

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

...

CRM(M) No.132/2023
CrIM No.(329/2023)

VINEET JAIN

... Petitioner(s)

Through: -Mr.Mushtaq Mohammad Bhat, Advocate

Vs.

AMAN ZARGAR

...Respondent(s)

Through: -None

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

13.07.2026

1) The petitioner through the medium of present petition has challenged complaint filed by the respondents against him alleging commission of offences under Section 500 RPC, which is stated to be pending before the Court of learned Judicial Magistrate 1st Class (City Judge), Srinagar. Challenge has also been thrown to order dated 23.04.2019 passed by the learned trial Magistrate, whereby the process has been issued against the petitioner.

2) It appears that the petitioner had challenged impugned order dated 23.04.2019 by way of a revision petition before learned Additional Sessions Judge, Srinagar, who vide order dated 06.03.2023 dismissed the revision petition on the ground that the impugned order being interlocutory in nature is not revisable.

3) The crux of the allegations made in the impugned complaint is that on 07.04.2019, a news item came to be published in the several newspapers including the newspaper “Sunday Times”, of which the petitioner happens to be the Managing Director, wherein it was reported that on 06.04.2019 an Army man had been shot dead in Sopore, Kashmir. However, while reporting the said news item the newspapers published the photograph of the respondent-complainant. According to the complainant, because he has been shown to be deceased army man, it has caused to him irreparable loss and threat to his life. It has been submitted that the news item has been carried negligently by the accused persons, which is prejudicial to the interest of the complainant. It has been averred in the complaint that by projecting the complainant as an Army man, even though the petitioner is an Engineer and a social activist, his reputation has been harmed. It has been alleged that the publication so made by the accused persons has endangered the life of the complainant to the extent that he has had serious life threats from different groups who have mistook him as an Army man or working for the Army and that he has been socially boycotted by the people at his work place. According to the complainant the reckless action of the accused persons has caused harm to his reputation and also endangered his life.

4) The petitioner has challenged the impugned complaint and the order whereby summons have been issued against him on the grounds that he is functioning as the Managing Director of M/s Binnet Coleman and Co.Ltd and is not at all concerned or involved in the day to day conduct of business of the said Company, muchless in any of its publications. It has been contended that the petitioner has no role whatsoever in the matters concerning the publications, be it print publication or any magazine or online publication. According to the petitioner the publications are entrusted to acclaimed journalists of repute and high caliber in the respective fields, who only select the contents of their publications. Such journalists are professionals who are appointed as Editors of such publications. It has been submitted that it is only the Editor who selects material for each publication. It has been contended that in terms of the provisions contained in the Press and Registration of Books Act, 1867, it is only the Editor who is responsible for the publication and no other person can be held liable in respect of any publication. It has also been contended that in the news item in question name of the killed soldier has been clearly mentioned and even if it is presumed that the photograph published in the article pertains to the complainant, still then he cannot be connected with the incident on the basis of the news item. It has also been contended that impugned article is

not defamatory and even a wrong reference of complainant as an army man is not defamatory in nature.

5) I have heard learned counsel for the petitioner and perused record of the case, including the trial court record.

6) The main contention raised by the learned counsel for the petitioner for impugning the subject complaint filed by the respondent against him is that the petitioner has nothing to do with the offending news item as he is not the Editor of the newspaper. According to the petitioner it is the Editor who is responsible for controlling and selecting the matter that is to be published in a newspaper.

7) For determining merits of the contention raised by the petitioner it is necessary to have a look at the relevant provisions of the Press and Registration of Books Act, 1867. Section 1(1) of the Act defines “Editor” a person who controls selection of matter that is published in a newspaper. Section 5 provides that no newspaper shall be published in India except in conformity with the rules laid down in the said provision. Sub Section (1) of Section 5 provides that every newspaper shall contain the names of owner and editor thereof printed clearly on such copy and also the date of its publication. Section 7 of the Act lays down that in a legal proceeding, the production of a copy of declaration and in the case of an editor, a copy of newspaper containing his name

printed on it as that of the editor, would be held to be sufficient evidence as against the person whose name is subscribed to such declaration or printed on such news paper, as the case may be, that the said person was printer or publisher, or printer and publisher of every portion of any news paper whereof the title shall correspond with the title of the newspaper mentioned in the declaration, or the editor of every portion of that issue of the news paper of which a copy is produced.

8) Thus, a newspaper has to mention the names of its owner and editor so as to ensure transparency in publication. It is further clear that a statutory presumption arises against the editor who is responsible for selection of the content for its publication in the newspaper thereby making him accountable unless rebutted.

9) The Supreme Court while considering the provisions contained in the Act of 1867 in the case of *K.M.Mathew v. K.A. Abraham and ors* (2002) 6 SCC 670, has held as under:-

"14. A conjoint reading of these provisions will go to show that in the case of publication of any newspaper, each copy of the publication shall contain the names of the owner and the editor who have printed and published that newspaper. Under Section 7 of the Act, there is a presumption that the Editor whose name is printed in the newspaper as Editor shall be held to be the Editor in any civil or criminal proceedings in respect of that publication and the production of a copy of the newspaper containing his name printed thereon as Editor shall be deemed to be sufficient evidence to prove that fact, and as the 'Editor' has been defined as the person who controls the selection of the matter that is published in a newspaper, the presumption would go to the extent of holding that he was the person who controlled the selection of the matter that was published in the newspaper. But at the same time, this presumption contained in Section 7 is a rebuttable presumption and it will be deemed as sufficient evidence unless the contrary is

proved. Therefore, it is clear that even if a person's name is printed as Editor in the newspaper, he can still show that he was not really the Editor and had no control over the selection of the matter that was published in the newspaper. Section 7 only enables the court to draw a presumption that the person whose name was printed as Editor was the Editor of such newspaper, if the publication produced in the court shows to that effect.

15. The contention of the appellants in these cases is that they had not been shown as Editors in these publications and that their names were printed either as Chief Editor, Managing Editor or Resident Editor and not as 'Editor' and there cannot be any criminal prosecution against them for the alleged libellous publication of any matter in that newspaper.

16. The contention of these appellants is not tenable. There is no statutory immunity against Managing Editor, Resident Editor or Chief Editor against any prosecution for the alleged publication of any matter in the newspaper over which these persons exercise control. In all these cases, the complainants have specifically alleged that these appellants had knowledge of the publication of the alleged defamatory matter and they were responsible for such publication; and the Magistrates who had taken cognizance of the offence held that there was prima facie case against these appellants. It was under such circumstances that the summons were issued against these appellants.”

10) From the above analysis of legal position, it is clear that the Act of 1867 does not recognize any legal entity namely Managing Director etc. for raising a presumption. However, such individuals can be proceeded against only if there are specific allegations made against them. The Act of 1867 only recognizes Editor for the purpose of holding him responsible in any civil or criminal proceedings in respect of publication of the newspaper.

11) In the present case as per the declaration made by newspaper “Times of India”, Sh. Neelam Raaj has been shown as the Editor responsible for selection of news under the Press and Registration of Books Act. Relevant portion of newspaper has

been placed on record by the petitioner. Therefore, presumption under Section 7 of the Act of 1867 arises against the said Editor as he is responsible for the selection of content in the newspaper. In the impugned complaint there are no specific allegations against the petitioner that he is responsible for selecting the content of the offending news item. Therefore, without there being a statutory presumption against the petitioner who happens to be the Managing Director of the Company which owns the newspaper in question, he could not have been proceeded against. In the absence of any specific allegation against the petitioner the prosecution against him cannot be sustained.

12) Apart from the above, the impugned offending news item is not at all defamatory in nature. If an Engineer is mistakenly shown as an Army personnel, it can by no stretch of reasoning be stated that his reputation has been harmed. In fact, being a member of Indian Armed Forces in itself is a privilege and if a person is mistakenly shown as an Army personnel, the reputation of that person instead of being harmed would get enhanced. The learned trial Magistrate has not applied his mind to the allegations made in the impugned complaint and has proceeded to prima facie hold that the petitioner has been defamed, merely because his photograph has been published instead of an Army personnel who had died at the hands of militants.

13) During the course of arguments, learned counsel for the petitioner has placed on record a copy of order dated 15.12.2025, whereby the complaint as against the co-accused has been dismissed and they have been acquitted. On this ground also the impugned complaint as against the petitioner cannot proceed further when the co-accused have been acquitted in respect of the same offence arising from similar allegations.

14) The petition is accordingly **allowed** and the impugned complaint and proceedings emanating there from as against the petitioner are quashed.

(SANJAY DHAR)
JUDGE

SRINAGAR
13.07.2026
Sarveeda Nissar

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No