kya likha, mujhe SS Mota Singh Singh School (Neela) charitable trust ka trustee banaane par delhi ke lokpriya mantri Parvesh Verma ji ko bhot bhot dhanyawaad aur Parvesh Verma ko tag kiya hai.

Parvesh Verma, ek aadmi facebook par Parvesh verma delhi ke mantri ko dhanyawaad de raha hai ki aapne mujhe SS Mota Singh trust ke andar trustee banadiya hai.

Parvesh Verma ka trust hai? Trustee kaun banata hai? Parvesh Verma ne trustee banwa diya Parvesh Verma ne banwadiya hai sawal uthta hai kya ye Parvesh Verma ka trust hai?

Parvesh Verma ka iss trust mein kya hai jo ki aadmi ko trustee bana sakte hai aur thodi der baad ye facebook past delete kardi gayi.”

Transcript of Youtube video dated 16.05.2026:

“Toh 3 saal ki bachchi ke balaatkaar ke maamle mein aaj Mantri Parvesh Verma mujhe dhamka rahe hai ki maan haani kar denge, arey kardo

14 din se 3 saal ki chhoti si bacchi ke maa baap nyaay ke liye bhatak rahe hai inka mooh nahi khula.

Ye ussi Paschim Delhi ke 10 saal saansad rahe hai, 10 saal aur ab mantri hai. Chup the bilkul.

Hum keh rahe hai ki iske andar kaun log hai jo SS Mota Singh School ke trust ke andar naye trustee bane mantri ji chup the.

Humne kaha SS mota singh school ke trust ki file kaise sarkar ke yaha se gayab hogayi?

Aashish sood jo doosre mantri hai wo kood rahe hai. Keh rahe hai Saurabh Bhardwaj naam bataye. Arey file tumhare paas mai kaha se naam batau, file ko saarvajanik karo. Parvesh Verma ji ne ye nahi kaha

ki mai file ko saarvajanik karwaaunga. Hamari sarkar kaise file ko gayab kar sakti hai. Ye lo file ye dekho na na na na.

Parvesh verma ke kareebi Amarjeet Singh Babbu wo post daalte hai Facebook pe aur dhanyawaad karte hai Parvesh Verma ko ki aap ne mujhe SS Mota Singh School ke andar trustee bana diya uss par maanhaani ni karengee, humne jo unki Facebook post bahar kardi uspe maanhani ki dhamki de rahe hai kyu kyuki inhone socha tha file to gayab hai kaise log bataayenge ki kin logo ko trustee banaya jaa raha hai kis tareeke se school kuchh logo ke haatho se doosre logo ke haatho mein jaara hai. 500 cr rupay ki Sampatti kaise idhar se udhar ho rahi hai hume pata hi nahi chalega file hi nahi hogi.

Arey mantri ji tumhare maanhaani se nahi darrte jitne maanhaani karne hai karlo, magar ghar se niklo toh apni do betiyo ki shakal dekh ke sochna ki jiska balaatkaar huya hai wo bhi kisi ki beti hai aur agar aatma jaag jaaye to apni sarkar se kehna iss trust ki file ko saarvajanik kiya jaaye aur agar aatma jag jaaye to kehna ki uss bachhi ko hum nyay dilayenge wo bachhi hamari bhi bachhi hai. Maan haani waan haani se na darte tumhari karlo jitni karni hai.”

5. It is further stated in the complaint that immediately after the publication of the defamatory tweets, the complainant received numerous calls and messages from friends, well-wishers, media persons and members of the public expressing shock and concern. The tweets have caused irreparable damage to the personal and political reputation of the complainant and have lowered him in the estimation of right thinking members of society. Hence, the present complaint has been filed.

Examination of Complainant and his witnesses:

6. In pursuance of observations made by Hon’ble Delhi High Court in ‘*Dr. Rita Bakshi vs Seema Bajaj & Anr; CRL.M.C. 2551/2025*’, to the effect that the recording of statement of

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:21:14 +0530

complainant and witnesses is a step prior to taking cognizance of the offence, and that only after recording such statements does the question arise of affording an opportunity of hearing to the accused- before cognizance is formally taken- as per first proviso to section 223(1) BNSS; the complainant and his witnesses were examined as CW-1 to CW-4.

7. The complainant was examined as CW-1 and he reiterated the allegations made in the complaint. For the sake of brevity, his testimony is not being reproduced here and shall be discussed at the appropriate stage. He has relied upon following documents:

<u>Particulars</u>	<u>Exhibits</u>
Copy of Tweet dated 15.05.2026 at 02:19 PM	Ex. C1
Pen-drive containing video dated 15.05.2026 at 02:19 PM	Ex. C2
Video having file name "Video dated 15.05.2026 at 0219 PM.mp4"	Ex C2/1
Copy of Tweet dated 15.05.2026 at 05:25 PM	Ex. C3
Copy of Tweet dated 16.05.2026 at 09:27 PM	Ex. C4
Video having file name "Video dated 16.05.2026 at 09:27 AM.mp4"	Ex.C2/2
Video having file name "Youtube Video dated 16.05.2026.mp4"	Ex.C2/3
Certificate u/s 63 of BSA	Ex. C5
Copy of Legal Notice dated 16.05.2026	Ex. C6
Copy of Email dated 16.05.2026	Ex.C7

**NEHA
MITTAL**

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:21:19 +0530

Speed Post receipt dated 16.05.2026	Ex. C8
Tracking report	Ex.C9
Special Power of Attorney dated 19.05.2026	Ex. C10
Complaint	Ex.C11
Affidavit in support of complaint	Ex.C12
Certificate dated 23.07.2026	Ex.C13
Tweet dated 15.05.2026 at 02:19 PM in Pen-drive Ex.CW-4/5	Ex.C-14
Video dated 15.05.2026 at 02:19 PM posted on X handle in Pen-drive Ex.CW-4/5	Ex.C-15
Tweet dated 15.05.2026 at 05:25 PM posted on X handle in Pen-drive Ex.CW-4/5	Ex.C-16
Tweet dated 16.05.2026 at 09:27 AM posted on X Handle in Pen-drive Ex.CW-4/5	Ex.C-17
Video dated 16.05.2026 at 09:27 AM posted on X Handle in Pen-drive Ex.CW-4/5	Ex C-18
Video posted on youtube by Delhitak on 17.05.2026 in Pen-drive Ex.CW-4/5	Ex. C-19

8. Sh. Shakti Singh Sehrawat was examined as CW-2, who stated that he has family relations with the complainant's family. He stated that he saw the alleged defamatory tweets and videos posted on 15.05.2026 and 16.05.2026 by the proposed accused on social media platform X. He stated that he was shocked to read the tweets and see the videos upon which he asked the complainant about this incident

who explained him that the said tweets were made and videos were posted only with the intent to harm his reputation.

9. Kulbhushan Jain was examined as CW-3, who also deposed on the same lines as CW-2. He further stated that after seeing the alleged defamatory tweets, he started thinking that the complainant has indeed done something illegal and that it is only after talking to the complainant, he started feeling a bit positive about him.

10. Sh. Yashdeep Chaturvedi, who was examined as CW-4, was Cyber Law and Cyber Forensic Expert. He proved the following documents:

<u>Particulars</u>	<u>Exhibits</u>
Certificate dated 23.07.2026	Ex. CW-4/1
Details of Digital record	Ex. CW-4/2
Device detail	Ex. CW-4/3
Hash report	Ex. CW-4/4
Pen-drive containing digital record	Ex. CW-4/5

11. Thereafter, vide separate statement of the complainant dated 08.08.2026, PSE was closed. Vide order dated 08.08.2026, notice was issued to the proposed accused as per proviso to Section 223(1) BNSS.

Arguments:

12. Ld. Counsel for complainant has argued that complainant holds high reputation in the society on account of his professional

standing and family background and irreparable damage has been caused to the reputation of the complainant by the defamatory tweets and videos posted by the proposed accused on social media platform X. It has further been argued that there is not even an iota of truth in the allegations made against the complainant. It has further been argued that the statements made by proposed accused in the tweets and videos has to be judged by the standard of a reasonable man and not that of a person of high intellect. The proposed accused could have shown his due diligence in eliciting the required information regarding the SS Mota Singh Trust by filing RTI application in Education Department but he chose to make imputations against the complainant by clothing them as questions. It has further been argued that all the electronic evidence has been duly proved on record as per Section 63 of *Bharatiya Sakshya Adhiniyam* (hereinafter referred to as 'BSA'). With these submissions, it is prayed that matter on record is sufficient to take cognizance. Ld. Counsel has relied upon the following judgments in support of his arguments:-

(i) Pandey Surender Nath Sinha vs. Bageshwari AIR 1961 Pat 164.

(ii) Order dated 30.09.2026 passed in SLP (Crl.) No. 13279/2024.

(iii) Iveco Magirus Brandschutztechnik GMBH vs. Nirmal Kishore Bhartiya (2024) 2 SCC 86.

(iv) Fiona Shrikhande vs. State of Maharashtra and Anr. (2013) 14 SCC 44

(v) Jeffrey J. Diermeier and Anr. Vs. State of West Bengal (2010) 6 SCC 243.

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:21:41 +0530

13. On the other hand, it has been argued by Ld. Counsel for proposed accused that no offence of defamation is made out from the facts averred in the present complaint for the following reasons :-

(i) That the alleged defamatory tweets and videos, even if seen in entirety, do not make out any case of defamation against the proposed accused as no allegations have been hurled upon the complainant by him and only questions have been asked from him. It is further argued that asking of questions cannot amount to defamation by any stretch of imagination. In this regard, he has relied upon judgment "*Manoj Kumar Tiwari vs. Manish Sisodia & Ors., (2023)15 SCC 401*".

(ii) That whatever was said by the proposed accused was in good faith;

(iii) That no material has been brought on record to show that the reputation of the complainant was lowered by the tweets and videos posted by the proposed accused. It has been argued that CW-2 has merely stated in his deposition that he was utterly disappointed that talks in the given fashion were being made about such a person (complainant). With regard to the testimony of CW-3, it has been argued that as the witness has stated in the latter part of his testimony that he started feeling a bit positive about the complainant after talking to him, the offense of defamation is not made out.

(iv) That there are contradictions in the testimonies of the complainant and the witness examined by him. The

NEHA
MITTAL
Digitally
signed by
NEHA
MITTAL
Date:
2026.10.10
14:21:46
+0530

complainant has stated in his testimony dated 04.07.2026 that his acquaintances who came to meet him mentioned about these posts whereas CW-2 has stated that he talked to the complainant over phone.

14. Ld. counsel for proposed accused has relied upon following judgments:-

(1) Mammen Mathew vs. State of Kerala Crl. MC No. 3558 of 2024:- In this case, the alleged defamatory material was a record of an official proceeding and hence, the proceedings were quashed. This is not so in present case. Hence, this judgment is of no help of the proposed accused.

(2) Kishore Balkrishna Nand vs. State of Maharashtra (2023) 8 SCC 358:- The said judgment is inapplicable to the facts of the present case as it deals with Exception 8 to Section 499 IPC which provides that it not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with regard to the subject matter of accusation. In the present case, the accusation is not alleged to have been made to any lawful authority. Hence, this judgment is of no help to the proposed accused.

(3) Jaideep Bose vs. Bid and Hammer Auctioneers 2025 SCC OnLine SC 348:- This judgment deals with the criminal liability of editorial Director and other office bearers in case of publication of defamatory material in

**NEHA
MITTAL**

Digitally signed by
NEHA MITTAL
Date: 2026.10.10
14:21:52 +0530

print media. No such question is involved in the present case.

15. In rebuttal, Ld. Counsel for complainant has argued that the summoning order qua one of the accused was set aside in *Manoj Kumar Tiwari's* judgment (*supra*) as the accused therein had merely asked questions seeking answers to certain facts relating to the construction of some buildings. It has been argued that a perusal of the question asked in the said case shows that the same were direct questions not carrying any indirect imputation, as is the situation in the present case.

16. Having heard the arguments of both the parties, this Court has perused the entire record of the case and gone through the judgments relied upon by the parties. Written submissions filed by the parties have also been perused.

Meaning of 'cognizance'

17. In order to determine whether the material on record meets the threshold required for taking cognizance, it would be apposite to know the exact meaning and import of the said term. The expression cognizance signifies the application of judicial mind by the Magistrate to the facts of the case for purpose of proceeding in a particular manner.

18. It has been held by Hon'ble High Court of Delhi in judgment "*Omlata & Ors Vs. State of NCT of Delhi & Anr.*" bearing CRL.M.C. 6195/2023 as under:-

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:21:57 +0530

“At the time of taking cognizance, a Magistrate is required to judicially apply the mind and be satisfied on the basis of the facts what are borne out from the statement of the complainant as made in the complaint or what are borne out from the report of the Investigating Officer involved or what are the surrounding facts and circumstances based on the prima facie documents and materials in existence or what the contents of the FIR are. The Magistrate is to be aware of the situation/ position as it is at the time of taking cognizance because what is before him are mere allegations which are nothing but a bundle of facts made by a complainant at the preliminary stage which are yet to be tested.

12. In effect, it is the satisfaction of the Magistrate which plays a predominant role while taking cognizance coupled with the fact that there are enough materials to convince him for taking such cognizance. The order passed by the Magistrate taking cognizance has to be a speaking one justifying the steps taken by him which convinced him of taking cognizance. Such order has to be expressive and reflective of the bare minimum reasons. The order taking such cognizance ought to reflect that the Magistrate is indeed aware of and has knowledge of the facts involved. The said order should sound convincing.

13. Any order by which the Magistrate is taking cognizance ought not to be a routine exercise which is a mere knee-jerk reaction which is automated. If there is such an order taking cognizance then the same would be perfunctory and not reflective of the Magistrate having applied its mind. The Magistrate cannot be mechanical in his approach. More so, whence at the end of the day the Magistrate is setting into motion the judicial machinery against the alleged accused person which inevitably involve their personal liberty and freedom. Therefore, the Magistrate must necessarily exercise due care, caution and precaution while taking all the relevant factor(s) into consideration. However, it in no way means that the Magistrate has to give detailed reasons while taking cognizance as the Magistrate, while taking cognizance, has to only ensure that he does not pass a blanket order without expressing his opinion and judicial mind.”

(emphasis supplied by me)

Digitally
signed by
NEHA
MITTAL
Date:
2026.10.10
14:22:03
+0530

NEHA
MITTAL

Scope of Pre-cognizance hearing

19. The proviso to section 223(1) BNSS provides that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard. The purpose of granting pre-cognizance hearing to the accused is to avoid the issue of process in those cases where it is either false or vexatious or projected only to harass such a person. The Calcutta High Court has recently discussed the scope of a court's inquiry at the pre-cognizance stage in ***Kaberi Dey v. Sourav Bhattacharjee 2025 SCC Online Cal 5928***. The court referred to the oft-quoted principle in Indian law that a court takes cognizance of an offence, and not of the offender. Relying on this principle, the Calcutta High Court made the following observations:

“At the cost of repetition it can be said that at the stage of taking cognizance, the role of an individual accused is not germane for consideration. Therefore, the scope and ambit of hearing proposed accused at the pre-cognizance stage is extremely limited. No defence of an accused can be taken into consideration at this stage. The words ‘giving the accused an opportunity of being heard’ is confined only to take an exception by the proposed accused to the taking of cognizance to the extent of jurisdictional error, taking of cognizance on a time barred complaint without condoning delay, taking of cognizance without obtaining sanction in a given case and/or taking of cognizance by a court not competent to take cognizance on account of existence of special court or on the issue of locus and/or inherent or technical defect in the complaint etc. A proposed accused can also demonstrate that the allegations in the complaint are so preposterous, obnoxious and outrageous that no semblance of offence is made out for taking cognizance. However in order to demonstrate that no offence has been disclosed, the proposed accused would not be entitled to produce any document or lay his defence beyond the complaint because the pre-cognizance enquiry is offence centric and not offender centric. Naturally at this stage accused is not supposed to argue that no process should be issued

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:22:08 +0530

against him as the inquiry of this stage is offence- centric inquiry and not the offender-centric inquiry and since the scope of examination at the stage of cognizance is extremely narrow and therefore no detailed hearing can be afforded to a proposed accused.”

(emphasis supplied by me)

Analysis:

20. It is in the backdrop of the aforesaid legal proposition that this court is required to decide if there is sufficient material on record to take cognizance for the offence of defamation. Section 356 BNS 2023 defines the offence of defamation as under :-

“356. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes in any manner, any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1: *It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.*

Explanation 2: *It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.*

Explanation 3: *An imputation in the form of an alternative or expressed ironically, may amount to defamation.*

Explanation 4: *No imputation is said to harm a person’s reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.”*

21. Thus, the essential ingredients for constituting the offence of defamation are as under :-

**NEHA
MITTAL**

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:22:16 +0530

- (i) Making or publishing any imputation concerning a person;
- (ii) Such imputation must have been made by words either spoken or intended to be read or by signs or by visible representation;
- (iii) The said imputation must have been made with the intention of harming or with the knowledge or having reason to believe that it will harm the reputation of the person concerned.

22. Harm to a person's reputation has been explained in Explanation-4 as lowering the moral or intellectual character of the person in the estimation of others or lowering the character of the person in respect of his caste or of his calling or lowering the credit of that person.

23. The general test of the defamatory nature of a statement is its tendency to excite against the plaintiff the adverse opinions or feelings of other persons. The statement is judged by the standard of opinion which prevails among ordinary, right-thinking members of society, reasonable people of time and place, and not the opinion which prevailed in another time, or in another country or among a special class or abnormally constituted people. Hence, the test is an objective one, and it is no defence to any that the statement was not intended to be defamatory, or uttered by way of a joke.

24. The balance between freedom of speech and expression and the offence of defamation has always been a legal battlefield. While emphasizing the importance of freedom of speech and expression in

dealing with cases of defamation, it has been held by the Apex Court in **S Khushboo vs Kanniammal (2010) 5 SCC 600** as under :-

“It is not the task of the criminal law to punish individuals merely for expressing unpopular views. The threshold for placing reasonable restrictions on the ‘freedom of speech and expression’ is indeed a very high one and there should be a presumption in favour of the accused in such cases. It is only when the complainants produce materials that support a prima facie case for a statutory offence that Magistrates can proceed to take cognizance of the same. We must be mindful that the initiation of a criminal trial is a process which carries an implicit degree of coercion and it should not be triggered by false and frivolous complaints, amounting to harassment and humiliation to the accused.”

25. A useful reference to a decision of this Court in “**Patricia Mukhim v. State of Meghalaya, AIR 2021 SC 1632** can be made at this stage. Relevant portion reads thus :

“8. It is of utmost importance to keep all speech free in order for the truth to emerge and have a civil society.’— Thomas Jefferson. Freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution is a very valuable fundamental right. However, the right is not absolute. Reasonable restrictions can be placed on the right of free speech and expression in the interest of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of Court, defamation or incitement to an offence.”

Threshold for defamation in matters involving public discourse between political personalities:

26. This threshold stands elevated in matters involving public discourse between political personalities and political parties. Rightly relied upon by the Ld. counsel for complainant, the ‘high threshold’ test for defamation has been reiterated by the Hon’ble Supreme Court through its order dated 30.09.2024 in Arvind Kejriwal & Anr. Vs.

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:22:43 +0530

State Petition for Special Leave to Appeal (Crl.)No (s). 13279/2024 and order dated 10.09.2024 in Shashi Tharoor vs State of NCT Delhi 2024 SCC OnLine SC 2543. In order dated 30.09.2024 passed in **Arvind Kejriwal & Anr. Vs. State**, it has been observed as under :-

“In a democratic nation like India, freedom of speech is a fundamental right guaranteed under Article 19(1)(a) of the Constitution. Therefore, a defamatory complaint under Section 499 of the IPC must necessarily be made by ‘some person aggrieved’ under Section 199 of the Cr.P.C. As such, the threshold has to be higher than usual, especially in context of public discourse amongst political personalities and parties.”

27. This Court also recalls the following observation of *Bramwell, B.*, in **Kelly v. Sherlock, (1866) LR 1 QB 686, 689 :**

“Whoever fills a public position renders himself open thereto. He must accept an attack as a necessary, though unpleasant, appendage to his office.”

28. Reference is also being made to the following observations of Cockburn, C.J. in **Seymour v. Butterworth, (1862) 3 F. & F. 372:**

“Those who fill a public position must not be too thin skinned in reference to comments made upon them. It would often happen that observations would be made upon public ‘men which they know from the bottom of their hearts were undeserved and unjust; yet they must bear with them and submit to be misunderstood for a time.”

29. The above two judicial opinions were affirmatively considered by the Apex Court in **Kartar Singh v. State of Punjab, (1956) 1 SCC 692**, while holding as under:

“13. These slogans were certainly defamatory of the Transport Minister and the Chief Minister of the Punjab Government but the redress of that grievance was personal to these individuals and the State authorities could not take the cudgels on their behalf by having recourse to Section 9 of the Act unless and until the defamation of

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:22:48 +0530

these individuals was prejudicial to the security of the State or the maintenance of public order. So far as these individuals were concerned, they did not take any notice of these vulgar abuses and appeared to have considered the whole thing as beneath their notice. Their conduct in this behalf was consistent with the best traditions of democracy.Public men in such positions may as well think it worth their while to ignore such vulgar criticisms and abuses hurled against them rather than give an importance to the same by prosecuting the persons responsible for the same.

(emphasis supplied by me)

30. The identification of defamation as an offence presents a conundrum in liberal democracies, especially when dealing with speeches made by politicians. The culpability of a political opponent, the proposed accused herein, has to be determined in light of not only the constitutionally guaranteed freedom of speech and expression but also the willingness of the government to accept criticism and hence, the higher threshold requirement in such cases.

31. It is upon this elevated platform that the statements made by the proposed accused are to be adjudged as the complainant and the proposed accused, both are members of different political parties. Since the proposed accused does not deny having the posted the tweets and videos in question, the limited question of analyzing the tweets and videos from the lens of Section 356 BNS remains.

(a) Reproduction of existing material – negates the knowledge or intention contemplated for the offence:

32. Perusal of the tweets Ex. C-1 and Ex. C-3 made by the proposed accused shows that he has stated the fact that one ‘Amarjeet Singh Baboo’ has thanked the Minister (complainant herein) for appointing him as the trustee of the school. A perusal of tweet Ex. C-3

NEHA
MITTAL

Digitally signed
by NEHA
MITTAL
Date: 2026.10.10
14:22:55 +0530

shows that proposed accused has quoted a facebook post made by said Amarjeet Singh Baboo in which he is indeed thanking the complainant, as stated above. At this stage, it is relevant to note that CW-1/complainant has specifically stated in his examination dated 04.07.2026 that he is not associated with Amarjit Singh Baboo in any manner and was not involved in his appointment as a trustee. If this is so, then in the opinion of this Court, it is Amarjit Singh Baboo who publicly made a false statement. The proposed accused cannot be dragged into the net of criminal prosecution merely for reproducing a fact which was already in public domain, being posted on social media platform Facebook, and not repudiated/denied by the complainant till date.

33. The complainant has tried to question the veracity of the Facebook post allegedly made by Amarjit Singh Baboo during arguments. However, it is to be noted that no such stand has been taken by the complainant either in his complaint or in his examination u/s 223 BNSS. Even at the time of relying upon the tweet Ex. C3 during his examination, no such statement was made on behalf of the complainant. Thus, this argument appears to be an afterthought. The complainant cannot be allowed to challenge a document at the stage of arguments when he was relying on such document throughout the proceedings.

(b) Defence of good faith:

34. Ld. Counsel for complainant has also relied upon *Iveco's* judgment (supra) to bring home the point that the statements in the posts and videos were made by the proposed accused without

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:23:02 +0530

exercising due care and caution and hence, the defence of good faith cannot be taken by him.

35. The first question that arises is what is the appropriate stage at which the benefit of defences to the offence of defamation can be conferred upon the accused. In para 60 of the *Iveco's* judgment (*supra*), it has been observed that if the materials (including complaint and statement of witnesses) 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.

36. In the present case, as already discussed above, the statements of the proposed accused are based upon the Facebook tweet of Amarjit Singh Babbu, as reflected in Ex. C-3. It is not expected of a prudent man exercising reasonable diligence to embark upon an inquiry to verify the facts of the Facebook posts before making any comments on the same. Whatever has been said or posted by the proposed accused is an offshoot of the Facebook post made by Amarjit Singh Baboo.

37. Hence, this Court is of the opinion that requisite intention for constituting the offence of defamation is not present.

(c) Alleged statements do not amount to imputations:

38. After going through the record, this court is of the considered opinion that the statements made by the proposed accused were inquisitive in nature. Though the questions in the present case are not as direct as were in *Manoj Kumar Tiwari's* judgment (*supra*) but they cannot be taken out of the purview of the word 'questions'. A

reasonable person reading those tweets would carry an impression of lackadaisical attitude of the government and not become critical of only the complainant.

39. Extensive stress has also been given by Ld. Counsel for complainant on the statement made by the proposed accused in his video dated 16.05.2026 (Ex. C-18). It is argued that the proposed accused has not put bare questions to the complainant but the questions are laced with statements/imputations. However, this Court is of the opinion that after watching the video Ex. C-2/2, the impression which is created is that the government is responsible for hiding the file. The relevant portion of his statement in this regard is as under:

“Humne kaha SS Mota Singh school ke trust ki file kaise sarkar ke yaha se gayab ho gayi?..... Parvesh Verma Ji ne ye nahi kaha ki mein file ko sarvajanik karvaunga, hamari sarkar kaise file ko gayab kar sakti hai.”

40. As the succeeding imputations are in continuance of the above quoted portion, the entire statement has to be read as a whole. The proposed accused has rather blamed the Government on the issue of missing file. The imputations against the complainant are more in the nature of a call to him to take a firm stand against the government on this issue.

41. Merely asking questions from another, especially from a person acting as a representative of the public in the Parliament, regarding any law & order situation or for that purpose, any other matter, cannot amount to defamation. Any contrary view will rather be a dark spell in the era of democracy paving way for utter disregard of

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:23:11 +0530

the constitutional rights. In a democracy, it is not only the right of the press and the public to ask the government questions, it is also the job of the government and the elected officials to, at times, listen to opinions which are different from their own.

42. Hence, this Court is of the opinion that the statements of the proposed accused do not amount to imputations.

(d) Statements were made in discharge of moral duty by the proposed accused:

43. It is also relevant to note the observations made by Hon'ble Patna High Court in judgment relied upon by the Ld. Counsel for complainant '**Pandey Surendra Nath Sinha And Anr. vs Bageshwari Pd. AIR 1961 PATNA 164**'. The same are reproduced as under :-

“ A statement made in the performance of a duty is conditionally privileged if it is made in the performance of any legal or moral duty imposed upon the person making it, provided that the person to whom the statement is made has a corresponding interest or duty to receive it. This is not to say that both the parties must have a duty, or both an interest: one may have an interest and the other a duty. A statement made in the protection of an interest, even when there is no duty to make the statement, is nevertheless privilege if it is made in the protection of some lawful interest of the person making it; for example, if it is made in the defence of his own property or reputation. But here also there must be reciprocity. There must be an interest to be protected on one side and a duty to protect it on the other.”

44. In the opinion of this Court, the above quoted judgment rather goes against the case of the complainant. In the said judgment, immunity from the offence of defamation has been given as a conditional privilege if the statement was made in performance of some legal or moral duty. In the present case, the proposed accused is the Official spokesperson of Aam Aadmi Party which is the official

NEHA
MITTAL

Digitally signed
by NEHA MITTAL
Date: 2026.10.10
14:23:16 +0530

opposition in the Delhi Legislative Assembly. Thus, he owes a duty to the general public not only to put questions to those in power but also to highlight their shortcomings, criticise the government actions and scrutinize their policies by acting as a watchdog. The entire framework has been developed in such a manner so as to restrict the ruling party from misusing power or developing authoritarian tendencies. Simultaneously, the public has both; right and interest; to know about the same. Viewed from this perspective, the statements made by the proposed accused squarely fits in this frame.

(e) Complainant approaching the Court with ‘unclean hands’:

45. It is also pertinent to note that the proposed accused had filed an application u/s 94 BNSS seeking directions for preservation of certain digital evidence (posts on different social media platforms). In reply to the said application filed on behalf of complainant, the copy of the posts appended at internal page No. 14, 15, 17, 25 and 26 are admitted to have been posted from the account of complainant. It is being clarified that the said documents, though filed by the proposed accused, are being referred to at this stage as the same have been admitted by the complainant. A perusal of the Facebook post made from the account of complainant at page No. 15 shows that the complainant has expressed his gratitude to ‘Babbu Ji’ amongst others for organizing the medical camp in memory of his late father. Further, it is clearly comprehensible from the Facebook post made from the account of complainant at page No. 25 that the complainant knows Amarjit Singh Baboo since his college days and has thus greeted him on his birthday. An attempt has been made by the Ld. Counsel for complainant to explain these posts by saying that as the complainant is

a public figure, he gets his picture clicked with thousands of persons and only because of this reason, he cannot be said to be associated with all of them. This explanation does not find favor with this Court as the complainant has specifically posted his photo with Amarjit Singh Baboo for extending his greetings on his birthday, which the complainant is certainly not expected to know of the random thousand people he gets clicked with. This association of the complainant with Amarjit Singh Baboo contradicts the statement of complainant made by him in his examination dated 04.07.2026 to the effect that he is not associated with Amarjit Singh Baboo in any manner. Ld Counsel for complainant has also heavily relied upon the meaning of the term 'associate' by referring to Advanced Legal Lexicon Dictionary to put forth his point that there was no community of interest between the complainant and Amarjit Singh Baboo. However, it be noted that community of interest is not the sole criteria to determine if one is associate of another. 'Companion or friend or known person' can also be termed as associate in common parlance. In the present case, as the complainant knows Amarjit since his college days, there is no impediment in considering them as associated with each other.

46. These facts *prima facie* show that the complainant did not approach the Court with clean hands. It is to be noted that the people, who approach the Court for relief, are under a contract with the Court that they would state the whole case fully and fairly to the Court and where the litigant has broken such faith, the discretion of the Court cannot be exercised in favour of such a litigant. The obligation towards the Court to approach with clean hands is an absolute obligation. A litigant who attempts to pollute the stream of justice or

**NEHA
MITTAL**

Digitally signed by
NEHA MITTAL
Date: 2026.10.10
14:23:26 +0530

who touches the pure foundation of justice with tainted hands is not entitled to any relief. No litigant should be permitted to misuse the judicial process by filing frivolous petition.

47. Easy access to justice should not be used as a license to file misconceived and frivolous petition. No litigant can play 'hide and seek' with the Courts. Suppression of material facts is impermissible to a litigant or even as a technique of advocacy. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the fundamental of judicious litigation. In the case of ***Jasraj Inder Sing Vs Hemaraj Multanchand, (1997) 2 SCC 155***, the Hon'ble Supreme Court held as hereunder :-

"Truth, like song, is whole, and half-truth can be noise! Justice is truth, is beauty and the strategy of healing injustice is discovery of the whole truth and harmonising human relations. Law's finest hour is not in meditating on abstractions but in being the delivery agent of full fairness."

48. Hence, the complainant does not deserve any relief from this Court on this count too.

Conclusion:

49. In the considered opinion of this court, the tweets and videos posted by the proposed accused were in the nature of questions asked with the purpose to criticize the government and not to defame anyone. The statements therein were a mere reiteration of the information which was already posted on social media platform by Amarjit Singh Baboo and hence, cannot be said to have been made with the intent to harm the reputation of the complainant. Hence, in

view of the above discussion, the tweets and videos posted by the proposed accused cannot amount to the offence of defamation.

50. In view thereof, this court is of the considered opinion that there does not exist sufficient ground for taking cognizance of the offence punishable u/s 356 BNS. No other offence appears to be made out from the complaint and documents annexed therewith. Accordingly, cognizance in the present case is declined.

**Pronounced in Open Court on
10.10.2026**

NEHA
MITTAL
(Neha Mittal)
ACJM-03/RADC
New Delhi

Digitally
signed by
NEHA
MITTAL
Date:
2026.10.10
14:23:37
+0530