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

% **Decided on: 04th November, 2025**

\+ **CRL.M.C. 1250/2019**

TV TODAY NETWORK LTD. & ORS .....Petitioners

Through: Mr. Hrishikesh Baruah, Mr. Utkarsh Dwivedi & Mr. Kumar Kshitij, Advs.

versus

RAMESH BIDHURI .....Respondent

Through: Mr. Kirti Uppal, Sr. Adv. with Mr. Amit Tiwari, Mr. Shekhar, Mr. Aditya Raj, Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Advs.

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TV TODAY NETWORK LTD. & ORS .....Petitioners

Through: Mr. Hrishikesh Baruah, Mr. Utkarsh Dwivedi & Mr. Kumar Kshitij, Advs.

versus

RAJPAL POWSAL .....Respondent

Through: Mr. Kirti Uppal, Sr. Adv. with Mr. Amit Tiwari, Mr. Shekhar, Mr. Aditya Raj, Ms. Ayushi Srivastava, Mr. Ayush Tanwar, Advs.

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HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.

1. These are two petitions under Section 482 of the Code of Criminal Procedure, 1973 [**"Cr. P.C."**] filed by the petitioners TV Today Network Ltd. and its officials, seeking quashing and setting aside of the order dated 13.12.2018 passed by the learned Metropolitan Magistrate (trial court) in Complaint Case No. 624319/2016 titled '*Ramesh Bidhuri v. Purshottam Sharma & Ors.*' and Complaint Case No. 624318/2016 '*Rajpal Poswal v. Purshottam Sharma & Ors.*', whereby, the trial court dismissed the petitioners' applications for discharge. They are also praying for discharge in the aforesaid complaints.

2. Both petitions raise substantially identical questions of fact and law and, therefore, are being disposed of together.

Factual Matrix

3. The petitioners are a media house engaged in news broadcasting under the brand Aaj Tak/India Today Group. On 10.08.2011, a programme/broadcast was telecast on the petitioners' channel which reported a gang rape and abduction case involving one person namely

Sunny, described as the brother-in-law of the nephew of Respondent Ramesh Bidhuri- who at the time was an elected Member of the Legislative Assembly (MLA) from Tughlakabad Constituency. The report criticized alleged police inaction in arresting Sunny, while his co-accused had been taken into custody.

4. Being aggrieved by the said telecast, the respondent, Ramesh Bidhuri, filed Complaint Case No. 200/2011 (later renumbered 624319/2016) wherein he alleged that the news report falsely connected him with the accused Sunny and thereby harmed his reputation by implying that political influence was being used to protect the accused.

5. Similarly, respondent Rajpal Poswal- who is the nephew of respondent, Ramesh Bidhuri, filed Complaint Case No. 624318/2016, alleging identical defamatory content. Both complainants alleged that the telecast was malicious, defamatory, misleading and intended to tarnish their reputation before the public.

6. Upon consideration of the pre-summoning evidence and the inquiry under Section 202 Cr.P.C., the learned Magistrate took cognizance and vide order dated 20.09.2014 issued summons to the petitioners for offences punishable under Sections 499/500 IPC.

7. The petitioners filed applications for discharge on the ground that they had merely reported facts based on official records, and that

no specific imputation was directed at the complainants personally. The Magistrate, vide impugned orders dated 13.12.2018, dismissed the discharge applications, leading to the present petitions under Section 482 Cr.P.C.

Submissions of Counsel for the Petitioners

8. Mr. Baruah, learned counsel for the petitioner placed reliance on the judgment of the Supreme Court in the case of ***Bhushan Kumar v. State (NCT of Delhi) (2012) 5 SCC 424*** to argue that at the stage of Section 251 Cr. PC, the Magistrate must examine the allegations and material on record to determine whether any offence is made out, if not, the accused must be discharged. According to him, this view has been consistently followed by this Court in ***S.K. Bhalla v. State & Ors.***, ***180 (2011) DLT 219***, and ***Era Infra Engineering Ltd. v. SICOM Ltd., 2015 SCC OnLine Del 8294***.

9. It has been submitted that although the Code of Criminal Procedure does not expressly provide for "discharge" in a summons case, the duty of the Magistrate under Section 251 Cr. PC inherently includes the power to decline to proceed against the accused if, upon perusal of the complaint and material on record, no offence is disclosed. The object of Section 251 is not to mechanically explain the substance of accusation, but to first determine whether any such accusation legally survives. Thus, according to the learned counsel for

petitioners, the learned Magistrate erred in holding that he lacked the power to discharge the accused merely because the case was summons triable.

10. He further submitted that the impugned proceedings are a gross misuse of the criminal process, instituted with the sole motive to stifle fair journalistic reporting. He argued that the telecast in question was based on material already in the public domain, duly verified, and aired in good faith and in public interest.

11. It was contended that the essential ingredients for the offence of criminal defamation are not made out, as there was neither mens rea nor any deliberate attempt to harm the reputation of the respondents. The broadcast constituted fair comment on a matter of public importance and is thus protected under the exceptions to Section 499 IPC, particularly Exception 1 [truth for public good] and Exception 9 [imputation made in good faith for protection of interest]. It is further argued that the telecast in question was a factual and bona fide report relating to a gang rape case involving Sunny, who was the brother-in-law of the nephew of Respondent Ramesh Bidhuri, a public representative and that the prosecutrix has supported the case of the prosecution. The Petitioners state that the report was based on official police records and that multiple attempts were made to obtain the Respondent's version before the broadcast, which he declined to

provide. Hence, the broadcast, being in public interest, cannot amount to defamation.

12. It was also submitted that the corporate entity, TV Today Network Ltd., cannot be held vicariously liable for acts done in the ordinary course of broadcasting unless there is a specific averment and proof of its active participation or prior approval of the alleged defamatory content. It is argued that Petitioner No. 1, being a juristic entity, cannot be prosecuted under Section 500 IPC, as malice or intent cannot be attributed to a corporation. In support of such argument, reliance is placed on a catena of judgments, as below:-

i. ***Raymond Ltd. & Ors. Vs. Rameshwar Das Dwarkadas P. Ltd. (II 2013 DLT Crl 853, Para 20);***
ii. ***Zee Telefilms Vs. M/s.Sahara India Commercial Corporation Ltd. & Anr. (2000 SCC OnLine Cal 463, Para 8 & 9);***
iii. ***Arun Tikekar & Ors Vs. Sanatan Sanstha & Ors (2010 Cri. LJ. (NOC) 610 (Bom), Para 17 & 18);***
iv. ***Chief Education Officer Vs. K.S. Palanichamy (2012 (2) MWN (Cr.) 354,Para 14, 15, 16, 19, 20 & 25);***
v. ***The South Indian Bank Ltd. And Ors. Vs. Paulvareed Cheruvathoor &Another (2014 Cri. L. J. 701, Para 10 & 11);***
vi. ***Aroon Purie Vs State of Kerala (2022 SCC OnLine Ker 919, Para8,9,13,& 14);***

vii. ***LML Ltd & Ors. Vs. Shri Kailash Narain Rai & Ors. (ILR (2012) MP 1471,Para 7-12);***

viii. ***Manikandan B. And Anr. Vs Pavan Gaur (2022 SCC OnLine Del 1033,Para 19)***

13. Mr. Baruah, further submitted that the learned Magistrate issued the summoning orders mechanically, without conducting the mandatory inquiry under Sections 200 and 202 Cr.P.C., and without recording reasons to justify the issuance of process. He submitted that the order, being non-speaking, suffers from lack of judicial application of mind and deserves to be quashed.

Submissions of the Respondents

14. Mr. Kirti Uppal, learned Senior Counsel, appearing for the respondents, has opposed the petitions and submitted that the broadcast in question was deliberately sensationalized and designed to malign the personal and political reputation of the complainants/respondents namely Ramesh Bhiduri and Rajesh Poswal.

15. His main contention is that the present petition, mainly challenging the impugned order dated 31.12.2018, is not maintainable as the learned trial court has correctly dismissed the petitioners' application for discharge, there being no provision permitting the discharge prior to the framing of notice under Section 251 Cr. PC in a

summons triable case. He places strong reliance on the judgments of the Apex Court in ***Subramanium Sethuraman v. State of Maharashtra (2004) 13 SCC 324***, which clarifies that stage of discharge is available only in warrant cases under Section 239 Cr. PC. Reference has also been placed on ***Adalat Prasad v. Rooplal Jindal (2004) 7 SCC 338*** and the Constitution Bench's decision in ***Expeditious Trial of Cases under Section 138, NI Act, In Re (2021) 16 SCC 116***, reaffirming that a Magistrate has no inherent power to review or recall the summoning order. Further, reliance is placed on ***Court on Its Own Motion v. State (Crl. Ref. 4/2019, Delhi High Court)***, which reiterates the same principle. It is thus submitted that Magistrates in summons cases do not have the power to formally "discharge" an accused, as the Cr. PC does not include this procedure for summons triable cases. It is further submitted that the Hon'ble Andhra Pradesh High Court in ***Frn. John Raju Junjunuri vs. State of A.P. & Anr., Criminal Revision Case No. 765/2019***, while relying on ***Subramanium Sethuraman*** (*supra*) held that since the offences are triable as per summons procedure, the petition for discharge is misconceived and not maintainable.

16. It has been argued that the summoning order was passed after due consideration of the complaint, the evidence of the complainant and witnesses, and relevant material on record and in any case, the petitioners have not challenged the summoning order dated

20.09.2014, and therefore in view of the same, the relief sought by the petitioners for discharge, cannot be granted and the instant petitions are liable to be dismissed.

17. Learned Senior Counsel further submits that the petitions are premature, the petitioners be directed to face trial and that the freedom of speech cannot be allowed to degenerate into license to defame under the guise of investigative reporting.

Analysis & Conclusion:

18. The challenge in the petitions mainly pertains to the order dated 13.12.2018, passed by the learned trial court, whereby, the plea of the petitioners, seeking discharge, was rejected mainly on the ground that the court of learned MM does not have the power of discharge in a summons triable case.

19. Vide order dated 20.09.2014, petitioners were summoned under Section 500/501 IPC, which provide punishment upto two years or fine. The offences punishable with imprisonment upto two years are triable by the Magistrates as summons cases. Section 245 Cr. PC applies only to the warrants cases instituted otherwise other than a police report (complaint cases). Since Section 500 IPC is a summons case, Section 245 Cr. PC shall not apply in the present case.

20. In summons cases, the relevant provision is Section 258Cr. PC but that applies only to the cases instituted otherwise other than a

complaint, and therefore, Section 258 Cr. PC is also not applicable to the cases instituted otherwise than on a police report.

21. The Supreme Court, in ***Subramanium Sethuraman v. State of Maharashtra*** (*supra*), held that concept of discharge is alien to summons trials. The Court reasoned that once the plea of the accused is recorded under Section 252 Cr. P.C, the Magistrate is bound to proceed in accordance with the procedure prescribed in Chapter XX till the conclusion of the trial. There is no intermediary stage providing for dropping of proceedings akin to discharge under Section 239 Cr. PC.

22. The principle was further reiterated in ***Adalat Prasad v. Rooplal Jindal***, ***(2004) 7 SCC 338***, where it was categorically held that a Magistrate who has issued process under Section 204 Cr. PC, becomes *functus officio* for that stage and cannot therefore recall or review that order. The Court clarified that the criminal courts do not possess inherent powers of review or recall.

23. The issue was revisited by a Constitution Bench of the Supreme Court in ***In Re: Expeditious Trial of Cases under Section 138 N.I. Act***, reported as ***2021 SCC OnLine SC 325***. The Bench exhaustively analyzed the nature of powers available to a Magistrate post-summoning and expressly reaffirmed that the judgments in ***Adalat***

Prasad and ***Subramanium Sethuraman*** have interpreted the law correctly. The relevant paragraphs read thus:-

> *"20. Section 143 of the Act mandates that the provisions of summary trial of the Code shall apply "as far as may be" to trials of complaints under Section 138. Section 258 of the Code empowers the Magistrate to stop the proceedings at any stage for reasons to be recorded in writing and pronounce a judgment of acquittal in any summons case instituted otherwise than upon complaint. Section 258 of the Code is not applicable to a summons case instituted on a complaint. Therefore, Section 258 cannot come into play in respect of the complaints filed under Section 138 of the Act. The judgment of this Court in Meters and Instruments (supra) in so far as it conferred power on the Trial Court to discharge an accused is not good law. Support taken from the words "as far as may be" in Section 143 of the Act is inappropriate. The words "as far as may be" in Section 143 are used only in respect of applicability of Sections 262 to 265 of the Code and the summary procedure to be followed for trials under Chapter XVII. Conferring power on the court by reading certain words into provisions is impermissible. A judge must not rewrite a statute, neither to enlarge nor to contract it. Whatever temptations the statesmanship of policymaking might wisely suggest, construction must eschew interpolation and evisceration. He must not read in by way of creation. The Judges duty is to interpret and apply the law, not to change it to meet the Judges idea of what justice requires. The court cannot add words to a statute or read words into it which are not there.*
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> *21. A close scrutiny of the judgments of this Court in Adalat Prasad (supra) and Subramanium Sethuraman (supra) would show that they do not warrant any reconsideration. The Trial Court cannot be conferred with inherent power either to review or recall the order of issuance of process. As held above, this Court, in its anxiety to cut down delays in the disposal of complaints under Section 138, has applied Section 258 to hold that the Trial Court has the power to discharge the accused even for reasons other than payment of compensation. However, amendment to the Act empowering the Trial Court to reconsider/recall summons may be considered on the*

recommendation of the Committee constituted by this Court which shall look into this aspect as well.

22. xxxxxx

23. xxxxxx

24. The upshot of the above discussion leads us to the following conclusions:

6) Judgments of this Court in Adalat Prasad (supra) and Subramanium Sethuraman (supra) have interpreted the law correctly and we reiterate that there is no inherent power of Trial Courts to review or recall the issue of summons. This does not affect the power of the Trial Court under Section 322 of the Code to revisit the order of issue of process in case it is brought to the court's notice that it lacks jurisdiction to try the complaint.

7) Section 258 of the Code is not applicable to complaints under Section 138 of the Act and findings to the contrary in Meters and Instruments (supra) do not lay down correct law. To conclusively deal with this aspect, amendment to the Act empowering the Trial Courts to reconsider/recall summons in respect of complaints under Section 138 shall be considered by the Committee constituted by an order of this Court dated 10.03.2021."

24. The aforesaid issue again came up for consideration in a criminal reference before the Division Bench of this Court in the case of ***Court on Its Own Motion v. State*** *(supra)*and the Bench while considering the aforesaid Constitution Bench decision, answered the reference while observing as under:-

"A plain reading of the paragraphs extracted hereinabove leaves no manner of doubt that in terms of the judgment of the Hon'ble Supreme Court in Adalat Prasad v. Rooplal Jindal and Others, (2004) 7 SCC 338 and Subramanium Sethuraman v. State of Maharashtra and Another, (2004) 13 SCC 324, the Trial Court cannot be conferred with inherent powers, either to review or recall the order of issuance of process. As held in Adalat Prasad

(supra) and Subramanium Sethuraman (supra), the Magistrate is denuded with the power to revisit the order of issue of process, except to the limited extent that the Court has no jurisdiction to try the case. In other words, the Trial Court has no inherent jurisdiction to revisit the order of issue of process within the meaning of the provisions of Section 258 Cr.P.C.

Further, it has been clearly held that, in any event, the provisions of Section 258 Cr.P.C. are not applicable to complaints under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'N.I. Act').

In view of the foregoing, we are of the considered view that Question No.1 in the present reference is to be answered in the negative. The Court of a Magistrate does not have the power to discharge the accused upon his appearance in Court in a summons trial case based upon a complaint in general, and particularly in a case under Section 138 of the N.I. Act, once cognizance has already been taken and process issued under Section 204 Cr. PC."

25. In the instant petitions, the applications filed by the petitioners before the learned Metropolitan Magistrate sought "discharge" on the premise that the complaint lacked the essential ingredients of criminal defamation and that the broadcast in question was made in good faith and in public interest. The learned Magistrate dismissed the applications holding that such pleas can only be examined at the stage of trial and that there is no statutory power to discharge an accused in a summons case.

26. The contention of the petitioners that the Magistrate could have invoked inherent jurisdiction under Section 251 is misconceived. The power to "drop proceedings" or "recall summons" is neither expressly conferred by the Code nor can it be inferred by implication. As

already discussed, in ***Re: Expeditious Trial of Cases*** *(supra)* the Supreme Court observed that conferring power on the court by reading certain words into provisions is impermissible. A Judge must not rewrite a statute, neither to enlarge nor to contract it and that construction must eschew interpolation and evisceration. The court cannot add words to a statute or read words into it which are not there.

27. Section 251 Cr. PC. contemplates only that the particulars of the offence be explained to the accused. It does not empower the Magistrate to undertake a mini-trial or to evaluate defences on merits. The stage for consideration of such issues would arise only when evidence is led.

28. Consequently, once the Magistrate has taken cognizance and issued summons upon satisfaction that a *prima facie* case exists, he is left with no power to recall or annul his earlier order by entertaining a discharge application.

29. In light of the settled position of law and judicial precedents, the Court is of the view that the applications filed by the petitioners before the learned Metropolitan Magistrate seeking discharge were not maintainable. The impugned order dated 13.12.2018, dismissing the same, therefore, does not suffer from any legal infirmity.

30. Petitioners have not challenged the summoning order dated 20.09.2014 in the present petition, and therefore in view of the same, the relief sought for discharge, cannot be granted.

31. The petitions are accordingly dismissed and disposed of along with pending application (s),if any.

RAVINDER DUDEJA, J.

NOVEMBER 04, 2025
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