



**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. Appeal No.342 of 2012**

**Reserved on: 07.03.2026**

**Date of Decision: 20.03.2026**

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**Rakesh Kaushal**

**.....Appellant**

**Versus**

**Arvind Goel**

**.....Respondent**

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*Coram*

*Hon'ble Mr. Justice Sandeep Sharma, Judge.*

*Whether approved for reporting? **Yes.***

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**For the Appellant:** Mr. Divya Raj Singh, Advocate.

**For the Respondent:** Mr. Sumit Sood, Advocate.

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**Sandeep Sharma, J.**

Instant criminal appeal filed under Section 378 of the Code of Criminal Procedure lays challenge to judgment dated 10.07.2012 passed by the learned Judicial Magistrate First Class (IV), Shimla, Himachal Pradesh, in case number RBT 72/2 of 2011/03 titled as ***Rakesh Kaushal Vs. Arvind Goel***, whereby complaint, having been filed by the appellant/complainant (***hereinafter, 'complainant'***) under Sections 499 and 500 of the IPC, came to be dismissed.

2. Precisely, the grouse of the appellant, as has been highlighted in the appeal and further canvassed by Mr. Divya Raj Singh, learned counsel representing the appellant, is that Court below has



fallen in grave error while passing the impugned judgment, because evidence adduced on record by the complainant to prove his case under Sections 499 and 500 of the IPC has not been appreciated in right perspective. He stated that though by way of leading cogent and convincing evidence, complainant successfully proved on record that on account of lodging of complaint at the behest of complainant to Hon'ble Governor and other higher authorities of the Government of Himachal Pradesh as well as publication of news item in newspaper "Him Himwanti", highlighting therein alleged corruption by the complainant while working as Deputy Commissioner, Sirmaur at Nahan, reputation of the complainant was badly damaged, but yet Court below taking hypertechanical view, discarded the same and proceeded to dismiss the complaint. Mr. Divya Raj Singh, learned counsel representing the appellant, stated that CW2-D.S. Rana and CW3-Rakesh Sharma categorically deposed that on account of publication of news item, as detailed hereinabove, image of the complainant, who is otherwise considered to be an honest officer, was badly maligned and as such, there was no occasion, if any, for Court below to dismiss the complaint, rather, it ought to have taken cognizance of the offences committed by



the respondent (***hereinafter, 'accused'***) under Sections 499 and 500 of the IPC.

3. To the contrary, Mr. Sumit Sood, learned counsel representing respondent, while supporting the impugned judgment passed by the learned Court below, vehemently argued that no cogent and convincing evidence ever came to be led on record at the behest of complainant to prove defamation, if any, at the hands of the accused. He stated that since it is not in dispute that accused published the news item, which is alleged to be defamatory, in the capacity of Editor of Him Himwanti newspaper, coupled with the fact that contents of the news item were otherwise found to be correct by the Court below on the basis of evidence adduced on record by the complainant itself, no illegality can be said to have been committed by the Court below while dismissing the complaint. He submitted that besides filing complaint before the Court below, complainant also filed suit for damages titled as *Rakesh Kaushal Vs. Arvind Goel* in the competent Court of law i.e. learned Additional District Judge, Nahan, but the same was dismissed on 30.09.2009. He stated that by now it is well settled that findings recorded by Civil Court prevails until reversed by the Appellate Court, after duly considering the same and weighing the evidence afresh. He contended that since



judgment rendered by the Civil Court was never laid challenge in the appropriate proceedings, same has attained finality.

4. Having heard learned counsel representing the parties and perused material available on record, this Court finds that complainant who had initially joined the Himachal Pradesh Administrative Services in the year 1977, was subsequently inducted in Indian Administrative Services on 12.02.1997. He remained posted in different departments on different posts. While complainant was posted as Deputy Commissioner, Sirmaur, he in the capacity of Collector decided case No.3 of 2000 on 24.12.2001, titled as *State of H.P. Vs. Arvind Goel*; case No.5 of 2000 on 24.12.2001, titled as *State of H.P. Vs. Poonam Goel*; and case No.6 of 2000 on 24.12.2001, titled as *State of H.P. Vs. Arvind Goel*, under Section 118(3) of H.P. Tenancy and Land Reforms Act, 1972. In aforesaid cases, complainant, being Collector, found that accused and his wife committed gross violation of provisions of Section 118(3) of H.P. Tenancy and Land Reforms Act, 1972 and accordingly, property in question was ordered to be vested in State of H.P. free from all encumbrances. Complainant alleged that on account of aforesaid decision rendered by him, accused, who is Chief Editor and publisher of "Him Himwanti Media Publication weekly Hindi", as well as his wife became inimical towards



him and published an article with heading “UPYUKTA RAKESH KAUSHAL BHARASHTACHAR MAIN LIPT, MANDIR KO BHI NAHIN CHHODA” in his weekly paper i.e. Him Himwanti in its publication of 10-16 March, 2002, and in its weekly newspaper of 4-10 December, 2002, complainant alleged that accused also published news item with heading “JAB SAIYAN BHI KOTWAL TO DAR KAHE KA”, wherein false allegations qua corruption were levelled against him, which defamed him in the estimation of his colleagues, relatives, subordinates and general public. Since complainant suffered mental agony as well as physical pain on account of aforesaid allegations, he filed complaint under Sections 499 and 500 of IPC in the competent Court of law.

5. Complainant besides examining himself as CW1, also examined two witnesses in preliminary evidence i.e. DW2-D.S. Rana and DW3-Rakesh Sharma. Learned trial Court on the basis of material adduced before it, issued process vide order dated 31.05.2003 to the accused, who after his appearance on the given date was admitted on bail. On finding *prima facie* case, notice of accusation was put to the accused to which he pleaded not guilty and claimed trial. To prove his case, complainant examined himself as well as two other witnesses. Accused in his statement recorded under Section 313 Cr.P.C. pleaded



innocence and examined five witnesses in his defence. On the basis of pleadings as well as evidence adduced on record by the respective parties, Court below proceeded to dismiss the complaint. In the afore background, accused has approached this Court in the instant proceedings praying therein to set aside the impugned order of dismissal passed by the Court below and convict the accused, named in the complaint, for their having committed offence punishable under Sections 499 and 500 of IPC.

6. Before ascertaining correctness of rival submissions made at the behest of parties to the *lis*, this Court finds it necessary to take of provisions contained in Section 499 and 500 of IPC, which read as under:

**499. Defamation.—**

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or 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, is said, except in the cases hereinafter expected, to defame that person.

Explanation 1.— It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.



Explanation 2.— It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.— An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.— No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, 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, 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.

**500. Punishment for defamation.—**

Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

7. As per aforesaid provision of law, whoever, by words either spoken or intended to be read, or by signs or by visible representations, make or 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, is said to defame that person, save and except few exceptions, as given in the aforesaid provision of law. Section 500 of the IPC provides for punishment for a term which may extend to two years, or with fine, or with both. In Section 499, the words "makes or publishes any



imputation" should be interpreted as words supplementing to each other. It was held by the Hon'ble Apex Court in ***Bilal Ahmed Kaloo vs. State Of Andhra Pradesh, 1997 (7) SCC 431***, that a maker of imputation without publication is not liable to be punished under that section. High Court of Patna in ***Laloo Prasad vs State of Bihar and Another, (1997) 2 Crimes 498(Pat.)***, held that a person cannot be said to have committed an offence under Sections 500, 501, 502 and 504 of the IPC merely because some article or news item is published attributing certain utterances to that person.

8. Complainant while deposing himself as CW1, precisely claimed that since 1977, he has been working in different posts in different departments with honesty and during aforesaid period, no allegation of corruption was ever levelled against him. While stating that he remained posted as Deputy Commissioner, Sirmaur, w.e.f. 1998 to 2002, complainant deposed that during afore period, he performed his duties with devotion and honesty. He deposed that while he was posted as Deputy Commissioner, he decided cases under the H.P. Tenancy and Land Reforms Act against the accused, who was a Journalist, and his wife, detailed hereinabove, Ex.CW2/A to Ex.CW2/C. He deposed that being aggrieved with these orders,



accused in his newspaper Him Himwanti published from Paonta, levelled allegations of corruption against him Ex.CW1/C and Ex.CW1/D. He deposed that publication was based on false complaint, as a result thereof, people who knew him and his family members, suffered mental agony, tension and his reputation was harmed. He deposed that publications were without any proof and were baseless. He deposed that accused also levelled serious allegations against him in letters addressed to Hon'ble Governor, Hon'ble Prime Minister and Chief Secretary etc., based on false facts Ex.CW1/B-1 to B-9. While stating that Commissioner Revenue vide Ex.CW1/A had asked for comments from him, he deposed that they were referred to Government for inquiry. He deposed that M.R. Sharma, Rakesh Sharma, D.S. Rana, Chaudhary and others had asked him about these facts, which hurt him and his reputation was tarnished in the estimation of general public. In his cross-examination, complainant while admitting that information sought by the journalist is to be supplied, he admitted that he was posted as Deputy Commissioner, Sirmaur and was *ex officio* Chairman of Mahamaya Bala Sundri Temple, Trilokpur, Renuka Vikas Board, United National Funds for Population and Activities District



Seproperelim Society, PRDA, DPEP. He admitted that on 24.04.1999, a news item was published in “Divya Himachal” with heading “UPAYUKAT KI GUT KI SHARAT PAR PRASHAN NE BANAI CASSETTE KALAKAR UPEKASHIT UPAYUKAT KE SAGE SAMBANDHI GATE RAHE”. He also admitted that cassette of Bhajan was prepared in which Kanwar Ikbal, Ratanika Tiwari, Kamal Tiwari, Rajesh, Rajeev, he himself, Rohit, Neetika, Sevi etc. had sung. While admitting that Rajesh and Rajeev are brothers and Sevi is his daughter and Kanwar Ikbal was his old friend, complainant feigned ignorance that prior to his posting as Deputy Commissioner, Sirmaur, Kanwar Ikbal had prepared a cassette. He feigned ignorance as to how much amount was paid to the person, who had prepared the cassette. He also admitted factum of his having filed civil suit for damages in the Court of learned Additional District Judge, Nahan, wherein he deposed that he could tell from the record as to how much money was spent. While admitting that G.Mat Corporation at Chandigarh was of his brother, he denied that work of marketing was given to G.Mat Corporation. He also denied that accused had come to inquire about truth in the item published in the newspaper. While stating that he had not supplied the information sought by the accused qua correctness of the news



item and about expenditure of the cassette, he deposed that he did not think it compulsory to supply the same. He also admitted that money of Bala Sundri Temple Committee is public fund. While admitting that accused had sought information for cassette, he stated that he cannot tell that ₹6 lacs were spent on preparing cassette. He admitted that he had not objected the news item nor had made any complaint to Press Council of India. He stated that while being Chairman of VNFPA, he had made some appointments in Tikkari Dhakasan, which finds mention in the report of inquiry Commissioner. He deposed that he cannot tell without record that due to embezzlement of funds, salary of some people could not be paid, who subsequently issued notice to him being Deputy Commissioner/Chairman. He admitted that he had replied the same through Mr. K.S. Banyal, Advocate. While stating that he does not remember that his orders were set aside in appeal, as property was not covered under Section 118 of H.P. Tenancy and Land Reforms Act, complainant stated that he had seen audio cassette of "Bhajan" in which it had been written that same were marketed by G.Mat Corporation, Chandigarh. He also admitted that letters Ex.CW1/B-2 to B-9 were not published. He also admitted that he had received



letters from Under Secretary to Hon'ble Governor and complaint to Governor was regarding mishandling of funds of Bala Sundari Mandir and he did not think it appropriate to supply information despite letter of Governor's Secretary. He also admitted that in his official capacity as Collector, he had filed contempt against the accused in the High Court of Himachal Pradesh. He also admitted that he had moved a complaint under Section 174 of the IPC in the Court of learned Chief Judicial Magistrate, Nahan, against the accused and his wife. He admitted that he knew DRO Sunder Singh and Hari Ram Kanungo, who were posted under him at Nahan. He feigned ignorance that on 08.03.2002, he had sent them to the house of accused at Paonta. While denying that funds received under UMFPA Scheme were to be spent in time bound manner, complainant further denied that he had misbehaved with Kumari Sarita qua which complaint was also lodged.

9. Careful perusal of statement made by CW2-D.S. Rana and CW3-Rakesh Sharma, reveals that afore persons knew complainant personally since long, as they had worked with him in some capacity. Both above named witnesses deposed that while complainant worked with them, his image was of honest and devoted



officer. They also stated that on account of publication of news item, as detailed hereinabove, reputation of complainant was harmed in their view. CW2-D.S. Rana, who was working as P.A. to Secretary Governor in the year 2001, stated that he cannot tell that letter Ex.CW1/B-2 was sent confidential to the Hon'ble Governor. He also admitted that he had not apprised the Hon'ble Governor about the action taken on the same. While admitting that complaint can be filed against public officer to the higher authority, he admitted that he is not aware that accused Arvind Goel had filed complaint against the complainant for his having not supplied the details qua the expenditure on the Bhajan cassette.

10. CW3-Rakesh Sharma, who was posted as HPAS Officer and had worked with the complainant, in his cross-examination stated that he remained as A.C. to D.C. Sirmaur and S.D.M. Nahan from the year 1999 to 2003. He stated that when he was posted at Nahan, no cassette of any Bhajan was prepared. He admitted that on 24.04.1999, news item was published in Divya Himachal with the heading "UPAYUKAT KE RISHTEDAR GATE RAHE KALAKAR UPEKSHIT RAHE". He admitted that proceedings Ex.DW1/C was not of his tenure and he never came to know about any disputed cassette.



While admitting that in Ex.DW1/C, there is no mention of name of cassette, he admitted that from Ex.DW1/D, it cannot be said as to whom the payment has been made. While stating that SDM was Rajeshwar Goel at that time, this witness deposed that he does not remember that any written information was supplied to the accused or not. He stated that he is not aware that singers in the cassette were relatives of the complainant and company was of brother of the complainant. He stated that he is not aware that because of this reason, journalist of "Divya Himachal" got suspicious and news dated 24.04.1999 was published against the complainant. While stating that he cannot tell that when information was not supplied to the accused, he made complaint to higher authorities, this witness admitted in his cross-examination that he does not remember that from the office of Governor, it was ordered that information be supplied to the accused.

11. Besides above, accused examined DW1-Heera Chand and DW2-Anand Prakash, who being Ahlmad from the office of Divisional Commissioner, Shimla and Clerk from C.M.O. Nahan at Sirmaur, produced the summoned record. DW3-Piyare Lal, Reader to D.C. Sirmaur at Nahan, also brought summoned record and stated that as



per record, no show cause notice dated 30.01.2002 was issued to Arvind Goel. In his cross-examination, he stated that as per record brought by him, there was list of violators of 24 industrial units. DW4-Prem Chand, Criminal Ahlmad in the Court of learned Chief Judicial Magistrate, Nahan at Sirmaur, brought summoned record of Civil Suit No.67/1 of 2009/02, titled as *Rakesh Kaushal Vs. Arvind Goel*, filed for damages to the tune of ₹10,00,000/-. He stated that as per record, it has been dismissed on 30.09.2009 by the learned Civil Judge (Sr. Division). In his cross-examination, he admitted that he cannot tell as to on what account damages were sought. DW5-Harish Kumar Sharma deposed that as per record sum of ₹4,47,442/- were spent for preparation of audio cassette, original of which is Ex.DW5/A. He deposed that cassette was marketed by G.Mat Company, but he is not aware as to who was the owner of the same. He submitted that payment qua cassette was made in cash. He submitted that Ex.DW5/B-1 to B-10 and Ex.DW5/C1 to C-4 were correct as per their record. In his cross-examination, this witness admitted that he was posted in Trilokpur Mandir since 1998 and decision to prepare cassette was taken by the Mandir Committee. He deposed that singers were called at the instance of Music Director



Kanwar Ikbal and no money was paid to relatives of complainant. He further stated that money fetched from selling the cassette was given to Mandir Committee and entry qua the same was made in the record.

12. From the careful perusal of the evidence led on record by the complainant, this Court finds that complainant attempted to carve out a case that he was defamed by the accused by publishing false news item in newspaper "Him Himwanti" and by writing letter to Hon'ble Governor and other higher authorities of Government of Himachal Pradesh.

13. To the contrary, accused by way of examining defence witnesses, as have been taken note hereinabove, attempted to prove that complainant in his capacity as Chairman to VNFPA to District Sirmaur sanctioned certain amounts and prior to filing the complaint at hand, he had filed Civil Suit bearing No.67/1 of 2009/02 in the Court of learned Civil Judge (Sr. Division) on the same and similar grounds, but the same was dismissed. By examining DW5-Harish Kumar, accused attempted to prove that sum of ₹4,47,442 were spent for preparation of audio cassette, which was marketed by G.Mat company, owned by the brother of the complainant and entire amount collected from the sale of cassette was deposited with temple trust.



14. If the statement made by complainant is read in its entirety, it clearly suggests that he, being *ex officio* Chairman of Mahamaya Bala Sundri Temple, got one cassette of Bhajan prepared wherein he along with Kanwar Ikbal, Ratanika Tiwari, Kamal Tiwari, Rajesh, Rajeev, Rohit, Neetika, Sevi etc. had sung. He categorically admitted that accused had sought information qua cassette, which was not supplied to him. He also admitted that despite notice from Secretary to Hon'ble Governor, he did not think it necessary to supply information to the accused qua expenditure on cassette. He also admitted in his cross-examination that G.Mat Corporation was of his brother at Chandigarh. It also came in the evidence that sum of ₹4,47,442/- were spent on audio cassette and same was marketed by G.Mat company, which itself shows that brother of complainant was involved in marketing of the cassette and he himself, his brother and daughter had sung in the cassette and information sought by the accused qua the same was withheld by him for the reason best known to him, as a result thereof, one news item was published in Divya Himachal under the heading "UPAYUKAT KI GUT KI SHARAT PAR PRASHAN NE BANAI CASSETTE KALAKAR UPEKASHIT UPAYUKAT KE SAGE SAMBANDHI GATE RAHE".



15. Complainant in his cross-examination also admitted that being Chairman of VNFPA, he had made some appointments in Tikkari Dhakasan, which otherwise finds mention in the inquiry report of the Commissioner. He nowhere denied factum with regard to embezzlement in the funds, rather he chose to feigned ignorance and stated that he cannot tell without record. No evidence worth credence ever came to be led on record to prove that all persons appointed by him as Chairman of VNFPA were paid salary in time and there was no foul play in the same. It is quite clear from the statement of complainant that his relatives were involved in the preparation of cassette and he, ignoring other artists, gave preference to his brother, sister and friend.

16. Having scanned evidence adduced on record by the complainant, this Court is persuaded to agree with learned counsel representing the accused that once no information with regard to news item published in Divya Himachal was given to him, he, under *bona fide* belief and in good faith, wrote letters to higher authorities and made publication in newspaper for public good. Once complainant himself admitted that accused had sought information qua afore facts and he did not give such information to him, no act of



defamation otherwise can be said to have been committed by the accused by writing letters to higher authorities for inquiry and by publishing the news item, detailed hereinabove, contents whereof otherwise stood published in earlier news item published in Divya Himachal on 24.04.1999. Complainant though attempted to set up a case that accused filed false complaint against him, on account of his having decided cases against the accused, but he was unable to dispute that orders passed by him under the H.P. Tenancy and Land Reforms Act were set aside by the Divisional Commissioner.

17. Leaving everything aside, complainant admitted factum of his having filed suit for damages in the Court of learned Additional District Judge, Nahan. DW4-Prem Chand deposed that suit for damages titled *Rakesh Kaushal Vs. Arvind Goel* was dismissed on 30.09.2009. Since complainant was unable to dispute that afore suit was filed by him against the accused on same and similar facts, as of the complaint, and suit filed by him was dismissed, he is otherwise estopped from filing complaint on similar facts and circumstances. Needless to say, findings recorded by Civil Court prevails until same are set aside by the higher Court. Since in the case at hand, no appeal, whatsoever, came to be filed after the judgment rendered by



the Civil Court below, judgment rendered by Court below can be said to have attained finality. Besides above, complainant had moved complaint under Section 174 of IPC and contempt proceedings before this Court, but the same were dismissed, as is evident from Ex.DB and Ex.DA.

18. Careful perusal of Section 499 of IPC, as reproduced hereinabove, clearly suggests that it is not defamation to impute anything which is true concerning any person, if it is for the public good that the imputation should be made or published. Similarly, it is not defamation to express in a good faith any opinion whatsoever respecting the conduct of a public servant in the discharge of his public functions. Words “intended to be” used in Section 499 of the IPC are very material to conclude defamation. Intention to harm is necessarily required to prove guilt of defamation. Similarly, good faith and *bona fide* belief are defences available to the accused charged with the offence of defamation. In the present case, accused has been able to probalilise defence that he had reasonable apprehension qua the working of the complainant and as such, in good faith for public good, he had made complaint to higher authorities. To the contrary, complainant failed to prove that accused intentionally and without



any basis published the news item and written letters to higher authorities, as a result of which, his reputation was damaged or badly maligned.

19. Consequently, in view of detailed discussion made hereinabove, this Court finds no illegality or infirmity in the impugned judgment passed by the learned Judicial Magistrate First Class (IV), Shimla, Himachal Pradesh and as such, same is upheld. Accordingly, present appeal is dismissed.

Pending applications, if any, shall also stand disposed of.

**March 20, 2026**  
*(Rajeev Raturi)*

**(Sandeep Sharma),**  
**Judge**