

(1990) 12 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 5090-M of 1990

Ramesh Gour, Press Correspondent, Nav Bharat Times and
Others

APPELLANT

Vs

Chiranji Lal Sharma

RESPONDENT

Date of Decision : 07-12-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 499, 500
Press and Registration of Books Act, 1867 — Section 5(2)

Citation : (1991) 99 PLR 353 : (1991) 1 RCR(Criminal) 650

Hon'ble Judges : Jai Singh Sekhon, J

Bench : Single Bench

Advocate : A.K. Ganguli, S.K. Gupta and R.M. Suri, for the Appellant; V.K. Jain and Sanjay Vij, for the Respondent

Judgement

Jai Singh Sekhon, J.—The accused-petitioner in this petition u/s 482 of the Code of Criminal Procedure, 1973, seek the quashment of the complaint, copy Annexure P 8, as well as the order of the trial Court, copy Annexure P-12, dated 21-2-1989 summoning the accused petitioners to face trial for offences under Sections 500/501 of the Indian Penal Code, inter alia, on the ground that even if the allegations of the complainant are taken to be true, it is a case of printing the defamatory matter in Nav Bharat Times News Paper on account of rash and negligent act of the correspondent and the editorial staff and that this conducts will not be covered by the definition of "defamation" figuring in Section 499 of the Indian Penal Code, It is further averred that Surinder Partap Singh, the Executive Editor of Nav Bharat Times, has nothing to do with the printing of paper or editing of news and thus he is not at all liable.

2. The brief resume of relevant facts figuring in daily report No. 31 dated 10-11-1989 of Police Post Dhola Kuan, (Police Station Delhi Cantt) and for the disposal of this petition is that on the night of 10-11-1989, one Chiranji Lal son of Jee Ram, resident of Sonepat Stand Rohtak (Haryana) was found driving a van

in drunken condition while another person, namely. Ajtt Singh Dahiya son of Ram Pat was found sitting by the side of the driver of the van. The driver of the van did not stop the van despite the signal of the traffic police which resulted in Sub Inspector Brahm Parkash stopping the van at a little distance with great difficulty. Both these persons were apprehended and their medical examination was got done, as they appealed to be drunk, Accordingly, first information report No. 31 dated 10.11.1989 was recorded at police post Dhola Kuan, attached with Police Station Delhi Cantt Various Press "Reporters including the Press Reporter Nav Bharat Times printed news item in this regard in the issue of their paper on 10-1-1989.- The Roman translation of News item printed in Nav Bharat Times figuring in complaint reads as under :-

"SHARAB PIKAR GADI CHALA RAHA SANSAD GIRAFATAR," RIHA"

"NAI DILHI 12 JANUARY : SONEPAT (HARYANA) KE CHIRANJI LAL SHARMA AUR UNKE EK SATHI VAKIL KO PARSON RAAT DHOLA KUAN POLICE NE GIRAFATAR KAR LIYA GAYA. UNKI GADI PARDHAN MAMTRI KE MARG ME AA GAI THI.

IN-DONOKO KAL JAMANAT PAR CHODA GAYA. DHOLA KUAN POLICE CHOWKI KE RAUZ NAMCHE MEN DD NO, 31, MEIN DARZ REPORT MEIN UN PAR SHARAB PIKAR GADI CHALANE KE ABHIYOG LAGAYA GAYA HAL

REPORT MEN LIKHA HAI GURGAON ROAD PAR PALAM KE AUR SE BAHUT TEJ RAFTAR SE MARUTI VAN DDV 4796 AI. VIP ROUTE PAR LAW AND ORDER KE LIVE TAINAT OFFICER NE USE RUKNE KA ISHARA KIYA LEKIN GADI RUKI NAHIN. TRAFFIC POLICE KE S.I. BRAHM PARKASH NE DHOLA KUAN KE NIKAT CHORAHE PAR USE ROKA. DONO KO CR.P.C KI DHARA 107/151 MEN GIRAFATAR KAR DOOTRA JANCH KE LIYA BEJA GADI SHRI CHIRANJI LAL SHARMA CHALA RARE THE. VEH SHARAB PIYE HUE THE. UNKE SATH BAITHA VYAKTI BHI SHARAB PIYA THA.

ATIRIKAT POLICE UPAYUKT DR. KRISHAN KANT PAL KE ANUSAR UNEHONE POLICE KARMIYON SE GALI GALOCH KE UNKI GADI AAJ SUBHA TAK THANE MEN THI YATAYAT KANOON KI ANEK DHARAON KE TEHAT ONKA CHALANKIYA GAYA THA.

STHANIY POLICE KE EK BADE ADHIKARI KE ANUSAR 10 JANUARY KI SHAM PARDHAN MANTRI KO BANGLOOR JANA THA USKE LIYE VAH PALAM JA RAHE THE. VAH GURGAON AUR PARED ROAD KI JUNCTION KE PASS PAHUNCHNE HI WALE THE KI GALAT DISHA SE BAHUT TEJ RAFTAR MEN MARUTI VAN NO. DDV 4796 AI VAN ROKNE KE LIYE EK INSPECTOR NE SHANKET BHI DIYA LEKIN USNE VAN ROKI NAHIN. BAHUT MUSKIL SE YATAYAT POLICE KE EK ADHIKARI US GADI KO RUKWA PAYA."

3. Shri Chiranji Lal Sharma, complainant, happened to be the Member of Parliament at that time as well as a practising lawyer as Sonapat. His friend S/ Shri Raghbar Dayal Gaur, Raj Kumar and Balkishao Kaushik, Advocates, contacted him on the morning of 13th January, 1989, with a copy of Nav Bharat

Times and apprised him of this news item besides having conveyed that they thought him to be a gentleman but he was in fact a dark horse indulging in every kind of vices. As per allegations in the complaint, the complainant then personally went to the office of Nav Bharat Times on 16-1-1989 and lodged strong protest with the Editor in Chief, Shri Rajinder Kumar Mathur, and asked him to give clarification on the first page of the paper in which the news item was published but on getting no response uptill twenty -two days thereafter, he had resorted to filing the present complaint against the accused-petitioners for offences under Sections 500/501 of the Indian Penal Code.

4. The trial Court after recording preliminary evidence summoned the accused-petitioners to face trial for the above referred offences vide impugned order, copy Annexure P-12 The petitioners also moved an application before the trial Court for dropping the proceedings on the ground that no case for the above referred offences is made out even if the allegations of the complainant are taken to be true as the necessary mensrea to harm the complainant or knowledge that his reputation will be harmed is missing The trial Court, however, dismissed this application by holding that in a summons case, it was not the proper stage for dropping the proceedings.

5. Mr. A. K. Ganguli, learned Senior Advocate, assisted by S/Shri S K. Gupta and R. M. Suri, Advocates, laid much stress on the definition of defamation contained in Section 499 of the Indian Penal Code in building up an argument that at the most, it was a case of rash and negligent act on the part of the concerned Editor of the Newspaper as he had failed to verify the actual facts of the case from the local police and published the news item by stating some facts in addition to the one contained in daily diary report No. 31 regarding this incident. Thus in other words, it can be well said that as per the learned counsel for the petitioners, no case is made out for offences under Sections 500/501 of the Indian Penal Code even if the entire allegations of the complainant are taken to be true, Mr. V. K. Jain, the learned Senior Advocate for the complainant, on the other hand maintained that rashness and negligence in some cases would imply the necessary knowledge or reason to believe that such imputation will harm the reputation of the person concerned. He also relied upon the observations of the apex Court in *Sewakram Sobhani Vs. R.K. Karanjia* Chief Editor, Weekly Blitz and Others, in order persuade the Court that the proper stage has not come to appreciate this controversy as the evidence of the witnesses is yet to be recorded and the accused-petitioners had to show that they had printed this news item in good faith. He further stressed that the liability of the Executive Editor for printing the said news item is a matter of evidence,

6. The relevant provisions of Section 499 of the Indian Penal Code reads as under: -

"Whoever, by words either spoken or intended to read, or by signs or by visible representations, makes or publishes 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 the person."

7. There is no need to reproduce the explanations of Exceptions appended thereto as the controversy in the case in hand pertains to the factum whether necessary knowledge to harm the complainant or reason to believe that such imputation will harm the reputation of the complainant is spelled out from the allegation of the complainant, especially when it is not alleged by the complainant that Nav Bharat Times had any grouse against him or ulterior motive to defame the complainant. Thus there is no question of the defamatory news item having been printed with some design or intention to harm the complainant.

8. The question then arises whether this defamatory matter was printed with the knowledge or necessary reason to believe that such imputation will harm the reputation of the complainant. In this regard it is noteworthy that lack of taking due care and caution in printing the news item some time do lead to the irresistible conclusion that the concerned Correspondent has knowingly or having reason to believe that such imputation will harm the reputation had printed such material. In the case in hand, admittedly only the name of Chiranji Lal son of Joe Ram, resident of Sonapat Stand, Rohtak, figures in the daily diary report recorded by the police regarding this incident. It is not mentioned therein that aforesaid Chiranji Lal is Sharma by caste what to say of that he is a Member of Parliament. It appears that the Correspondent had not only given this news item on the basis of the daily diary report but on the basis of some other information as in the news item, the departure of the then Prime Minister to Singapore by air figures and that extra security precautions were taken as the Prime Minister had to go by that road to the Airport. Thus such like reckless investigating journalism will certainly result in imputing the necessary knowledge or reason to believe that imputation will harm the reputation of responsible person like a Member of Parliament. Consequently, it is a matter of detailed evidence to be led by the concerned Correspondent to make out a case that it was a sheer negligence on his part which has resulted in interpolation of the caption M. P. or that aforesaid Chiranji Lal belongs to Sharma caste and happens to be resident of Sonapat. Consequently, no interference is called for at this stage to quash the above referred proceedings.

9. Moreover, the observations of the apex Court in Sewakram Sobhani's case (supra) although not fully applicable to the facts in the present case, but all the same provide an oblique indication that matter of good faith etc. is to be established by leading cogent evidence before the trial court and should not be taken into consideration while disposing of the petition u/s 482 of the Code of Criminal Procedure.

10. During the course of arguments, learned counsel for the petitioners also brought to my notice that as a matter of fact, in issue of Nav Bharat Times dated 14.1.1989, an explanation clarifying the mistake was published and that regrets

were shown by the Editor-in- Chief on the front page in the issue of Nav Bharat Times dated 17.2.1989 It is farther maintained that the similar material was also published in the daily newspaper Hindustan Times and that the apology of the Editor of the Hindustan Times appears to have been accepted by the complainant as no similar complaint was filed against Hindustan Times It is also highlighted that the complainant had moved the Secretariat of the Lok Sabha in this matter but the proceedings were dropped on tendering unconditional apology by the petitioners. No doubt, the petitioners are on batter wicket regarding the compassionate ground espescially when the complainant himself had averred in the complaint that he had approached the Editors of this paper and lodged protest besides asking them to tender unconditional apology and explain the news item by printing it on the first page of the news paper, yet all the same, the Court cannot quash the proceedings on this ground as it is for the complainant to withdraw the case or pursue these proceedings or it may operate as a mitigating circumstance at the final stage of the trial.

11. During the course of arguments, the learned counsel for the petitioners has also placed on the file a copy of the issue of Nav Bharat Times dated 1.3.1990, which shows that paper was published under the supervision of Mr. Rajender Mathtur, Editor, Nav Bharat Times. The nama of Surinder Partap Singh, Executive Editor, does not figure therein. Moreover, In the fitness of things, the executive Editor has to look after the administration work etc. in connection with running the Head office of the News paper and has no direct concern with the editing of news item etc. Moreover, in para No. 3 of the petition, it is specifically averred that Shri Surinder Partap Singh is only an Executive Editor of the Nav Bharat Times news paper published by M/S Bennett Coleman Co Ltd. and his name is shown in ovary issue of Nav Bharat Times as Executive Director and, that his name is not shown as Editor or Executive Editor in the declaration filed u/s 5(2) of the Press and Registration of Books Act, 1867. These assertions of Surinder Partap Sing remained unassailed as the respondents had not filed any reply to this petition. Thus by no stretch of imagination, an Executive Editor would be liable for the printing or editing of defamatory material in the news paper.

12. For the reasons recorded above, the complaint as well as the impugned order of the trial Court qua Surinder Partap Singh are quashed by accepting this petition at motion stage, The petition of the remaining petitioner is, however, dismissed in the light of the observations recorded above.

13. The parties through their counsel are directed to appear before the trial Court on 7.1.1991.