IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

(through virtual mode)

CRMC No. 176/2018

Reserved on: 09.10.2026
Pronounced on:30.10.2026
Uploaded on: 31.10.2026
Whether the operative part or full judgment is pronounced: ***Full***

Kamal Saini, aged 63 years, S/o Shri B.B. Saini, R/o H. No. 214-A, Sainik Colony, Jammu. …Petitioner(s)/Appellant(s).

Through: Mr. Anil Sethi, Advocate

Vs.

Pritam Singh Saini, S/o Late Ram Krishan Saini, R/o Akalpur, Lower Muthi, Jammu. ...Respondent(s).

Through: Mr. Ajay Sharma, Sr. Advocate with
Mr. Naveed Naik, Advocate

CORAM:HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGEMENT
31.10.2026

BRIEF FACTS

1. The present petition, bearing CRMC No. 176/2018, has been filed by the petitioner, Kamal Saini, under Section 561-A of the Code of Criminal Procedure, seeking quashment of the criminal complaint titled Pritam Singh Saini v. Kamal Saini, instituted under Section 500 Ranbir Penal Code (RPC), along with the order dated 20.01.2018 passed by the learned Special Mobile Magistrate, Passenger Tax, Jammu, whereby process was issued against the petitioner.

2. The petitioner is a retired police officer, whereas the respondent, Pritam Singh Saini, is a retired employee of the Information Department who subsequently started publishing a newspaper under the name Nawa-i-Waqt

Azeem. According to the petitioner, the respondent had been carrying out a campaign of vilification and defamation against him through the said newspaper.

3. Aggrieved by the alleged defamatory publications, the petitioner instituted a criminal complaint on 27.03.2017 under Sections 499, 500, 501 and 502 RPC before the learned Judicial Magistrate First Class/City Judge, Jammu. On the same date, the petitioner also instituted a civil suit seeking damages to the tune of Rs. 15 crore against the respondent before the learned Additional District Judge, Jammu.

4. Upon recording the statements of the complainant and one witness, the learned Magistrate took cognizance and issued process against the respondent vide order dated 27.03.2017. The said order was challenged by the respondent before this Court through CRMC No. 758/2017, invoking its inherent jurisdiction under Section 561-A Cr.P.C. The petition was subsequently dismissed vide judgment dated 30.12.2023, thereby upholding the order dated 27.03.2017.

5. Meanwhile, the respondent instituted a separate criminal complaint under Section 500 RPC before the learned Special Mobile Magistrate, Passenger Tax, Jammu, against the present petitioner, alleging that the petitioner had made defamatory allegations and imputations against him in an application/complaint submitted before the State Information Commission (SIC), Srinagar, in November 2017.

6. In the said application, the petitioner allegedly accused the respondent of blackmailing various government departments under the pretext of being

the Editor-in-Chief of Nawa-i-Waqt Azeem, misusing the provisions of the Right to Information Act, 2005, to exert pressure upon departmental heads, and withdrawing RTI applications after obtaining illegal gratification without insisting upon the information sought. The petitioner further alleged that the respondent procured information under the RTI Act and used his newspaper to coerce and threaten persons against whom pressure was sought to be exerted, including by publishing their alleged criminal antecedents.

7. According to the respondent, the aforesaid imputations were defamatory and were intended to damage his reputation. It was specifically alleged that, during the last week of November 2017, the petitioner distributed copies of the application/complaint submitted before the SIC by hand and through registered post among the respondent's close relatives and friends, with the intention of maligning him. The respondent further alleged that the recipients shared the contents on social networking sites, thereby lowering his reputation in the eyes of his friends, relatives and society at large.

8. The respondent accordingly instituted a criminal complaint under Section 500 RPC on 18.01.2018 before the learned Special Mobile Magistrate, Passenger Tax, Jammu. Upon recording the statement of the complainant and one witness and considering the allegations and material accompanying the complaint, the learned Magistrate took cognizance and issued process against the petitioner vide order dated 20.01.2018.

9. Aggrieved by the institution of the complaint and the consequential order issuing process, the petitioner has invoked the inherent jurisdiction of this Court through the medium of the instant petition under Section 561-A

Cr.P.C.(528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)), seeking quashment of the complaint and the order dated 20.01.2018.

SUBMISSIONS ON BEHALF OF THE PETITIONER

10. Mr. Anil Sethi, learned counsel for the petitioner submits that the criminal complaint instituted by the respondent is misconceived, maliciously motivated and constitutes an abuse of the process of law. It is contended that the complaint has been filed as a counterblast to the criminal complaint and civil suit earlier instituted by the petitioner against the respondent in relation to the alleged defamatory publications carried in the latter's newspaper.

11. It is further submitted that the essential ingredients of an offence under Section 500 RPC are not made out from the allegations contained in the complaint. According to learned counsel, the imputations attributed to the petitioner arose from an application submitted before the competent statutory authority for redressal of grievances and cannot, merely by reason of their contents, be treated as criminal defamation.

12. Learned counsel contends that the petitioner had merely availed himself of remedies available under law by approaching the SIC. The submission of an application before a statutory authority, it is argued, cannot by itself establish that the petitioner intended to defame the respondent. It is further contended that the allegations must be assessed in the context in which the application was submitted and the purpose for which the statutory remedy was invoked.

13. It is also submitted that the learned Magistrate failed to properly appreciate the nature and contents of the complaint and to examine whether the allegations, taken at face value, satisfied the ingredients of the alleged offence. The impugned order dated 20.01.2018 is, therefore, challenged as legally unsustainable and as one resulting in an unwarranted continuation of criminal proceedings.

14. Learned counsel further submits that the respondent instituted the complaint with the ulterior object of settling personal scores and exerting pressure upon the petitioner in view of the proceedings already initiated against him. Reliance is placed upon the principles laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335, to contend that criminal proceedings instituted maliciously, with an ulterior motive to wreak vengeance, may be quashed in the exercise of inherent jurisdiction.

15. It is accordingly argued that permitting the impugned proceedings to continue would allow the criminal justice process to be used for collateral purposes. The petitioner, therefore, seeks quashment of the complaint under Section 500 RPC and the consequential order dated 20.01.2018 passed by the learned Special Mobile Magistrate, Passenger Tax, Jammu.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

16. *Per contra*, Mr. Ajay Sharma, learned senior counsel for the respondent submits that the respondent is a retired employee of the Information Department who subsequently commenced publication of the newspaper Nawa-i-Waqt Azeem. It is contended that, in the course of his journalistic

activities, the respondent obtained information from various government departments by filing applications under the Right to Information Act, 2005, concerning alleged irregularities committed by the petitioner during his tenure in the Police Department.

17. Learned counsel submits that, after obtaining information from the concerned departments, the respondent published news reports relating to the alleged irregularities. Aggrieved by these publications, the petitioner instituted a criminal complaint under Sections 499, 500, 501 and 502 RPC on 27.03.2017 and simultaneously filed a civil suit claiming damages of ₹15 crore against the respondent.

18. It is further submitted that the respondent challenged the order dated 27.03.2017, whereby process had been issued against him, by filing CRMC No. 758/2017 before this Court under Section 561-A Cr.P.C. The said petition was dismissed vide judgment dated 30.12.2023, thereby upholding the order passed by the learned Magistrate.

19. The respondent alleges that the petitioner thereafter submitted an application/complaint before the SIC in November 2017 containing imputations that he was blackmailing government departments, misusing the RTI Act to exert pressure upon departmental heads, and obtaining illegal gratification in exchange for withdrawing RTI applications. It is contended that these allegations were not confined to the statutory proceedings but were also circulated among the respondent's friends and close relatives, allegedly resulting in damage to his reputation.

20. Learned counsel for the respondent maintains that the allegations contained in the application were defamatory and that the petitioner cannot escape liability merely by asserting that the application was submitted before a statutory authority. It is further contended that the RTI Act cannot be employed as an instrument to malign an individual or damage his standing in society.

21. In support of the respondent's claim concerning the protection afforded to reputation, reliance is placed upon the constitutional recognition of reputation as an aspect of the right to life under Article 21. It is contended that the right to criticise is not absolute and cannot be exercised in a manner that unlawfully damages another person's reputation.

LEGAL ANALYSIS

22. Heard learned counsel for the parties and perused the record. The principal question requiring consideration is whether the allegations set out in the complaint, taken in their entirety, disclose the commission of an offence under Section 500 RPC or whether the continuation of the criminal proceedings would amount to an abuse of the process of the Court.

23. Before proceeding further, it would be apposite to notice that the inherent jurisdiction of this Court under Section 561-A of the Code of Criminal Procedure is intended to prevent abuse of the process of any Court and to secure the ends of justice. Though such jurisdiction is to be exercised sparingly and with circumspection, the same cannot be construed as a fetter upon the Court's power to interfere where the allegations, even if taken at their face value, do not disclose the commission of an offence or where the

proceedings are manifestly attended with mala fides and have been instituted for an ulterior purpose.

24. The Hon'ble Supreme Court in a catena of cases enumerated the categories of cases in which criminal proceedings may be quashed, including cases where the allegations, even if accepted in their entirety, do not prima facie constitute an offence, or where the proceedings are manifestly attended with mala fide and instituted with an ulterior motive. The exercise of this power, however, must be guided by the facts of the particular case and cannot be founded merely upon the existence of a defence raised by the accused

25. The Hon'ble Supreme Court in **Neeharika Infrastructure Private limited versus State of Maharashtra reported as (2021) 19 SCC 401** held as under:

> ***" (i) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.***
>
> ***(ii) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) CrPC except under an order of a Magistrate within the purview of Section 155(2) CrPC.***
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> ***(iii) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.***
>
> ***(iv) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) CrPC.***
>
> ***(v) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no***

prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi) Where there is an express legal bar engrafted in any of the provisions of CrPC or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(vii) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge".

26.Similarly, the Hon'ble Supreme Court in **State of Haryana and others versus Bhajan Lal and Ors 1992 Supp(1) SCC 335**has held as under:

"The commencement of investigation by a police officer is subject to two conditions, firstly, the police officer should have reason to suspect the commis- sion of a cognizable offence as required by Section 157(1) and secondly, the police officer should subjectively satisfy himself as to whether there is sufficient ground for entering on an investigation even before he starts an investigation into the facts and circumstances of the case as contemplated under clause (b) of the proviso to Section 157(1) of the Code.

27.Furthermore, Hon'ble Supreme Court in **State of West Bengal and others Versus Swapan Kumar Guha and others (1982) 1 SCC 561** has held as under:

"Whether an offence into which an investigation is made or to be made is disclosed or not must necessarily depend on the facts and circumstances of each particular case and in considering that question the court has mainly to take into consideration the complaint or F.I.R. On a consideration of all offence is disclosed or not. The relevant materials, the court has to come to the conclusion whether an If on such consideration, the court is satisfied that an offence is disclosed, the court will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed for collecting materials for proving the offence. If, on the other hand, the court is satisfied that no offence is disclosed, it will be the duty of the court to interfere with any investigation and to stop the same to prevent

any kind of uncalled for and unnecessary harassment to an individual."

28. The aforesaid judgments make it abundantly clear that where the allegations contained in an FIR or complaint, even if accepted in their entirety, do not prima facie disclose the commission of any offence, or where the criminal proceedings are manifestly mala fide and instituted with an ulterior motive, the Court is justified in exercising its inherent jurisdiction to quash such proceedings.

29. It is equally well settled that where no offence is disclosed from the allegations and the material on record, continuation of the investigation would amount to an abuse of the process of law and cause unwarranted harassment to the accused. However, such jurisdiction is to be exercised sparingly, with circumspection and in accordance with the principles laid down by the Hon'ble Supreme Court.

30. Adverting to the facts of present case, the gravamen of the complaint is that the petitioner made defamatory imputations against the respondent in an application submitted before the State Information Commission in November 2017, alleging, inter alia, that the respondent was misusing the Right to Information Act, 2005, to exert pressure upon government departments and was withdrawing applications after obtaining illegal gratification. The respondent has further alleged that copies of the said application were circulated among his relatives and friends, thereby damaging his reputation. These two aspects of the complaint, namely, the submission of the application before the statutory authority and its alleged circulation among third parties, require consideration in their proper perspective.

31. As regards to first aspect, whether the petitioner's act of submitting an application before the State Information Commission, Srinagar, containing allegations against the respondent, can, in the circumstances of the case, be construed as an offence of defamation under Section 500 of the Ranbir Penal Code. In the considered opinion of this Court, the answer must be in the negative. A complaint alleging defamation cannot be sustained merely because the allegations made before a competent statutory authority are adverse to the person against whom they are directed or are perceived by that person to have lowered his reputation. The nature of the forum approached, the purpose for which the accusation was made, and the circumstances in which it was submitted are all relevant considerations in determining whether the ingredients of the alleged offence are attracted.

32. In the present case, the application was addressed to the State Information Commission, a statutory authority approached by the petitioner in relation to matters concerning the respondent's alleged conduct in the exercise of his activities. The petitioner, by placing his allegations before an authority competent to examine the matter, invoked an institutional forum for consideration of the grievance. The mere fact that the allegations may have been unpalatable to the respondent, or may have cast his conduct in an unfavourable light, does not, without more, convert the act of making such an accusation into criminal defamation. The law does not equate every adverse allegation with a defamatory offence; rather, the accusation must be examined in the light of the statutory ingredients and the exceptions expressly recognised by the legislature.

33. In this context, the Eighth Exception to Section 499 of the Ranbir Penal Code assumes significance, and reads as under:

> ***"Eighth Exception.—Accusation preferred in good faith to authorised person.— It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation."***

34. A plain reading of the aforesaid Exception makes it evident that an accusation preferred in good faith before a person or authority having lawful competence in respect of its subject matter is not to be treated as defamation. The protection is founded upon a legitimate principle: a person must be able to approach a competent authority and place a grievance before it without the act of doing so, by itself, exposing him to criminal prosecution for defamation. To hold otherwise would risk discouraging individuals from bringing alleged wrongdoing to the notice of the very authorities entrusted with examining such matters.

35. In **Kishore Balkrishna Nand v. State of Maharashtra & Anr.**, reported as 2023 INSC 675, the Hon'ble Supreme Court observed as under:

> ***"16. Exception 8 to Section 499 clearly indicates that it is not a defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with regard to the subject-matter of accusation."***

36. Tested against this statutory principle, the petitioner's act of submitting the application before the State Information Commission falls within the scope of the protection contemplated by the Eighth Exception, provided the accusation was made in good faith. The complaint, as presented, cannot be sustained merely by alleging that the contents of the application were defamatory or that the respondent's reputation was thereby affected. There

must be a legally sustainable basis to show that the petitioner's conduct falls outside the protection of the Exception and satisfies the ingredients of the offence. The mere making of allegations before a competent authority, without sufficient material demonstrating want of good faith or circumstances otherwise taking the act beyond the Exception, is not enough to justify criminal prosecution.

37. Insofar as the respondent's reliance on the Madras High Court judgment in **Dr. J. Sudarshan V. R. Sankaran** reported in **1992 Cri LJ 2427**is concerned that does not, by itself, advance his case. The judgment in Dr. J. Sudarshansupra , is distinguishable from the present case on the nature of the allegations, the circumstances in which they were made, and the applicability of Exception 8 to Section 499 IPC.

38. In Dr. J. Sudarshan supra, the respondent, after serving the Bank of Baroda for nearly 55 years, attended an interview on 20 November 1988 for suitable employment and paid ₹5,000 as a refundable membership fee. Upon allegedly discovering that the interview was a sham, he demanded a refund. Subsequently, the petitioner filed a civil suit against the respondent and others, alleging in the plaint that the respondent had forged a signature to secure employment in the private sector. Claiming that these allegations were false and defamatory, the respondent initiated criminal proceedings against the petitioner under Section 500 IPC. The petitioner approached the High Court under Section 482 CrPC seeking quashing of the criminal proceedings, contending that statements made in judicial pleadings were absolutely privileged and that the pending civil suit precluded parallel criminal proceedings.

39. Rejecting the contention of the petitioner, Madras High Court held that pleadings filed before the courts are not absolutely privileged and that an accusation must satisfy the requirement of good faith to attract Exception 8; it does not establish that every accusation made against a person before a competent authority necessarily constitutes defamation, irrespective of its context and purpose. For the facility of reference, the relevant part of the judgment *supra* is reproduced as under:

> ***"The Supreme Court in M. C. Verughese v. T. J. Ponnan referred to and accepted the law laid down in the above decision and reiterated that a person making a libellous statement in his complaint filed in court, is not absolutely protected in a criminal proceeding for defamation, for under Exception 8 and as seen from illustration to S. 499, IPC the statements are privileged, only when they are made in good faith. The petitioner, therefore, cannot contend that the averments have been made by him in a plaint and are therefore absolutely privileged. In the event of the petitioner claiming the benefit of Exception 8, which could be done only during trial, since the averment is per se defamatory, he would have to establish good faith as required under the above Exception."***

40. In the present case, the allegations were made before the State Information Commission in the course of raising a grievance concerning the respondent's alleged conduct in relation to RTI proceedings. The relevant inquiry, therefore, is whether the complaint, read as a whole and in its factual context, discloses the essential ingredients of defamation, or whether the communication is prima facie protected as an accusation made in good faith to an authority competent to deal with the subject matter. The mere fact that the allegations may be adverse to the respondent cannot, by itself, conclude that inquiry. Equally, the petitioner cannot claim immunity merely because the allegations were addressed to a public authority. The distinction must rest on the nature and purpose of the communication and the material available

on record. Accordingly, Dr. J. Sudarshan *supra* does not preclude this Court from independently examining whether continuation of the criminal proceedings in the present case would amount to an abuse of process, applying the settled principles governing the exercise of inherent jurisdiction.

41. Furthermore, the reliance placed by the respondent on the judgment rendered by Hon'ble Supreme Court in **Subramanian Swamy v. Union of India, reported as (2016) 7 SCC 221**, is misplaced, as the said judgment dealt primarily with the constitutional validity of Sections 499 and 500 of the Indian Penal Code and the recognition of the right to reputation as a facet of Article 21 of the Constitution. The Hon'ble Supreme Court was not called upon to determine the applicability of the Eighth Exception to Section 499 in the context of an accusation made before a competent statutory authority. The said judgment, therefore, does not govern the specific controversy arising in the present case.

42. In Subramanian Swamy *supra*, the Hon'ble Supreme Court, inter alia, observed as under:

> ***"That as it may be, the aforesaid authorities clearly lay down that freedom of speech and expression is a highly treasured value under the Constitution and voice of dissent or disagreement has to be respected and regarded and not to be scuttled as unpalatable criticism. Emphasis has been laid on the fact that dissonant and discordant expressions are to be treated as viewpoints with objectivity and such expression of views and ideas being necessary for growth of democracy are to be zealously protected. Notwithstanding, the expansive and sweeping ambit of freedom of speech, as all rights, right to freedom of speech and expression is not absolute. It is subject to imposition of reasonable restrictions."***

43. The aforesaid observations or the judgment in whole, when read in their proper context, do not advance the respondent's case. The judgment does not lay down that every statement capable of affecting a person's reputation must necessarily attract criminal liability, irrespective of the circumstances in which it was made or the statutory Exceptions available under Section 499 IPC. The constitutional recognition of the right to reputation cannot be construed as extinguishing the statutory protection expressly afforded to an accusation made in good faith to a person having lawful authority over the subject matter.

44. In the present case, the petitioner's defence is not that the right to reputation is not protected by law, but that the act of filing the complaint before State Information Commission by petitioner falls within the Eighth Exception to Section 499 IPC. The relevant inquiry, therefore, is whether the petitioner approached the State Information Commission, an authority alleged to have lawful jurisdiction over the subject matter, in good faith and in the circumstances attracting the protection of the said Exception. That question must be examined with reference to the nature of the accusation, the authority to whom it was made and the circumstances in which it was made. The general observations in Subramanian Swamy cannot negate a defence expressly available under Section 499 IPC (499 RPC). The respondent's reliance on the said judgment, without addressing the applicability of the Eighth Exception to the facts of the present case, is therefore not sufficient to sustain the impugned proceedings.

45. Furthermore, it must be borne in mind that Exception 8 to Section 499 of the Ranbir Penal Code embodies a legislative safeguard intended to protect bona

fide accusations made to persons or authorities lawfully competent to deal with the subject matter. To hold that the mere making of an accusation before such an authority is sufficient to sustain a prosecution for defamation, in the absence of material indicating want of good faith, would substantially defeat the very purpose of the said Exception. Consequently, the authorities relied upon by the respondent do not advance his case in the circumstances obtaining herein, particularly when the complaint and the material accompanying it do not disclose a sustainable basis for denying the petitioner the protection contemplated by the statutory Exception.

46. In these circumstances, the complaint, insofar as it seeks to criminalise the petitioner's act of approaching the State Information Commission, fails to disclose a sustainable basis for prosecution under Section 500 of the Ranbir Penal Code. Permitting the proceedings to continue merely because the respondent takes exception to the allegations made against him would amount to subjecting the petitioner to criminal process without adequate regard to the statutory protection embodied in the Eighth Exception to Section 499.

47. Another circumstance requiring consideration is the background of the dispute between the parties. The petitioner had instituted a criminal complaint against the respondent on 27.03.2017, alleging defamation through publications in the newspaper Nawa-i-Waqt Azeem, and had also instituted a civil suit seeking damages of Rs. 15 crore. The respondent thereafter instituted the complaint in question on 18.01.2018, alleging that the petitioner had defamed him through the application submitted before the State Information Commission in November 2017. The chronology of these

proceedings lends relevance to the petitioner's contention that the subsequent complaint was a counterblast to the proceedings initiated by him.

48. So far as the allegation that the petitioner circulated copies of the application among the respondent's relatives and friends is concerned, the same is equally untenable, inasmuch as no material has been placed on record to substantiate the said allegation. The allegation remains a bald assertion, unsupported by any cogent or tangible material, and does not find corroboration from the record. In the absence of any prima facie material demonstrating such circulation, the said allegation cannot be accepted merely on the basis of the respondent's averment. It appears that the allegation has been introduced only to lend an additional foundation to the complaint and to buttress the accusation of defamation, rather than being founded upon any demonstrable material. A criminal prosecution cannot be permitted to proceed on the basis of unsubstantiated allegations, particularly when the very act sought to be criminalised is alleged to have occurred independently of the application submitted before the competent statutory authority. Consequently, in the absence of material supporting the alleged circulation, the said allegation cannot be relied upon to sustain the criminal proceedings against the petitioner.

49. Furthermore, the overall facts and circumstances of the case, when examined in their entirety, lend considerable force to the petitioner's contention that the complaint in question is a counterblast to the proceedings initiated by him against the respondent. It is not disputed that the petitioner had earlier instituted criminal proceedings against the respondent in relation to the alleged defamatory publications, besides pursuing civil remedies. The

respondent had challenged the proceedings arising out of the petitioner's complaint before this Court in CRMC No. 758/2017, which came to be dismissed vide order dated 30.12.2023. The subsequent institution of the present complaint, founded upon the application submitted by the petitioner before the State Information Commission, must, therefore, be viewed in the backdrop of the pre-existing dispute and the continuing acrimony between the parties.

50. The chronology of events assumes significance. The parties were already embroiled in litigation concerning allegations of defamation, and the present complaint appears to have emerged from the same continuing dispute. Although the mere existence of prior litigation does not, by itself, render a subsequent complaint mala fide, the Court is entitled to examine whether the criminal process has been invoked to pursue a legitimate grievance or has instead been employed as a means of retaliation. In the present case, the nature of the allegations, the circumstances in which the complaint came to be instituted, and the absence of cogent material substantiating the alleged circulation of the application among the respondent's relatives and friends, when considered cumulatively, lend credence to the petitioner's contention that the complaint has been instituted with a view to retaliate against him and settle scores arising out of the earlier litigation.

51. It is a settled principle of law that where criminal proceedings are manifestly attended with mala fides or have been instituted maliciously with an ulterior motive to wreak vengeance upon the accused, the inherent jurisdiction of the High Court may be exercised to prevent abuse of the process of law. In **State of Haryana v. Bhajan Lal supra**, the Hon'ble Supreme Court, while

illustrating the categories of cases warranting the exercise of such jurisdiction, recognised that proceedings instituted maliciously with an ulterior motive for wreaking vengeance on the accused fall within the ambit of cases in which the High Court may intervene. Thus, the counterblast nature of a complaint, though not by itself conclusive, assumes considerable significance when supported by the surrounding circumstances and the absence of a legally sustainable foundation for the prosecution.

Conclusion

52. In view of the foregoing discussion, this Court is of the considered opinion that the continuation of the impugned criminal proceedings would serve no legitimate purpose and would instead amount to an abuse of the process of law. The petitioner's act of approaching the State Information Commission must be assessed in the context of the statutory function of the authority, the nature and purpose of the accusation, and the protection embodied in the Eighth Exception to Section 499 RPC. The complaint, insofar as it seeks to criminalise the making of an accusation before the competent statutory authority, fails to disclose a sustainable basis for prosecution, particularly in the absence of material sufficient to displace the protection claimed by the petitioner. The allegation that copies of the application were circulated among the respondent's relatives and friends is, likewise, not supported by any cogent material. Significantly, the complaint was instituted against the backdrop of pre-existing litigation between the parties, and the chronology of events, when considered alongside the nature of the allegations and the absence of supporting material, lends credence to the petitioner's contention that the proceedings are retaliatory in nature.

53. The inherent jurisdiction under Section 561-A CrPC is precisely intended to prevent the criminal process from being employed as an instrument of harassment or vengeance. While the existence of prior litigation, by itself, cannot establish mala fides, the cumulative effect of the circumstances obtaining in the present case, coupled with the absence of a sustainable foundation for the alleged offence, warrants the intervention of this Court. Criminal law cannot be permitted to become a means of penalising a person merely for approaching a statutory authority with a grievance, particularly where the law expressly recognises protection for accusations made in good faith to an authority competent to deal with the subject matter. To allow the proceedings to continue in such circumstances would defeat the object of the statutory Exception and subject the petitioner to the rigours of criminal prosecution without a legally sustainable basis. Accordingly, the impugned complaint and all proceedings emanating therefrom, insofar as they concern the petitioner, are liable to be quashed in order to secure the ends of justice and prevent abuse of the process of the Court.

54. Furthermore, this Court is of the considered view that that the criminal process cannot be permitted to become an instrument for penalising a person merely for approaching a competent statutory authority, particularly where the law expressly contemplates protection for accusations made in good faith before an authority having lawful jurisdiction over the subject matter. To allow the impugned proceedings to continue in the circumstances obtaining in the present case would not advance the legitimate object of criminal law; rather, it would expose the petitioner to the ordeal of prosecution despite the absence of a legally sustainable foundation for the same.

55. Accordingly, the petition is **allowed**. The criminal complaint titled Pritam Singh Saini v. Kamal Saini, instituted under Section 500 RPC, and the order dated 20.01.2018 passed by the learned Special Mobile Magistrate, Passenger Tax, Jammu, whereby process was issued against the petitioner, are hereby quashed. The petition stands **disposed of** accordingly.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
30.10.2026
Mubashir

i. Whether the order is speaking: Yes
ii. Whether the order is reportable: Yes.