



2026:DHC:7169



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

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*Judgment reserved on: 28.04.2026**Judgment pronounced on: 25.08.2026**Judgment uploaded on: 26.08.2026*+ **CRL.M.C. 2595/2019 & CRL.M.A. 10414/2019**

PINAKI MISRA

.....Petitioner

Through: Ms. Rebecca M. John, Senior
Advocate with Ms. Anushka
Baruah, Ms. Pravir Singh, Mr.
Nilanjan Dey, Advocates

versus

STATE & ANR.

.....Respondents

Through: Mr. Manoj Pant, APP for the
State with Mr. Divyang
Kiswan, Advocate

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

1. The petitioner, by way of the present petition, seeks setting aside of the summoning order dated 20.04.2019 [hereafter '**impugned order**'], passed by the learned Additional Chief Metropolitan Magistrate-I, Rouse Avenue Courts Complex, New Delhi [hereafter '**ACMM**'], in case titled as '*Siddhartha Singh vs. Pinaki Mishra*', being Complaint Case No. 10/2019, whereby the petitioner has been summoned to face trial for offence under Section 500 of the Indian Penal Code, 1860 [hereafter '**IPC**'] and also



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quashing of the complaint case mentioned above and all consequent proceedings emanating therefrom.

2. The brief facts of the case are that the respondent no. 2 had filed one complaint dated 04.08.2018 before the Bar Council of Delhi against the petitioner, alleging that the petitioner's appearance on behalf of power distribution companies before the National Green Tribunal amounted to professional misconduct. On 26.08.2018, an article was published in the Economic Times regarding the said complaint. In his response, the petitioner herein had denied the allegations as false and baseless and referred to the respondent as a "crook". Thereafter, the respondent instituted one Complaint Case No. 11/2019, titled '*Siddhartha Singh vs. Pinaki Mishra*', before the learned ACMM-II, Patiala House Courts, New Delhi [now before the learned ACMM-I, Rouse Avenue Courts Complex, New Delhi], seeking initiation of proceedings against the petitioner under Section 500 of the IPC. The learned ACMM took cognizance of the complaint on 15.01.2019, and the respondent's pre-summoning evidence was recorded on 02.02.2019, wherein he examined himself as the sole witness.

3. Subsequently, on 15.03.2019, the respondent filed another complaint, i.e. the impugned Complaint Case No. 10/2019, before the learned ACMM, again seeking initiation of proceedings under Section 500 of the IPC in respect of the petitioner. In the said complaint, it was alleged that the petitioner had made defamatory



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remarks against him in an interview to Daily Hunt News published on 24.01.2019. He had allegedly used the words ‘crook’ and for ‘black mailer’ for the complainant, which had allegedly lowered his reputation in the eyes of the public and also affected his professional life. Cognizance was taken in the said complaint on the same date. On 20.04.2019, the learned ACMM passed summoning orders against the petitioner in both Complaint Case No. 11/2019 and Complaint Case No. 10/2019.

4. The present judgment adjudicates upon the impugned order passed in Complaint Case No. 10/2019.

5. The relevant portion of the impugned order dated 20.04.2019 reads as under:

“4. The complainant has taken an objection to the use of the word “Crook” and “black mailer” for him and felt offended by the use of this word by the respondent. According to him, his reputation has been lowered in the society by the use of such remarks by the respondent. The complainant therefore in order to vindicate his reputation has filed the present complaint for defamation under section 500 of the Indian Penal Code.

5. Now with these allegations and evidence in support of them, I have to decide whether to summon the respondent Mr. Pinaki Mishra for committing the offence punishable under section 500 of Indian Penal Code or not.

6. Defamatory statement is one which tends to injure the reputation of a person. It is a publication which tends to lower a person's reputation in the estimation of right thinking members of the society generally or which make them shun or avoid that person. According to section 499 of The Indian Penal Code, a person is said to commit the offence of defamation when he, by words either spoken or intended to be read, or by signs or by visible representations, makes or



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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 except where the publication is protected by the ten statutory exceptions provided in this provision itself.

7. The complaint clearly set out the imputations made against the complainant by the respondent Mr. Pinaki Mishra in the newspaper. In order to decide whether to summon respondent for trial, existence of only a prima facie case to summon him has to be seen in contrast to the standard of proof "beyond reasonable doubt" required for conviction. In legal terms, the consideration at this stage is whether there exists sufficient grounds to summon him or not (section 204 of The Code of Criminal Procedure). The situation may be different if the respondent is able to make out a defence for him from amongst those defences carved out in the provision itself (section 499 of The Indian Penal Code). But these defences cannot be looked at this stage according to the law. The defences have to be pleaded and proved by the person charged with defamation. At the initial stage, the court has to look into the complaint and the statement/evidence of the complainant and has to believe him. The Court has to see whether if the impugned material is prima facie defamatory or not and whether the Court has sufficient grounds to proceed with the case. The words referred above are if seen in the entire context of the things and evidence of the complainant seems to be defamatory if they do not fall within any of the statutory defences prescribed by law itself as well as the other legal requirements. The entire burden will be on respondent to plead and prove the defence on which he may rely upon.

8. In defamation cases, one of the test is whether under the circumstances in which the writing was published reasonable men to whom the publication was made would be likely to understand it in a defamatory sense. Much also depends on the intention of the maker of the statement which is a subject of trial.

9. Therefore, the aforesaid discussions shows that allegations of the respondent are prima facie defamatory and refers to complainant Mr. Siddhartha Singh making him an aggrieved person within the meaning of section 199 Cr.P.C. The inquiry as contemplated under section 202 of the Code of Criminal



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Procedure has been duly conducted by examining the complainant to arrive at the conclusion for this stage of this case. Therefore in view of the aforesaid discussion there exists sufficient grounds to proceed against the respondent Mr. Pinaki Mishra under section 500 IPC. Accordingly, Mr. Pinaki Mishra is summoned for commission of offence of defamation under section 500 of the Indian Penal Code.”

6. **The learned senior counsel appearing for the petitioner** argues that the second complaint filed by the respondent no. 2 arises out of the same dispute which formed the subject matter of Complaint Case No. 11/2019, and is based upon a downloaded copy of an online news article published by Daily Hunt News. It is submitted that the petitioner had never given any statement to the said news portal and that the article, being an online report, was neither proved through its reporter nor accompanied by the requisite certification under Section 65B of the Indian Evidence Act, 1872. It is further submitted that the respondent subsequently arrayed the editor/owner of the said news portal as an accused. The learned senior counsel contends that the complaint is liable to be quashed as the requirements of Explanation 4 to Section 499 of the IPC have not been satisfied. The complainant examined himself as the sole witness and failed to examine any person who could *prima facie* establish that the alleged imputation had lowered his reputation in the estimation of others. Reliance is placed upon **Jeffrey J. Diermeier v. State of West Bengal: (2010) 6 SCC 243**, wherein the Hon’ble Supreme Court held that an imputation does not harm a person’s reputation unless it directly or indirectly lowers his moral or



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intellectual character in the estimation of others. Reliance is further placed upon ***Jaideep Bose v. M/s Bid & Hammer Auctioneers Pvt. Ltd.***: 2025 SCC OnLine SC 348, particularly paragraphs 13.2 and 20, wherein the Hon'ble Supreme Court reiterated that the essence of defamation lies in the imputation lowering the reputation of the complainant in the estimation of others and observed that failure to produce any witness to *prima facie* establish such lowering of reputation constitutes a procedural irregularity in the summoning order. The learned senior counsel also relies upon ***Business Standard & Anr. v. Lohitaksha Shukla & Anr.***: 2021 SCC OnLine Del 988, particularly paragraphs 22 and 23, wherein this Court reiterated the requirement of *prima facie* evidence satisfying Explanation 4 to Section 499 IPC and quashed the criminal complaint in the absence of examination of a witness to establish that the alleged imputation had lowered the complainant's reputation. Reliance is also placed upon ***Ram SS Parihar v. Suniti Bhadauria & Ors.***: 2007 SCC OnLine Bom 1689, wherein the Bombay High Court held that where the complainant alleged that his reputation had been affected but failed to examine any person who could establish such effect, the summoning of the accused could not be sustained.

7. It is further argued on behalf of the petitioner that there is no admissible or legal evidence on record to establish the contents of the news report. The downloaded online article is, at best, hearsay and secondary evidence, and neither the reporter was examined nor was



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the electronic record accompanied by the requisite certification under Section 65-B of the Indian Evidence Act, 1872. Reliance is placed upon decision in ***RP Goenka & Ors. v. State of Uttar Pradesh & Anr.***: 2019 SCC OnLine All 3815, particularly paragraphs 40, 46 and 49, wherein the Allahabad High Court held that a newspaper report by itself is hearsay and cannot constitute legal evidence unless duly proved, including through examination of the reporter, and that summoning of an accused in the absence of legal evidence warrants interference under Section 482 CrPC.

8. On the aforesaid basis, learned senior counsel contends that the impugned summoning order suffers from a fundamental infirmity, there being neither *prima facie* material satisfying the requirements of Explanation 4 to Section 499 IPC nor any legal evidence establishing the alleged defamatory statement. It is, therefore, submitted that the complaint and the consequential summoning order deserve to be quashed. The learned senior counsel further submits that the complainant has remained absent for a considerable period and has not been appearing either before this Court or the learned trial court. It is pointed out that, *vide* order dated 04.10.2024, the learned trial court recorded that the court notice issued to the complainant had been returned unserved with the report that he had left the premises and that no other address of the complainant was available on record. It is further submitted that the respondent had also been arrested in FIR No. 453/2019 registered at P.S. Vivek



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Vihar, Delhi under Section 384 of IPC and had remained in custody for some time.

9. **Respondent no. 2** remained absent despite service on several dates, i.e., 05.10.2020, 02.11.2020, 09.11.2020, 18.11.2020, 11.12.2020, 20.01.2021, 23.02.2021, 23.03.2021, 27.04.2022 and 28.04.2022. Thereafter, the learned counsel for respondent no. 2 appeared on 27.10.2022. However, respondent no. 2 again remained unrepresented on 07.03.2023 and 03.05.2023. Thereafter, respondent no. 2 appeared on 17.11.2023, 23.04.2024, 11.07.2024, 28.08.2024 and 25.09.2024. However, no one appeared on behalf of respondent no. 2 on 07.11.2024, 10.12.2024, 13.12.2024 and 21.02.2025. On 14.05.2025, fresh notice was issued to respondent no. 2 for appearance on 08.09.2025. However, no one appeared on behalf of respondent no. 2 on the said date, whereafter fresh notice was issued for appearance on 22.01.2026. The learned counsel for respondent no. 2 appeared on 22.01.2026, but respondent no. 2 again remained unrepresented on 24.03.2026, 09.04.2026 and 21.04.2026.

10. On 28.04.2026, the matter was reserved for judgment after hearing the arguments on behalf of the petitioner. The order dated 28.04.2026 *inter alia* records as under:

“2. *Vide* order dated 24.03.2026, this Court had observed that the case is pending for final disposal and the respondent no. 2 have not been appearing, therefore, the last opportunity was given to address arguments. It was also observed that in case the respondent no. 2 fails to appear before this Court or address arguments, the opportunity to address arguments will be closed



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and the judgment will be reserved.

3. Today also, no one has appeared on behalf of the respondent no. 2, when the matter was taken up for hearing.

4. Accordingly, the judgment stands reserved.”

11. It is, however, noted that respondent no. 2 had filed a counter-affidavit in September, 2019. It was stated that the petitioner’s contention that he had not given any interview to the news portal “Dailyhunt” could not be conclusively determined at this stage. It was submitted that the petitioner’s clarification letter dated 22.03.2019, addressed to the Editor of *Orissa Post*, wherein he denied having given the alleged interview and sought publication of a clarification, raised questions of fact which could only be decided upon leading evidence at trial. It was further stated that “Dailyhunt” had neither responded to the petitioner nor published any apology. Respondent no. 2 further submitted that the petitioner had used defamatory words against him, which were published and caused damage to his reputation, thereby *prima facie* disclosing the ingredients of Sections 499 and 500 of IPC. It was submitted that, at the stage of issuance of summons, the Court is only required to examine whether a *prima facie* case is made out and is not required to undertake a detailed appreciation of evidence. The disputed questions of fact and other evidentiary aspects, it was submitted, were matters to be examined during trial. Accordingly, the challenge to the summoning order was stated to be premature.

12. This Court has **heard** arguments on behalf of the petitioner,



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and has perused the material available on record.

13. At the outset, it is apposite to note that, under Section 499 of IPC, an imputation would constitute defamation only where it is made with the requisite intention or knowledge of causing harm to the reputation of the person concerned. More importantly, Explanation 4 to the said provision specifically stipulates that no imputation is said to harm a person's reputation unless it, inter alia, lowers the moral or intellectual character, character in respect of his calling, or credit of such person *in the estimation of others*.

14. The Hon'ble Supreme Court, in **Jeffrey J. Diermeier** (*supra*), has explained the scope of Explanation 4 and observed that the essence of the offence lies in the imputation causing harm to reputation, and that no imputation can be said to harm reputation unless it lowers the character or credit of the person concerned in the estimation of others. The relevant observations in this regard are as under:

"29. To constitute "defamation" under Section 499 IPC, there must be an imputation and such imputation must have been made with the intention of harming or knowing or having reason to believe that it will harm the reputation of the person about whom it is made. In essence, the offence of defamation is the harm caused to the reputation of a person. It would be sufficient to show that the accused intended or knew or had reason to believe that the imputation made by him would harm the reputation of the complainant, irrespective of whether the complainant actually suffered directly or indirectly from the imputation alleged.

30. However, as per Explanation 4 to the section, no imputation is said to harm a person's reputation, unless that imputation



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directly or indirectly 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, in the estimation of others 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.”

15. More recently, in ***Jaideep Bose (supra)***, the Hon’ble Supreme Court reiterated that defamation necessitates not merely an imputation and the requisite intention to harm, but also an imputation capable of lowering the reputation of the person in the estimation of others. In the said decision, the Hon’ble Supreme Court also noticed that the complainant had failed to produce any witness to *prima facie* establish that the alleged imputations had lowered their reputation in the estimation of others. The relevant observations in this regard are as under:

“13.2. From the above provisions, it is clear that defamation under section 499 IPC necessitates both an intention to harm or knowledge that the imputation is likely to cause harm, and that the imputation must be capable of lowering the reputation of the person in the estimation of others. In other words, the essence of defamation lies not merely in the making of an imputation but in its effect on the perception of the public, thereby impacting the standing of the person in society.

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20. ...The complainant failed to produce any witness to *prima facie* establish that the alleged imputations had lowered their reputation in the estimation of others and the Magistrate, after merely reviewing the complainant's statement, proceeded to issue summons...”

16. The Coordinate Bench of this Court in ***Madanjit Kumar v. J.P. Singh & Ors.: 2019 SCC OnLine Del 6853*** observed that the



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complainant had examined himself as the solitary witness during the pre-summoning inquiry, but had not examined any other person to whom the allegedly incriminating material had been published. In the aforesaid circumstances, it was found that the view of the courts below in declining to proceed against the accused could not be faulted. The relevant observations in this regard are as under:

“4. The Metropolitan Magistrate took cognizance and held pre-summoning inquiry. Concededly, in the said inquiry, the petitioner examined himself as the solitary witness (CW-1) to affirm on oath the above mentioned facts. The Metropolitan Magistrate, by order dated 01.06.2017, found no grounds to proceed further, holding that no sufficient material had been adduced to summon the respondent as accused and, thus, dismissed the complaint under Section 203 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

5. The petitioner challenged the above mentioned conclusion of the Metropolitan Magistrate in the court of sessions invoking its revisional jurisdiction by Criminal Revision Petition No. 25/2017 which was dismissed by the said court, by judgment dated 09.10.2017, upholding the view taken by the Metropolitan Magistrate.

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11. Given the fact that the petitioner did not examine any other person to whom the incriminating material may have been published, the view taken by the courts below cannot be faulted.

12. The petition is devoid of substance and is dismissed. This disposes of pending application as well.”

17. The learned senior counsel for the petitioner also referred to the decision of Bombay High Court, in **Ram SS Parihar** (*supra*), where the Court while dealing with a complaint under Sections 499/500 IPC, noted that although the complainant had alleged that his



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reputation had been affected in the eyes of his friends, family members and neighbours, he had examined none of them in support of such allegation. It was observed that it was necessary for the complainant to examine a person who, upon coming across the alleged defamatory statements, had perceived that the complainant's reputation was thereby affected. The Court further emphasised that issuance of process is not a mechanical exercise and that the Magistrate is required to scrutinise the material placed before it to ascertain whether a *prima facie* offence is disclosed. The relevant observations in this regard are as under:

“12. The complainant claimed that his name has been maligned and he is being looked down by friends, family members, neighbours, etc. but the complainant examined none in support of the said allegation. It was necessary for the complainant to have examined some one who after having read the contents of the so-called defamatory statements thought that the complainant's reputation was thereby affected. The evidence in this respect was totally hearsay and in this view of the matter also no process could have been issued against the accused. On behalf of the accused reliance has been placed on *Pepsi Foods Ltd. and Anr. v. Special Judicial Magistrate and Ors.* IV CCR CCR 108: 1998 CrL.J. 1. The observations of the Apex Court in that case are squarely applicable to the case at hand. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of the allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the



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accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is *prima facie* committed by all or any of the accused. It is contended that all that was required of the complainant was only to make out a *prima facie* case for the issue of process under Sections 499/500, IPC. In my view, no process could have been issued based entirely on hearsay evidence.”

18. In the present case, the respondent no. 2 examined himself as the sole witness in the pre-summoning evidence. There is no material on record, in the form of statement of any other person or otherwise, to *prima facie* demonstrate that the alleged imputation had the effect of lowering the reputation of respondent no. 2 in the estimation of others. The allegation that the publication caused damage to his reputation, by itself, remains an assertion of the complainant and does not establish the statutory requirement contemplated by Explanation 4 to Section 499 IPC.

19. This Court is conscious that, at the stage of taking cognizance or issuance of process, the Court is not required to undertake a meticulous appreciation of evidence or conduct a mini-trial. However, the limited nature of the inquiry at such stage cannot dispense with the requirement that the basic ingredients of the offence must be *prima facie* disclosed from the material placed before the Court.



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20. There is, however, another aspect which also merits consideration. The allegation against the petitioner is founded upon the contents of an online news report published by 'Dailyhunt'. It is pertinent to note that the petitioner has specifically denied having given any such interview. In support of his stand, he had also addressed a letter dated 22.03.2019 to the Editor of *Odisha Post*, denying having given the alleged interview and seeking publication of a clarification. At this stage, it is also relevant to note that the material placed before the learned ACMM does not disclose examination of the concerned reporter or author of the publication, or any person associated with the concerned newspaper/news portal, who could *prima facie* establish that the alleged words were in fact uttered by the petitioner. Rather, as pointed out by the learned counsel for petitioner, the respondent no. 2 had subsequently arrayed the editor/owner of the said news portal as an *accused* in the complaint. Thus, apart from the publication itself, there was no independent material before the learned ACMM connecting the alleged statement with the petitioner. In these facts, this Court also takes note of the decision of the Allahabad High Court in **R.P. Goenka** (*supra*), wherein, while considering a challenge to criminal defamation proceedings and after taking note of the law laid down by the Hon'ble Supreme Court, it was observed that a newspaper report is, at best, hearsay or secondary evidence and its contents are required to be duly proved. The Court observed that such report could



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be proved by examining the reporter who had heard the alleged statement and sent it for publication, or by producing the concerned reporter and/or editor of the newspaper. The said decision, therefore, lends further support to the proposition that the mere production of a newspaper report, without the examination of the person who authored or reported the alleged statement, cannot by itself furnish sufficient material to establish that the statement was in fact made by the accused.

21. In view of the aforesaid discussion, and upon an overall conspectus of the peculiar facts and circumstances of the present case, this Court is of the considered view that the continuation of the criminal proceedings against the petitioner would not serve the ends of justice, particularly when the respondent no. 2, having examined himself as the sole witness, has not placed any material to *prima facie* demonstrate that the alleged imputation had lowered his reputation in the estimation of others as contemplated under Explanation 4 to Section 499 of IPC and, further, the alleged imputation is founded upon an online news report which has not been supported by examination of the concerned reporter, author, editor or any other person associated with the news portal, particularly when the petitioner had specifically denied having made the alleged statement and had also addressed a communication seeking clarification in this regard, and in these peculiar facts and circumstances.

22. Therefore, this Court is of the view that permitting the criminal



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proceedings to continue would not advance the cause of justice and would instead subject the petitioner to the rigours of a criminal trial in the absence of sufficient foundational material. Accordingly, this Court deems it appropriate, in exercise of its jurisdiction under Section 482 of Cr.P.C., to quash the impugned summoning order and the consequential proceedings arising therefrom.

23. The petition is accordingly allowed, and disposed of, alongwith pending application, if any.

24. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

AUGUST 25, 2026/vc
T.D.