

Dr. Subramanian Swamy vs Tajinder Pal Singh Bagga on 4 April, 2022

Author: Jasmeet Singh

Bench: Jasmeet Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 735/2022

DR. SUBRAMANIAN SWAMY

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Through: Mr. Maninder Singh, Sr. Adv. wit
Mr. Prabhas Bajaj, Mr. Pranav Saigal, Mr.
Sabharwal, Mr. Satya Sabharwal, Advs. for
Petitioner

versus

TAJINDER PAL SINGH BAGGA

...

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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04.04.2022

CRL.M.A. 6187/2022-EX.

Allowed subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 735/2022

This is a petition filed seeking quashing of criminal complaint bearing CT.C. No. 21/2021 titled „Tajinder Pal Singh Bagga Vs. Dr. Subramanian Swamy pending before Addl. Chief Metropolitan Magistrate (ACMM), Rouse Avenue District Courts under Section 190 CrPC read with Section 200 CrPC filed against the petitioner for allegedly having committed offences under Section 499 r/w Section 500 IPC and all consequential proceeding arising therefrom.

As per the order dated 22.03.2022, the petitioner has been summoned as an accused qua offence punishable under Section 500 IPC. The impugned proceedings emanate from the complaint filed under Section 190 CrPC read with Section 200 CrPC. The complaint has been filed based on a tweet made by the petitioner. On 28.09.2021, the petitioner had made a tweet which reads as under:-

"Delhi journalists inform me that before joining BJP, Tajinder Bagga had been jailed many times for petty crimes by the New Delhi Mandir Marg Police Station. True? If so Nadda should know".

Mr. Maninder Singh, learned Sr. Counsel appearing for the petitioner submits that the learned ACMM has totally misdirected himself and has given a restricted meaning to the tweet by focusing only on „Mandir Marg PS which created an erroneous and misconceived interpretation of the

tweet. It is also submitted that by relying on „Mandir Marg PS, the learned ACMM has come to the conclusion that the complainant was jailed many times for petty crimes only by „New Delhi Mandir Marg Police Station .

It is submitted by Mr. Singh, learned Sr. counsel appearing for the petitioner that the tweet never stated that the complainant was jailed by PS Mandir Marg "only". It is stated by the learned Sr. counsel appearing for the petitioner that the substantial statement that can be culled out from the tweet is that before joining BJP, Mr. Tajinder Singh had been jailed many times. In fact, my attention has been drawn to para 6 of the writ petition wherein the categorical assertion has been made as under:-

6. The Respondent is a political figure and acting as "National Secretary for BJYM and Uttarakhand State in-

charge for BJYM and before joining BJP was the member of one organization called Bhagat Singh Kranti Sena and is an accused in the brutal attack on lawyer Mr. Prashant Bhushan, for which he had himself, claimed responsibility. He had been arrested and charge-sheeted by the Delhi Police, and is currently out on bail. Charges have also been framed against the Respondent in the said case, for commission of offences u/s 452/323/120B/34 IPC, and the case is in trial.

My attention has also been drawn to „Carter-Ruck on Libel and Privacy, 6th Edition wherein it has been stated as follows:-

"C. IMPUTATIONS MUST BE PROVED TRUE IN SUBSTANCE 9.7 The defence of justification will not necessarily fail merely because the defendant fails to prove the truth of every detail in the publication. What is required is that the „jury should be satisfied that the sting of the libel, or if there were more than one, the stings of the libel should be made out¹. As Burrough J puts it in *Edwards v Bell*².

. It is sufficient if the substance of the libellous statement be justified; it is unnecessary to repeat every word which might have been the subject of the original comment. As much must be justified as meets the sting of the charges, and if anything be contained in a charge which does not add to the sting of it, that need not be justified.

9.8 That the words published contain some inaccuracies in detail will also not prevent the defence succeeding provided that the main gist of the libel is justified. In *Sutherland v Stopes* Lord Shaw gave the following example of a case where the plea of justification would not fail merely because of the failure to prove the truth of every detail alleged:

'If I write that the defendant on March 6 took a saddle from my stable and sold it the next day and pocketed the money all without notice to me, and that in my opinion he stole the saddle, and if the facts truly are found to be that the defendant did not take

the saddle from the stable but from the harness room, and that he did not sell it the next day but a week afterwards, but nevertheless he did, without my knowledge or consent, sell my saddle so taken and pocketed the proceeds, then the whole sting of the libel may be justifiably affirmed by a jury notwithstanding these errors in detail."

Reliance has also been placed in „Subramanian Swami Vs. Union of India (2016) 7 SCC 221, para 23.9 which reads as under:-

"23.9. Carter Ruck on Libel and Slander¹⁴ has carved out some of the tests as under: (Manisha Koirala case¹⁴, SCC OnLine Bom para 23) "(1) A statement concerning any person which exposes him to hatred, ridicule, or contempt, or which causes him to be shunned or avoided, or which has a tendency to injure him in his office, profession or trade.

(2) A false statement about a man to his discredit. (3) Would the words tend to lower the plaintiff in the estimation of right thinking members of society generally?"

It is submitted by learned senior counsel for the petitioner that it is the arrest of the respondent which is important and not as to which Police Station made the arrest. It is further submitted by the learned Sr. counsel appearing for the petitioner that PS Tughlak Road and PS Tilak Marg are within the jurisdiction of New Delhi and the complainant has been arrested in FIR No.182/2011 with PS Tilak Marg also.

From the above narration, it seems that the learned ACMM has taken a narrow view of the matter by losing sight of the test laid down by the Apex Court in „Dr. Subramanian Swamy (supra).

In view of the above submissions and reasons stated above, issue notice to the respondent by all means including electronic, returnable on 06.09.2022.

CRL.M.A. 6186/2022-STAY For the reasons noted above, the proceedings in complaint No. 21/2021 titled „Tajinder Pal Singh Bagga Vs. Dr. Subramanian Swami are stayed till the next date of hearing.

JASMEET SINGH, J APRIL 4, 2022/ ms Click here to check corrigendum, if any