

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SATYENDRA KUMAR SINGH

ON THE 13th OF DECEMBER, 2022

MISC. CRIMINAL CASE No. 48819 of 2022

BETWEEN:-

**KAMAL R. KHAN S/O SHRI MOHAMMAD IQBAL,
AGED ABOUT 54 YEARS, OCCUPATION: FILM
CRITIC BUNGALOW 7/70, MHADA, SVP NAGAR,
ANDHERI WEST, MUMBAI (MAHARASHTRA)**

.....PETITIONER

**(BY SHRI AJAY BAGADIA, SR.ADVOCATE WITH MS NANDINI BANSAL,
ADVOCATE)**

AND

**MANOJ VAJPAYEE S/O LATE SHRI
RADHAKANT BAJPAI, AGED ABOUT 53 YEARS,
OCCUPATION: ACTOR 902, B WING, OBEROI
SKY HEIGHTS, BANK ROAD, LOKHANDWALA,
COMPLEX, ANDHERI WEST, MUMBAI
(MAHARASHTRA)**

.....RESPONDENT

(BY SHRI PARESH JOSHI, ADVOCATE)

This petition coming on for order this day, the court passed the following:

This petition u/S 482 of Cr.P.C. has been preferred against the order dated 09.07.2022 passed by the Court of JMFC, Indore in criminal complaint bearing Crime No. RCT 5561/2022 filed by the respondent whereby an offence punishable u/S 500 of IPC was registered against the applicant.

2. Brief facts giving rise to this petition are that the respondent/complainant filed a criminal complaint u/S 200 of Cr.P.C.

against the applicant for offence allegedly committed u/S 499 and 500 of IPC stating therein that applicant is a known film critic while respondent is an actor of the Indian Film Industry. He has been awarded with several National Awards for his outstanding acting. Applicant using his two Twitter handles i.e. “KRK BOXOFFICE” & [KRK@kamaalRK](#) with an intent to defame and harm the reputation of the respondent tweeted two defamatory tweets on 26.07.2021 from his aforesaid twitter handles mentioning the respondent as “*Charsi Ganjedi*”. Statements of the respondent alongwith his witnesses were recorded u/S 200 and 202 of Cr.P.C. Thereafter, vide impugned order dated 09.07.2022, offence punishable u/S 500 of IPC was registered against the applicant and summons were issued to the applicant.

3. Learned counsel for the applicant submits that the alleged tweets were tweeted on 26.07.2021 while Twitter handle namely “KRK BOXOFFICE” was sold by the applicant to Salim Ahmed vide declaration/compromise deed dated 22.10.2020. Since, the applicant was not using the above Twitter handles at the time of incident, therefore, he cannot be held liable for the tweets tweeted from the said Twitter handle. He further submits that it is apparent from the Tweet said to be tweeted by the applicant on his Twitter handle “[KRK@KamalRK](#)” that the same does not contain any defamatory remark/words. Applicant himself is a renowned film critic and his reviews – critical or otherwise are viewed and subscribed by the public at large. Therefore, his intention by posting above Tweets was never to defame or to bring the respondent in any disrepute before the public at large. Applicant never intended to pass any derogatory or demeaning remarks against either the respondent or any other artist of

the Industry. Respondent has unnecessarily taken an exception to the language and words used by the applicant in the said Tweet. Hence, impugned order taking cognizance against the applicant and issuance of summon to the applicant is liable to be set aside.

4. Learned counsel for the respondent submits that declaration/compromise deed dated 22.10.2020 by which applicant's Twitter handle namely KRK BOXOFFICE was said to be sold cannot be considered at this stage. Applicant in both the Tweets tweeted from his Twitter handle specifically addressed the respondent alongwith other artists as the '*biggest charasi of Bollywood* and also a '*charsi ganjedi*'. Words used in the Tweet indicate that the same were written to malign the reputation of the respondent or not is a matter of evidence and cannot be decided at this stage. Hence, petition is devoid of merit and deserves to be rejected.

5. Heard, learned counsel for both the parties and perused the record.

6. Applicant in his petition nowhere states that Twitter handle namely “KRK BOXOFFICE” & [KRK@kamalRK](https://twitter.com/KRK@kamalRK)” were not owned and used by him. The issue whether the twitter handle namely KRK BOXOFFICE was sold prior to 26.07.2021 is a matter of evidence. Hence, *prima-facie*, this fact is established that at the time of incident, both the above Twitter handles were used by the applicant.

7. The words of the tweets said to be twitted by the applicant from his above Twitter handles are required to be seen, which are as follows:

KRKBOXOFFICE.... 26/07/2021

These are Biggest Charsi of Bollywood!

Manoj Bajpayee, Nawazuddin, Naseeruddin Shah

Anurag Kashyap and

[KRK@kamaalrk...](#) 26/07/2021

I am not a Lukka and Faaltu in life, So

I don't watch web series. Better you ask Sunil Pal.

But why do you like to watch a Charsi, Ganjedi

Manoj?

You can't be selective. If you hate Charsi Ganjedi in

Bollywood, So you should hate everyone.

8. From perusal of the language of the aforesaid disputed tweets which are said to be twitted by the applicant, prima-facie, it is apparent that addressing someone as '*charasi ganjedi*', is sufficient to harm the image and reputation of a person like respondent who is admittedly an actor in the film industry. Calling/addressing someone '*charasi ganjedi*' cannot be equated with the illustration 'D' of 6th exception to Section 499 of IPC, as argued by learned counsel for the applicant.

9. For convenience and ready reference, illustration 'D' of 6th exception to Section 499 of IPC is quoted below:

(d) A says of a book published by Z - "Z's book is foolish, Z must be a weak man. Z's book is indecent; Z must be a man of impure mind". A is within the exception, if he says this in good faith, in as much as the opinion which expresses of Z respects Z's character only so far as it appears in Z's books, and no further.

10. Forming an opinion about a book or anything else is entirely different from making personal remarks on character of a person. In the instant case, tweets in question by and large pointing towards the character of respondent. However, the same were tweeted with an intent to malign the reputation of respondent or not is a matter of

evidence which cannot be decided by this Court by invoking the inherent powers vested u/S 482 of Cr.P.C. Therefore, at this stage, it cannot be said that learned trial Court has committed any error in taking cognizance u/S 204 of Cr.P.C. and registering offence u/S 500 of IPC against the applicant.

11. Accordingly, M.Cr.C. deserves to be and is hereby dismissed.

(Satyendra Kumar Singh)
Judge

sh/-

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