D/L – 3-4
16/09/2026
Court No.42
S.Kundu

CRR 4680 of 2022
With
CRAN 15 OF 2026

Abhishek Kapoor
Vs.
Kabir Suman

With

CRR 842 of 2023
With
CRAN 12 of 2026

Bittu Roy Choudhury
Vs.
Kabir Suman

Mr. Sandipan Ganguly, Sr. Adv.
Mr. Apalak Basu
Ms. Smita Mukherjee
Mr. Zoeb Cutelrywala
Ms. Soheli Bose

...for the petitioner in CRR 4680 of 2022.

Mr. Apalak Basu
Mr. Navneet Sewak

...for the petitioner in CRR 842 of 2023.

1. At the very threshold, when these matters were called for hearing, this Court records its anguish regarding the persistent and deliberate absence of the Opposite Party no. 2(complainant), who despite several opportunities, notices and ample latitude granted by this Court, as evidenced from the orders dated 10.04.2023, 03.07.2023, 30.11.2023, 31.01.2025, 11.06.2026 and lastly on 29.07.2026 wherein this Court has recorded that it has exhausted all measures to compel appearance of the opposite party no.2 in the

matters, as such, in view of the lackadaisical approach of the O.P. No. 2 and long pendency, this Court proceeds to hear and decide the matters *ex-parte* against the O.P. No. 2 on the basis of the comprehensive materials-on-record and the sound legal submissions of the Mr. Sandipan Ganguly, the learned counsel for the petitioners.

2. These two revisional applications under Section 482 of the Code of Criminal Procedure are taken up together for analogous hearing and disposal as they emanate from the selfsame criminal proceeding pending before the Judicial Magistrate, 9th Court, Alipore.

3. The petitioners seek the quashing of the entire proceeding being Complaint Case No. 1286 of 2022, including the order of cognizance dated 19.05.2022 passed by the learned Additional Chief Judicial Magistrate, Alipore, and the subsequent summoning order dated 14.07.2022 passed by the learned Judicial Magistrate, 9th Court, Alipore, whereby process under Sections 499, 500, and 34 of the Indian Penal Code, 1860, was issued against them.

4. The factual backdrop reveals that on 27.01.2022 at about 1:30 PM, a telephonic call was made by Bittu Chowdhury, reporter attached to Republic Bangla (petitioner in C.R.R. 842 of 2022), to the opposite party no. 2, Sri Kabir Suman, concerning a news reaction regarding late Sandhya Mukherjee. Annoyed by the

call, the opposite party no. 2 reacted with intemperate language, uninhibitedly hurling a torrent of common Bengali slangs and expletives. Subsequently, on 29.01.2022, the opposite party no. 2 published a long Facebook apology admitting to his intemperate outburst. Following the circulation of the audio recording of the said verbal dialogue, a legal notice was issued, replies were exchanged, and the learned Magistrate ultimately took cognizance and issued summons. While the reporter (Bittu Chowdhury) is directly accused of recording and circulating the conversation, Mr. Abhishek Kapoor (petitioner in C.R.R. 4680 of 2022), the Senior Executive Editor / Editor-in-Chief, Republic Media Network, has been roped in personally and vicariously despite the admitted and uncontroverted position that no such programme, news segment, or audio recording was ever aired, broadcasted, or telecasted by Republic Bangla or any channel of the Republic Media Network.

5. Mr. Ganguly has forcefully and meticulously argued that the criminal prosecution is legally stillborn as the foundational ingredients of the penal offence of defamation under Section 499 of the Indian Penal Code, 1860 are conspicuously absent. Section 499 defines defamation as making or publishing any *imputation* concerning any person with intent to harm, or knowing or having reason to believe that such

imputation will harm their reputation. Learned senior counsel submits that an "imputation" pre-supposes an active assertion, allegation, or attribution originating from the accused, it can never encompass the passive recording, exposure, or dissemination of the complainant's own unedited words spoken in his own voice. A person cannot be said to defame another by truthfully reproducing or capturing what that very person has himself uttered in an uninhibited outburst.

6. This core principle stands authoritatively settled by the Hon'ble Apex Court in *Jawaharlal Darda & Ors. v. Manoharrao Ganpatrao Kapsikar & Anr.* [(1998) 4 SCC 112], wherein the Supreme Court held that if the publication is a true and faithful account of what has transpired and does not contain any independent, malicious or fabricated imputation by the accused, the essential ingredients of defamation under Section 499 of the IPC are completely missing, and the criminal prosecution cannot be sustained.

7. The same line of reasoning has been consistently echoed by this Court in *Samik Ghosh and Ors. v. State of West Bengal & Anr.* (2022 SCC OnLine Cal 3610) and *Afshan Meerza v. The State of West Bengal & Anr.* (2022 SCC OnLine Cal 4126), wherein it was reaffirmed that faithful reporting or reproduction without editorial malice does not constitute the offence of defamation.

8. Furthermore, Mr. Ganguly has heavily relied upon Explanation 4 to Section 499 IPC, which explicitly stipulates:

> *"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."*

9. As expounded by this Court in *M/s. Pataka Industries (Pvt.) Ltd. v. The State of West Bengal & Ors.* (CRR 3277 of 2008 decided on 07.10.2013), a person cannot be defamed in his own eyes, and the statutory threshold mandates that the imputation must lower reputation *in the estimation of others*.

10. A perusal of the initial deposition of the O.P. No. 2/complainant under Section 200 Cr.P.C. reveals a total void of any independent third-party witness who deposed that the moral or intellectual character of the opposite party no. 2 was lowered in their estimation. In the absence of any foundational witness testimony, the charge of defamation under Sections 499 & 500 of the IPC fails to cross the legal threshold.

11. Addressing the mechanical nature of the orders impugned, Mr. Ganguly has demonstrated that the cognizance order dated 19.05.2022 was passed by the learned Additional Chief Judicial Magistrate by merely filling out or signing a printed pro forma, which runs diametrically counter to Rule 183 of the Calcutta High Court Criminal (Subordinate Courts) Rules, 1985, and the mandate of this Court in *Sharmistha Chowdhury & Anr. v. The State of West Bengal & Ors.* (2017 SCC OnLine Cal 9902), wherein it was reinforced that orders requiring exercise of judicial discretion and the final order shall be recorded by a Magistrate in his own hand or typed by him.

12. Moreover, the summoning order dated 14.07.2022 suffers from fatal procedural and substantive illegalities. Firstly, it has been issued mechanically against a vague designation (*"The Editor - Republic Bangla"*) and reporter without reflecting any application of judicial mind to ascertain individual roles or specific culpability regarding applicability of the offence charged thereunder. The Hon'ble Supreme Court in *Sharad Kumar Sanghi v. Sangita Rane* [(2015) 12 SCC 781] and *JM Laboratories and Ors. v. State of Andhra Pradesh & Anr.* (2025 SCC Online SC 208) has cautioned that the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto

and when the accused are persons holding high corporate or editorial positions, the summoning order must contain specific allegations demonstrating their individual active participation, failing which is an abuse of process.

13. Compounding these glaring illegalities, the learned Magistrate completely bypassed the mandatory pre-summoning inquiry mandated under Section 202 of the Cr.P.C. The Hon'ble Supreme Court in *Subramanian Swamy v. Union of India, Ministry of Law & Ors. [*(2016) 7 SCC 221] has authoritatively underscored that the amended Section 202 Cr.P.C. casts a mandatory obligation on the Magistrate to postpone the issuance of process and conduct an inquiry or direct an investigation when the accused resides beyond the territorial jurisdiction, specifically to filter out false, vexatious, or harassing complaints against persons residing at far-off places.

14. It is an undisputed position of record that the petitioners reside beyond the territorial jurisdiction of the learned Magistrate at Alipore, as such, the shortcut adopted by the trial court completely defeats the legislative wisdom and mandate of Section 202 Cr.P.C, thus, is not legally tenable.

15. Upon a holistic synthesis of the statutory provisions, the undisputed facts, the continuous flow of arguments

advanced by the learned senior counsel for the petitioners, and the *ratio decidendi* of the binding precedents cited herein, this Court is firmly of the view that the continuation of Complaint Case No. 1286 of 2022 against both petitioners is an egregious abuse of the process of law and a travesty of justice.

16. Consequently, both criminal revisional applications (C.R.R. 4680 of 2022 and C.R.R. 842 of 2023) succeed and are hereby allowed.

17. The entire proceeding relating to Complaint Case No. 1286 of 2022 pending before the learned Judicial Magistrate, 9th Court, Alipore, South 24 Parganas, including the order of cognizance dated 19.05.2022 and the summoning order dated 14.07.2022, along with all consequential orders, are hereby quashed and set aside qua both petitioners (Mr. Abhishek Kapoor and Bittu Chowdhury).

18. The interim order, if any, stands vacated.

19. Pending applications (CRAN 15 of 2026 in C.R.R. 4680 of 2022 and CRAN 12 of 2026 in C.R.R. 842 of 2023) are also disposed of accordingly.

20. There shall be no order as to costs.

21. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with requisite formalities.

(Uday Kumar, J.)