

**RAVINDER GUPTA VS. STATE GOVERNMENT OF NCT OF DELHI
/2023 (Subzi Mandi)**

11.11.2025

Present: Sh. Gagan Gandhi, Ld. Counsel for the complainant through VC.

Matter is listed for orders on summoning.

Matter is listed for orders on summoning today. Arguments were heard on behalf of the complainant on previous date of hearing.

Briefly stated, the facts of the matter are that the complainant who is a practising advocate and member of RSS is aggrieved of a part of the speech made by the alleged no. 2 during an interview/rally on 27.04.2023 at Naregal, Gadag, Karnataka, where he had made a remark against Prime Minister of India Mr. Narendra Modi stating that “*Mr. Modi is like a poisonous snake. If you try to test whether it is poisonous or not, you will die*”. It has been further alleged that later that day, alleged no.2 in other election rallies has clarified his prior statement to be not against the Prime Minister but against the BJP and RSS, which has further made the complainant aggrieved since he is an ardent follower and active member of RSS. Complainant has further alleged that he had sent a legal notice dated 03.05.2023 through Speed Post to alleged no. 2 seeking withdrawal of his statement against RSS and to render an unconditional apology on public platform but alleged no. 2 has not responded to the said notice. It has been also stated that the complainant made a complaint to the SHO PS Subzi Mandi which was registered as DD No. 7 PP/THC dated 26.07.2023 and copy of the said complaint was sent to the Commissioner of Police, Delhi and DCP concerned on 06.07.2023 and a reminder was also sent to Police Post, Tis Hazari Court vide DD No. 7 PP/THC dated 02.09.2023, but

no police action was taken against the alleged. Therefore, it has been prayed that FIR be lodged against the alleged no. 2 u/S 153A, 153B, 295A, 499, 120-B and 34 of Indian Penal Code.

Vide order dated 09.12.2024, application of the complainant u/S 156(3) CrPC was disposed of as dismissed and matter was relisted for pre-summoning evidence. During the pre-summoning evidence, the complainant had examined himself as CW-1, whereby he has reiterated the facts narrated in the complaint, and further, reliance has been placed upon the documents filed by him which are CW-1/1 to Ex. CW-1/9.

During the course of arguments, learned counsel for the complainant has reiterated the facts as narrated in the complaint and has argued that jurisdiction of this Court is invoked under Section 179 CrPC since the complainant practices at Tis Hazari Court. It has been prayed that accused no. 2 be summoned for the offences u/S 153A/153B/295A/120B/34 IPC and that the speech of the accused no. 2 is still available online. In support of the contentions on behalf of the complainant, reliance has been placed upon the judgment of the Hon'ble High Court of Delhi in case titled as ***Dr. Ashish Nandy vs. State of Gujarat & Anr.*** (2010) 171 DLT 699.

Arguments heard. Record perused, carefully.

At the outset, it is pertinent to note that the offence of defamation as alleged against alleged no. 2 is provided under Section 499 of the IPC. The essential ingredients of the offence are as under:-

- (i) The making or publishing an imputation concerning a person,*
- (ii) Such imputation of publication should have been made by words, signs or visible representations, and,*
- (iii) there should be an intention or knowledge or reasonable belief that such imputation will harm the reputation of such person.*

The provision also contains ten exceptions enumerating the

circumstances in which the imputation will not be an offence.

For the offence of defamation to be made out, the *sine qua non* is that the imputations must be made with the intent or knowledge to harm the reputation of the person. Now, coming to the instant case, the evidence on record *prima-facie*, does not point towards the commission of the offence under Section 500 IPC. It is pertinent to note that cognizance for offence u/S 500 IPC for offence of defamation is also barred in the present case, since the present complaint has not been filed by the victim himself, i.e., Prime Minister, in terms of Section 199(1) CrPC. Further, qua the allegations of the complainant that he felt defamed from the statement of alleged no. 2 qua ideologies of BJP and RSS to be compared to a poisonous snake as the complainant is also a Swayamsewak of RSS, can also not be considered *prima facie* as offence u/S 500 IPC. In this regard, no specific allegation is forthcoming in the present complaint that indicates that the imputations made in the interview has caused damage to the reputation of the complainant as a person being member of RSS, in the eyes of others. The complaint only bears a simpliciter submission that the statement of the alleged no. 2 had given rise to offence of hate speech and defamation against the complainant since he is a swayamsewak for the last 5 decades. Thus, it could not be concluded that the complainant's reputation been harmed by the statement of the alleged no. 2. Reliance is placed on the judgment of the Hon'ble Supreme Court in case titled ***Shatrughna Prasad Sinha vs. Rajbhau Surajmal Rathi & Ors.***, 1996 (6) SCC 263.

Now coming to the second aspect in the instant case, i.e., whether offences u/S 153A/153B/295A IPC are made out? It is pertinent to note that as per the allegation, alleged no. 2 has clarified his statement to mean that “*he believes that the ideologies of the BJP and RSS and not Sh. Narendra Modi are equivalent to a poisonous snake*”. From the said statement, it is abundantly

clear that the statement does not refer to a community or an individual belonging to a particular caste or religion and appears as a political criticism which is duly protected within the ambit of **freedom of speech and expression guaranteed under Article 19(1)(a)** of the Constitution of India. Further, even the elements of “hate speech” as envisaged u/S 153A/153B/295A IPC are not fulfilled in the instant case. The above statement of the alleged no. 2 does not **promote enmity between two groups, or insult religion or religious beliefs or has incited violence or public disorder or prejudicial to national integration.** The statement is merely aimed at the political and ideological principles and not at any community defined by religion, caste, or ethnicity. Lastly, it is a settled position of law that mere criticism, however harsh and offensive is not sufficient to make it punishable as “hate speech” unless it tends to incite hatred between two groups. Even in the judgment relied upon by the complainant in case titled *Pravasi Bhalai Sangathan vs. Union of India*, (2014) 11 SCC 477, Hon’ble Supreme Court has held that there must be a direct nexus between the hate speech and incitement/public disorder.

Accordingly, in view of the above discussion, there are no sufficient grounds for proceeding further against the proposed accused/alleged for any offence as no offence of defamation and hate speech as alleged, is made out against the proposed accused/alleged. Therefore, in terms of Section 203 CrPC, cognizance is declined and the present complaint is disposed of as dismissed.

File be consigned to record room after due compliance.

(Preeti Rajoria)
JMFC-07/Central District
Delhi/11.11.2025