

Complaint Case No. 2/2021
CNR No. DLCT120000172021
Chhail Bihari Goswami Vs. Satyendra Jain & Ors.

16.02.2022

Present:- Complainant Sh. Chhail Bihari Goswami is present today.
Sh. Neeraj Adv & Sh Priyank Khattar Adv & Sh Shoumendu Mukherjee Adv & Ms. Megha Sharma Adv, Sh Vijay Joshi Adv, Sh Vicky Kumar Adv & Sh. Satya Ranjan Swain Adv, Ld. counsels for complainant.

CW-1 Sh. Chhail Bihari Goswami further examined on application U/s 311 Cr.PC in terms of order dated 15.02.2022.

Pre summoning evidence closed by complainant vide his separate statement recorded today.

Arguments on the point of summoning heard.

Heard the submission of Ld counsel for complainant at length and perused the record. I have also perused the statement of complainant witnesses examined in pre summoning evidence and documents as relied upon by the complainant.

Brief allegations in the complaint as per complainant is that complainant is an Advocate by profession and practicing in various Courts in Delhi and he is also a councilor from Ward No. 104-N, Naraina in North Delhi Municipal Corporation and was elected as a Councilor in the year 2017 on the symbol of BJP. It is averred that complainant is also the Chairman of the Standing Committee of North Delhi Municipal Corporation. It is also averred that complainant is active member of BJP since the year 1988 and on various occasions hold various posts/responsibilities assigned by the party. It is averred that complainant devoted his life for the cause of

the people and command respect in the locality and having good reputation in entire Delhi and in North MCD. It is averred that alleged no. 1 Mr. Satyender Jain is MLA of Aam Aadmi Party and Cabinet Minister in Government of NCT of Delhi. It is also averred that alleged no. 2 Miss. Atishi Marlena is the MLA from Kalkaji and alleged no. 3 Mr. Raghav Chadha is the MLA from Rajender Nagar. It is averred that alleged no. 4 Mr. Durgesh Pathak is the Member of National Executive of Aam Aadmi Party and alleged no. 5 Mr. Saurabh Bhardwaj is the MLA from Greater Kailash constituency. It is averred that all the alleged persons are the members and leaders of Aam Aadmi Party. It is averred that as per constitutional mandate and existing law, Government of NCT is supposed to distribute the revenue collected from various sources in between Govt of NCT and all the three Municipal Corporations. It is averred that the Govt of NCT Delhi led by Aam Aadmi Party with dishonest intention and to gain political mileage in the up coming Municipal Corporation Elections is not releasing the consolidated due funds for sum of Rs. 13,000 Crores approximately to the three Corporations so that developmental work of the public importance could not be undertaken by Corporations and the Municipal Councilors who were elected on the symbol of BJP. It is averred that with the common intention to win the upcoming Municipal Elections, the accused persons are misleading the general public and creating negative image of councilors of BJP including the complainant. It is averred that the accused persons and their political party, in order to divert the issue and to cover up the non release of funds due to the Corporations, have hatched the criminal conspiracy and had been levelling false allegations on the three Corporations led by BJP and BJP leaders and Councilors elected on the

symbol of BJP, including the complainant. It is averred that alleged no. 4 Mr. Durgesh Pathak in the furtherance of the criminal conspiracy alongwith other alleged persons, had held a Press Conference in which he had made false and misleading statement/allegation that were defamatory in nature by claiming that there was a corruption of Rs. 1400 Crores in the North MCD and he had also falsely alleged that the alleged property tax of sum of Rs. 1400 Crores was illegally collected by BJP councilors and were illegally distributed among themselves. It is also averred that alleged no. 4 made false allegations that BJP and its councilors have turned the Corporations into the Center for corruption. It is averred that the statement of alleged no. 4 was live stream on the Facebook Page of Aam Aadmi Party and was published in newspapers namely Times of India and Danik Jagran on 02.11.2020. It is also averred that alleged no. 4 on 13.12.2020, twitted the defamatory statement that BJP leaders had misappropriated the salaries of employees worth of Rs. 2500 Crores. It is also averred that alleged no. 1 Mr. Satyender Jain made similar defamatory statement which was published in Danik Jagran newspaper on 12.12.2020 in the Press Conference which was also shared on the Facebook page of the Aam Aadmi Party. It is also averred that alleged no. 1 Mr. Satyender Jain also tweeted baseless allegations on 11.12.2020 while making false allegations against BJP leaders and North MCD led by BJP. It is also averred that alleged no. 2 Miss. Aatishi Marlana held a Press Conference on 12.12.2020, which was also live stream on the Facebook page of the Aam Aadmi Party and lavelled false allegations against BJP leaders regarding scam of Rs. 2500 Crores in the North Delhi Municipal Corporation and the statement was published on 13.12.2020 in newspapers and the same was also tweeted by alleged no. 2

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from her twitter account on 10.01.2021 at 8.04 pm and on 8.24 pm. It is also averred that alleged no. 3 Mr. Raghav Chadha had also made similar defamatory statement which was published on 14.12.2020 and he also tweeted the defamatory imputation on 13.12.2020 from his official twitter account. It is also averred that alleged no. 5 Sh. Sourabh Bhardwaj also made similar defamatory statement which was published in The Hindu newspaper on 15.12.2020 and same was shared on the Facebook page of the Aam Aadmi Party.

It is averred by complainant that complainant himself saw the defamatory imputation made by all the accused persons which were published in newspapers, twitter and facebook. It is averred that on 16.12.2020, when the complainant was sitting on a Dharna alongwith his fellow party leaders, one person namely Sh Ashish Rathore Advocate came at the Dharna site and stated that “ *Chhail Bihari Ji, Aap Ek Achey Vakeel Thai, Jab Aap Rajneeti Me Gaye Toh Hamey Laga Ke Aap Janta Ke Sewa Karoge and Saaf Suthri Rajneeti Karoge..... Magar Yeh Kya Aap Logo Ne Toh Itna Bada Ghotala Kar Dia, 2500 Crore Rupai Jis Se employees, Doctors, Safai Karamchari Ke Salary Bhi Jaa Sakti Thee, Gayeb Kar Dia..... Hamey Yeh Umeed Nhi Thee Aap Se, aur Aap Ke Saathi Parshdo Se*”. It is further averred that on enquiry, he further stated that “ *Aap Logo Ka Pura Ghotala Aam Aadmi Party Ke Satyender Jain, Aatishi, Raghav Chadha, Saurabh Bhardwaj, Durgesh Pathak, Ne Puri Janta Ko Bataya Hai. Akbaro Me Bhi Chappa Hai aur social media per bhi Chal Raha Hai. Aap Logo Ne Itna Bada Brashtachar Kia. In Sab Karno Se Muje Aap Ko Apna Dost Batane me bhi Sharam Aa Rahi Hai.*” It is averred that complainant was shocked to hear such statement and it was disheartening for him to see

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how his reputation was being lowered by false statement made by the alleged persons. It is averred that during the statement of Ashish Rathore, one Mr. Vijay Kumar and Mr. Yogesh Verma were also present alongwith the complainant at Dharna site and they also heard and seen the statement made by Mr. Ashish Rathore. It is averred that complainant explained about the incorrect, misleading and uncorroborated statement of the accused persons with intent to tarnish and harm the reputation, credentials and goodwill of the complainant and other BJP leaders.

It is averred that accused persons with dishonest intention to lower the moral and intellectual character of the complainant in the eyes of general public had made defamatory imputation which were published widely in the print and electronic media. The alleged persons have levelled false allegations so that image of the complainant and image of the other party leaders may be tarnished and with sole motive to achieve wrongful gain. It is averred that accused persons committed offence punishable U/s 499 IPC read with Section 500 IPC/34 IPC. It is argued that accused persons may be summoned, tried and punished for their acts.

In order to prima facie establish his case regarding commission of offences punishable U/s 499/500/34 IPC, complainant himself appeared into the witness box and examined himself as CW1 and reasserted the averment made in the complaint supported with affidavit. In the pre summoning evidence, complainant also examined CW2 Mr. Vijay Kumar, CW2 (wrongly typed as CW2) Sh. Nikhil M. Babu, CW3 Sh. Sidhartha Roy, CW4 Sh. Vishnu Kumar Shukla, CW5 Miss. Anupama Gupta, CW6 Sh. Sanjay Gupta, CW-7 Sh Yogesh Verma, CW-8 Sh Vijay Joshi. Vide order dated 15.02.2022, application of the complainant U/s 311 Cr.PC was

allowed and complainant was further examined and complainant also prima facie proved on record the publication made on social media platform like Meta Platform Inc. (formally known as Facebook) as Ex. CW1/17 and publication made on twitter Inc. as Ex. CW1/18.

I have heard the detailed arguments as advanced on behalf of the complainant, perused the statement of witnesses who were examined in pre summoning evidence by the complainant and documents produced and proved in pre summoning evidence. **The Court is of the considered view that prima facie accused persons namely Satyender Jain, Aatishi Marlena, Raghav Chadha, Durgesh Pathak and Sourabh Bhardwaj have committed the offence punishable U/s 499/500 IPC read with Section 34 IPC. Hence, these accused persons be summoned through SHO PS Civil Lines on filing of PF on 14.03.2022 at 2.00 pm.**

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