

#### **[s 500.44] Exception 10.—**

This Exception protects a person giving caution in good faith to another for the good of that other, or of some person in whom that other is interested or for the public good.

#### **[s 500.45] Complaint by aggrieved person necessary.—**

No Court shall take cognizance of this offence except upon a complaint made by the person aggrieved ([section 199 Cr PC, 1973](#)). The words "person aggrieved" does not mean "person defamed". The words "person aggrieved" has a wider connotation than the words "person defamed".<sup>152.</sup>

A complaint for defamation by the person aggrieved by it can be entertained by a Court notwithstanding that the accused could have been prosecuted on the same facts under section 182 on the complaint of a public servant. The two offences are fundamentally distinct in nature, although they may arise out of one and the same statement of the accused. The defamatory statement does not fall within any of the Exception to section 499 by reason merely of the fact that it is punishable as an offence under section 182, or any other section of the Code; nor is this section included in the list of sections contained in [section 195\(1\)\(b\) of the Cr PC, 1973](#).<sup>153.</sup> Where the imputations were against the managing director of a society, the society was held to be not an aggrieved person and, therefore, had no *locus standi* to file a complaint.<sup>154.</sup>

A newspaper published extracts from books written on a former Prime Minister, imputing charges of corruption against him and also his family members including his sons, daughter and wife. It was held that his sons could be said to be aggrieved persons. A complaint filed by one of the sons was not to be quashed.<sup>155.</sup>

The continuation of the proceedings even after the death of the complainant has been held to be not proper.<sup>156.</sup> Where the allegation in the complaint was that the Kerala Police had been defamed, the Court said that Kerala Police was not a definite and determinable body and, therefore, a member of the Kerala Police was not a person affected by the defamatory statement and his complaint was not maintainable.<sup>157.</sup>

When the statements in question are not directed against any person or against an identifiable group of individuals, the complainants cannot be said to be an aggrieved persons. The complainants have alleged defamation in respect of imputations against the character of Tamil-speaking women, which could be viewed as a class of persons. However, the appellant's remarks did not suggest that all women in Tamil Nadu have engaged in pre-marital sex. In fact her statement in News Magazine did not refer to any specific individual or group at all.<sup>158.</sup>

#### **[s 500.46] Complaint by director of company.—**

**Locus standi.**—The words "some person aggrieved" do not make it necessary that the complaint should be made by the very person who has been defamed. In the case of an imputation against a company, a director of the company would fall within the words "some person aggrieved". He can file a complaint.<sup>159.</sup>

#### **[s 500.47] Complaint by advocate.—**

False allegations were made in a newspaper against the Commissioner of Endowments. A complaint filed by an Advocate was held to be non-maintainable being not an aggrieved person.<sup>160.</sup>

#### **[s 500.48] Employer—**

**Labour.**—Defamatory statements were made against retrenched workmen in the counter filed by the management. Some of the statements were repeated on different dates before the labour Court and labour officer. The Court said that the question of limitation could not be decided until the starting point of the offence was known and that had to be decided at the trial.<sup>161.</sup> The Court further said that aspects of good faith in the utterances could also be decided only after evidence.<sup>162.</sup>

#### **[s 500.49] President of Municipality.—**

The President of a Municipality is not a 'person aggrieved', within the meaning of [section 199 of the Cr PC, 1973](#), by the defamations of his subordinate officers.<sup>163.</sup>

#### **[s 500.50] Complaint against Juristic person.—**

Simply because the accused is a corporate body, it cannot be said that it cannot commit an offence of defamation as defined under [section 499 IPC, 1860](#).<sup>164.</sup>

[Section 499, IPC, 1860](#), is an offence involving personal malicious intent, which is evident from the fact that one of the essential ingredients is either intention to harm or knowledge or reasons to believe that such imputation will harm the reputation of the other. An artificial/juristic person cannot be prosecuted for offence under [section 500, IPC, 1860](#), for such an artificial/juristic person cannot be attributed with any malicious intention which can be attributed only to a living person. Chief Educational Officer being an artificial/ juristic person prosecution against him for offence under [section 500, IPC, 1860](#) would not be maintainable.<sup>165.</sup>

#### **[s 500.51] Punishment.—**

The accused, an editor of a weekly, published an article in his paper making defamatory allegation against the petitioner, who was a Class I Officer and belonged to a respectable business family. The editor made no amends till conviction. Sentence of simple fine was enhanced to RI of two months and fine of Rs. 2,000.<sup>166.</sup>

In a case of defamation, the revision petition for enhancement of the sentence was filed seven years after the commission of the offence. It was held that delay in filing the revision cannot be a ground for not to enhance the sentence when the accused had not made any amends for his [criminal act](#).<sup>167.</sup> Where the utterances of the accused in a meeting were proved to harm the reputation of the complainant, his conviction under section 500 was held to be proper.<sup>168.</sup>

For the publication of defamatory matter in a newspaper the sentence awarded was that of imprisonment till the rising of the Court and fine of Rs. 500. It was held to be too

low and inadequate considering the damage caused to the reputation of the complainant. The fine amount was accordingly enhanced to Rs. 10,000.

### **[s 500.52] Quashing of complaint.—**

There were allegations in a private complaint that the respondents made imputations against the complainant in applications made under [section 436, Cr PC, 1973](#). The sworn statements and documents produced showed that the imputations were made with the intention or knowledge or having reason to believe that they will harm reputation. Thus, a *prima facie* was made out. The High Court could not at that stage say that there was no reasonable prospect of conviction at the trial. Questions of good faith and of intention could be examined on the basis of evidence at the trial. The trial must go on. The quashing of the complaint was not proper.<sup>169</sup>

### **[s 500.53] Application of exceptions in pre-trial stage.—**

The Supreme Court in *Rajendra Kumar Sitaram Pande, v Uttam*,<sup>170</sup> held that issuing of process against the accused for the offence punishable under section 499 punishable under [section 500 of the IPC, 1860](#) can be questioned in higher Courts. Ultimately, the Supreme Court quashed proceedings relating to prosecution of such a case in that reported decision by applying Exception 8 to [section 499 of the IPC, 1860](#). Therefore, it cannot be said that application of exception cannot be considered at pre-trial stage and by invoking [section 482 of the Cr PC, 1973](#).<sup>171</sup> In *Vedurumudi Rama Rao v Chennuri Venkat Rao*,<sup>172</sup> Court considered applicability of Exception 9 to [section 499 of the IPC, 1860](#) and held that truth of imputation need not be probed by such accused while claiming privilege under Exception 9; and finally quashed proceedings in criminal case relating to the offence punishable under [section 500 of the IPC, 1860](#). The Gujarat High Court in *Darusing Durgasing v State of Gujarat*,<sup>173</sup> followed the above said reported decision of the Supreme Court and quashed criminal proceedings for the offence punishable under [section 500 of the IPC, 1860](#) in view of Exceptions 7, 8 and 9 to [section 499 of the IPC, 1860](#). In an examination fact situation, the Bombay High Court in *Valmiki Faleiro v Mrs. Lauriana Fernandes*,<sup>174</sup> went to the extent of holding a paper publication containing certain imputations as one saved by Exception 9 because intention of the accused was predominantly to protect his rights in the property and not to harm reputation of the complainant. In *Jeffrey J Diermeier v State of WB*,<sup>175</sup> it was pleaded that in the light of Explanation 4 as well as Tenth Exception to [section 499 IPC, 1860](#), the allegations in the complaint did not constitute an offence of defamation punishable under [section 500 IPC, 1860](#). But the Supreme Court held that the mere plea that the accused believed that what he had stated was in "good faith" is not sufficient to accept his defence and he must justify the same by adducing evidence. Court found it difficult to hold that a case for quashing of the complaint under section 482 of the Code has been made out.

### **[s 500.54] Jurisdiction.—**

The Courts at the place of printing and publication of a newspaper as well as those at the place of distribution have jurisdiction to entertain a complaint.<sup>176</sup> The respondent is said to have given an interview to the Newspaper "Economic Times" intending it to be published and to be read by public. Therefore, though the act of making the defamatory statement during the interview was done at a place outside the jurisdiction of the

Court, prosecution can be launched in Courts exercising jurisdiction over any one of the places wherein circulation of the paper is made.<sup>177.</sup>

#### **[s 500.55] Cognizance on Police report.—**

In *Shiv Kumar Agarwal v State of Meghalaya*,<sup>178.</sup> Gauhati High Court examined the question whether a Magistrate can take cognizance of a non-cognizable offence punishable under [section 500, IPC, 1860](#) on the basis of the police report submitted by the police under [section 173\(2\), Cr PC, 1973](#) while investigating both a cognizable offence and a non-cognizable offence under [section 155\(4\), Cr PC, 1973](#) even after the accused is discharged from the cognizable case. It is held that as one of the offences alleged against the petitioner was a cognizable offence, namely, [section 505\(2\), IPC, 1860](#), by virtue of the legal fiction introduced in [section 155\(4\), Cr PC, 1973](#), the case was deemed to be a cognizable offence. Once the case was deemed to be a cognizable offence, there was no legal impediment in investigating the case by the police. After the case was investigated by the police, the charge-sheet was submitted by them to the learned Magistrate under [section 173, Cr PC, 1973](#) for trying the petitioner under [section 505 \(2\)/500, IPC, 1860](#). However, the charge made against the petitioner under [section 505\(2\), IPC, 1860](#) was quashed by this Court on the ground that no prosecution sanction under [section 196 \(1A\), Cr PC, 1973](#) was obtained by the police. The net result is that the trial Court had to proceed with consideration of the charge under [section 500, IPC, 1860](#) and, after hearing the parties, framed the charge accordingly by rejecting the prayer of the petitioner for dropping the charge against him.<sup>179.</sup>

In the defamation matter, issuance of process after having examination of defamatory material with reaction of the public, would certainly be sufficient to satisfy the test of holding the enquiry under [Section 202, Cr PC, 1973](#).<sup>180.</sup>

#### **[s 500.56] Section 211 and Section 500.—**

Section 211 imposes a punishment in case of a false charge or offence made with the intent to injure someone before any Court of law, whereas section 500 provides for punishment in case of a defamation of a person by any one. Defamation has been defined under section 499 which provides inter alia 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 excepted, to defame that person. Making a false complaint before a Court of law would amount to committing fraud on Court. It is for the Court to proceed against the erring person. The provision has been made to preserve the sanctity of the Court. Section 500 gives right to sue to a person who is defamed within the meaning of section 499 by the conduct of the accused. These two provisions are totally distinct and can be tried in absence of each other.<sup>181.</sup>

6. Note R, p 175.

7. It is not necessary to incorporate the whole of the published matter in a complaint. A complaint was not dismissed only on the ground that the matter under complaint was presented not in the body of the complaint, but in an attached document. *T Kunhambu v A Sojath*, [1989 Cr LJ 1022](#) (Ker), **following** *Balraj Khanna v Motiram*, [1971 Cr LJ 1110](#) (SC). The complaint must be made by the party aggrieved. His wife is not an aggrieved person and, therefore, her complaint is not maintainable. *Nazeem Bavakunju v State of Kerala*, [1988 Cr LJ 487](#) (Ker). *MN Meera v AC Mathew*, [2002 Cr LJ 3845](#) (Ker), the name of the complainant was not mentioned by the accused while making the alleged defamatory statement. The complaint should not have been thrown overboard on that ground alone. *KM Selvaraj v A Amaralal*, [2002 Cr LJ 3811](#) (Mad), defamatory statements in a circular against members and president of an association regarding manipulation of accounts and misappropriation of funds. One of the signatories was a chartered accountant who had checked the accounts. The CA applied for dropping of his name because he was only a signatory. His request was accepted. It was held that the order discharging him was not proper. All accused persons had to face the consequences of the defamatory statement in the circular.

8. *Standard Chartered Bank v Vinay Kumar Sood*, [2010 Cr LJ 1277](#) (Del).

9. *Bacon's Abrid*, vol IV, p 457.

10. *Sunilakhya v HM Jadwet*, [AIR 1968 Cal 266](#) [[LNIND 1967 CAL 167](#)] .

11. *S Nihal Singh v Arjan Das*, [1983 Cr LJ 777](#) (Del); see also *DN Rao v RD Bhagvandas*, [1986 Cr LJ 888](#) (AP). *M Chandran v F Fanthome*, [2003 Cr LJ 2173](#) (Sik), complainant had full knowledge of the document which was quite old, no witness cited, failure to make out defamatory nature of the remarks, the accused discharged. Period of limitation had also expired and no condonation was sought.

12. *Varnakote Illath v Kotalmana Keshavan*, (1900) 1 Weir 579.

13. *SS Sanyal v KVR Nair*, [1987 Cr LJ 2074](#) (Cal), **relying** on *TJ Ponnell v MU Verghese*, [AIR 1967 Ker 228](#) [[LNIND 1966 KER 242](#)] : [1968 Cr LJ 1511](#) . It is different if the employee himself goes round showing the notice to others. Such notice comes under 9th exception being necessary to protect the employer's interest.

14. *Boxsius v Goblet Freres*, (1894) 1 QB 842 . Other matters of the same kind, *Pullman v Walter Hill*, (1891) 1 QB 524 , dictation by the managing director of a company to his short-hand steno, and after being transcribed, sent to the plaintiff, held to be a publication, but **not followed** in subsequent cases. See *Edmondson v Birch*, (1907) 1 KB 371 and *Sukhdeo Vithal v Prabhakar Sukhdeo*, [1974 Cr LJ 1435](#) (Bom).

15. *PR Ramakrishnan v Subbaramma*, [AIR 1988 Ker 18](#) [[LNIND 1986 KER 395](#)] : [1988 Cr LJ 124](#) . But see *Rev Fr Bernad Thalttil v Ramchandran Pillai*, [1987 Cr LJ 739](#) (Ker), notice containing libellous imputations of misappropriation.

16. *Sadashiv Atmaram*, (1893) 18 Bom 205. In *BP Bhaskar v BP Shiva*, [1993 Cr LJ 2685](#) (Mad), it was held that scurrilous allegations or imputations contained in notices exchanged between parties do not amount to 'publication' under section 499. The court also held that a reply to the notice sent to the party's advocate containing defamatory statements of the party is not publication. It is a communication to the party himself.

17. *Taki Husain*, (1884) 7 All 205 (FB).

18. *Sukhdeo v State*, (1932) 55 All 253 .

19. *Nagrathimam (Dr.) v M Kalirajan*, [2001 Cr LJ 3007](#) (Mad).

20. *Sankara v State*, (1883) 6 Mad 381.

21. *Thiagaraya v Krishnasami*, (1892) 15 Mad 214.

22. *Greene v Delanney*, (1870) 14 WR (Cr) 27; *Abdul Hakim v Tej Chandar*, (1881) 3 All 815 .

23. *Raja Shah*, (1889) PR No. 14 of 1889.
24. *Wenman v Ash*, (1853) 13 CD 836.
25. *Wennhak v Morgan*, (1888) 20 QBD 635; *Dr. Jaikishen Das v Sher Singh*, (1910) PR No. 10 of 1910.
26. *Pundit Mokand Ram*, (1883) PR No. 12 of 1883.
27. *Janardhan Damodhar Dikshit*, (1894) 19 Bom 703. *PM Abubacker v PJ Alexander*, 2000 Cr LJ 1168 (Ker) the source of information regarding published defamatory statement is not a consideration for prosecution for defamation. *M Malle Reddy v T Venkatarama*, 2000 Cr LJ 1086 (AP), a complaint against an alleged defamatory statement published in a newspaper was not allowed to be quashed in the exercise of writ jurisdiction.
28. *S Khushboo v Kanniammal*, 2010 Cr LJ 2828 (SC) : AIR 2010 SC 3196 [LNIND 2010 SC 411] : 2010 (5) SCC 600 [LNIND 2010 SC 411] .
29. *Charmesh Sharma v State Of Rajasthan*, 2012 Cr LJ 2115 (Raj).
30. *Howard*, (1887) 12 Bom 167.
31. *Harbhajan Singh*, AIR 1961 Punj 215 .
32. *BRK Murthy v State*, 2013 Cr LJ 1602 (AP); *Tankasala Ashok v State of AP*, 2010 Cr LJ 2074 (AP) where there was nothing to show that editor had control over selection of publication, proceedings against accused editor is liable to be quashed.
33. *Dongar Singh v Krishna Kant*, AIR 1958 MP 216 [LNIND 1958 MP 58] .
34. *McLeod*, (1880) 3 All 342 .
35. *Ramasami v Lokanada*, (1886) 9 Mad 387.
36. *Bhagat Singh v Lachman Singh*, AIR 1968 Cal 296 [LNIND 1967 CAL 189] . The chairman of a company which is publishing a newspaper is not liable merely by virtue of his position as such. *Udayam Telugu Daily v State of AP*, 1987 Cr LJ 143 (AP).
37. *AK Jain v State of Sikkim*, 1992 Cr LJ 843 (Sikkim).
38. *KV Ramesh v HC Ramesh*, 2001 Cr LJ 3556 .
39. *KM Mathew v KA Abraham*, 1998 Cr LJ 327 (Ker). *CB Solanki v Srikanta Parashar*, 1997 Cr LJ 3050 (Kant), "editor" for the purposes of the section does not include a person described as chief editor or managing director, particularly when there were no specific allegations against them in the complaint. The Court also explained the scope of first and ninth exception and the burden of proof as to publication.
40. *McLeod, supra*; *Girjashankar Kashiram*, (1890) 15 Bom 286. The fact that the accused did not know the person defamed through his newspaper is no defence. *Sumatibai Vinayak Deo v Nandkumar Deshpande*, 1990 Cr LJ 2136 (Bom). Defamation in 1977. Appeal against acquittal allowed in 1990. No further prosecution allowed. Fine of Rs. 2,000 with a direction that Rs. 1,800 should be handed over to the aggrieved person imposed.
41. *Gambhirsinh R Dekare v Falgunbhai Chimanbhai Patel*, (2013) 3 SCC 697 [LNIND 2013 SC 175] : 2013 Cr LJ 1757 : AIR 2013 SC 1590 [LNIND 2013 SC 175] .
42. *Ravi Prakash v J C Diwakar Reddy*, 2010 Cr LJ 2558 (AP).
43. *P Lankesh v H Shivappa*, 1994 Cr LJ 3510 (Kant).
44. *Radhanath Rath v Birja Prasad Ray*, 1992 Cr LJ 938 (Ori).
45. *Archbold*, 35th Edn, p 3633.
46. *McCarthy*, (1887) 9 All 420 .
47. *Shibo Prosad Pandah*, (1878) 4 Cal 124 .
48. *Sirajuddin Ali v Mujtaba Ali*, 2001 Cr LJ NOC 125 (AP).
49. *Gautam Sahu v State of Orissa*, 1999 Cr LJ 838 .

50. *Government Advocate, B & O v Gopabandhu Das*, (1922) 1 Pat 414. *CL Sagar v Mayawati*, 2003 Cr LJ 690 (All), the complaint was that the vice president of a political party defamed the complainant by stating in a public meeting that the person with long moustache in the party was a corrupt person. The complainant could not show that he was the only member of the party with long moustache. The newspaper report of the meeting did not carry any such remark. No offence made out.
51. *Asha Parekh v State of Bihar*, 1977 Cr LJ 21 (Pat); see also *Narottamdas v Maganbhai*, 1984 Cr LJ 1790 (Guj); *Aruna Asafali v Purna Narayan*, 1984 Cr LJ 1121 (Gau).
52. *Maung Sein*, (1926) 4 Ran 462.
53. Clerk & Lindsell on *TORTS*, 1701 (14th Edn 1975).
54. *Manmohan Kalia v Yash*, (1984) 3 SCC 499 [LNIND 1984 SC 101] : AIR 1984 SC 1161 [LNIND 1984 SC 101] . See also *Sumatibai Vinayak Deo v Nandkumar Deshpande*, 1990 Cr LJ 2136 (Bom), where the veiled expression that only "S" knew what happened to the bowls brought by children to the school was held to be not defamatory; *Lalliani v R L Rina*, 1987 Cr LJ 1295 (Gau), a biographical account of the life of a poet mentioning a named girl as his source of inspiration and depicting their love affairs, a woman by that name was not able to convince the court that she was the object of the attack. But see *V Subair v PK Sudhakaran (Dr)*, 1987 Cr LJ 736 (Ker), where a medical practitioner was described as a "professional debauch" and of "low moral character", the accused was held liable because the complainant was able to prove that he was meant to be attacked.
55. *Parvathi v Mannar*, (1884) 8 Mad 175.
56. *Monson v Tussauds Ltd*, (1894) 1 QB 671 , 692.
57. *Chellappan Pillai v Karanjia*, (1962) 2 Cr LJ 142 .
58. *Jacob Mathew v Manikantan*, 2013 Cr LJ (NOC) 62 : 2012 (3) KLT 824 .
59. *Veeda Menezes v Yusuf Khan*, (1966) 68 Bom LR 629 (SC).
60. *Gobinda Pershad Pandey v Garth*, (1900) 28 Cal 63 ; *Pimento*, (1920) 22 Bom LR 1224 [LNIND 1920 BOM 117] ; *U Aung Pe*, (1938) Ran 404 (FB).
61. *Parwari*, (1919) 41 All 311 .
62. *Taki Husain*, (1884) 7 All 205 , 220 (FB); *J Jayalalitha v Arcot N Veerasamy*, 1997 Cr LJ 4585 (Mad), absence of averment in the complaint that because of the imputation the complainant's reputation had been lowered in the estimation of others, dismissal of the complaint was proper.
63. *Mohan Lal v State of HP*, 2011 Cr LJ 2413 (HP).
64. *Ibid*.
65. *Luckumsey Rowji v Hurban Nursey*, (1881) 5 Bom 580.
66. *South Hetton Coal Co v NE News Association*, (1894) 1 QB 133 .
67. *Ibid*, p 141.
68. *Maung Chit Tay v Maung Tun Nyun*, (1935) 13 Ran 297.
69. *Mahim Chandra Roy v Watson*, (1928) 55 Cal 1280 .
70. *Wahid Ullah Ahrari*, (1935) 57 All 1012 .
71. *Sahib Singh*, AIR 1965 SC 1451 [LNIND 1965 SC 15] .
72. *Vishwa Nath v Shambhu Nath*, (1995) 1 Cr LJ 277 (All). The complainant had died and the proceedings were not allowed to be continued by others. The court **distinguished** *Ashwin Nanubhai Vyas v State of Maharashtra*, 1967 Cr LJ 943 : AIR 1967 SC 963 where the mother of the deceased complainant was allowed to continue the proceedings. The court **cited** *Raj Kapoor v Narendra Noranbhai Nagardas*, (1974) 15 Guj LJ 125 where the contemptuous remarks against Bhangi community uttered by caste Hindus were held to be not defamatory. The court said that if a person were to say that all lawyers were thieves, no particular lawyer could sue him unless



there is something to point out to a particular individual, *Eastwood v Holmes*, (1858) 1 F&F 347. The court also relied upon *Narottamdas L Shah v Maganibhai*, [1984 Cr LJ 1790](#) (Guj) where the agitating lawyers were described as "Kazia dalals" (dispute brokers) and it was held that the use of such words in reference to the lawyers as a class could not be taken to refer to a determinate or identifiable class of lawyers, namely, the lawyers who were participating in the agitation. *MP Narayana Pillai v MP Chacko*, [1986 Cr LJ 2002](#) (Ker) remarks in general about Christian girls being used for prostitution to enable them to earn livelihood because their parents were not able to support them were held to be too general to be defamatory of any body. The court said that identity of the collection of the people will have to be established in relation to the defamatory imputation. *KM Mathew v TU Balan*, [1985 Cr LJ 1039](#) (Ker) imputation against some leaders of teachers who were on strike was held to be not actionable.

73. *P Karunakaran v C Jayasooryan*, [1992 Cr LJ 3540](#) (Ker).

74. *Amar Singh v KS Badalia*, [\(1965\) 2 Cr LJ 693](#) ; *Shamsher Singh v State*, [1982 Cr LJ NOC 167](#) (Del).

75. *J Chelliah v Rajeswari*, [1969 Cr LJ 571](#) .

76. *Madhuri Mukund Chitnis v Mukund Martand Chitnis*, [1990 Cr LJ 2084](#) . The court referred to *Sukhdeo v State of Maharashtra*, 1974 (Bom) LJ 777 : [1974 Cr LJ 1435](#) and *Baburao Shankarrao v Shaikh Biban Pahelwan*, [1984 Cr LJ 350](#) , burden as to good faith.

77. *U Aung Pe*, (1938) Ran 404 (FB).

78. *Jatish Chandra v Hari Sadhan*, [AIR 1961 SC 613](#) [LNIND 1961 SC 19] .

79. *Jawaharlal Darda v Manoharao Ganpatrao*, [AIR 1998 SC 2117](#) [LNIND 1998 SC 361] : [1998 Cr LJ 2928](#)

80. *Chandrasekhara v Karthikeyan*, [AIR 1964 Ker 277](#) [LNIND 1964 KER 90] . *Neelakantan Kamalasanan v Achutan*, [1988 Cr LJ 1212](#) (Ker).

81. *Janardhan Damodhar Dikshit*, (1894) 19 Bom 703.

82. *Deivasigamani*, [1977 Cr LJ NOC 110](#) (Mad).

83. *Ramanand v State*, [\(1881\) 3 All 664](#) .

84. *Umed Singh*, [\(1923\) 46 All 64](#) . **Dissented** in *Sukhdayal v Saraswati*, (936) Nag 217.

85. *Rajendra Vishwanath Chaudhary v Nayantara Durgadas Vasudeo*, [2012 Cr LJ 1363](#) (Bom).

86. *E I Howard v M Mull*, (1866) 1 BHC (Appx) 1xxxv, xci. Thus, the truth of the matter has not to be proved literally. It is sufficient if the imputation is proved to be substantially true. [1989 Cr LJ 1022](#) . **Following** *Murlidhar v Narayandas*, [AIR 1914 Sind 85](#) : [1915-16 Cr LJ 141](#) ; *Surajmal Mehta v Horniman*, [AIR 1917 Bom 62](#) . Where it is stressed that even an exaggeration will not by itself defeat this defence; *Purushottam Vijay v State of MP*, [AIR 1961 MP 205](#) [LNIND 1960 MP 59] DB : [1961 \(2\) Cr LJ 114](#) where it is observed :

The statement of fact need only be substantially correct and need not be microscopically or photographically true : nor can the prosecutor fasten himself on to an inaccuracy in the detail unless the detail itself is such as to make substantial difference to the case.

87. *Khare v Massani*, (1943) Nag 347.

88. *Radhelal Mangalal Jaiswal v Sheshrao Anandrao Lad*, [2011 Cr LJ 2233](#) (Bom).

89. *Kartar Singh*, [\(1956\) SCR 476](#) [LNIND 1956 SC 39] . **Relying** upon and **citing** the observations of Lord Cockburn in *Saymour v Butterworth*, (1862) 3 F&F 372 and dicta of judges in *R. v Sir R Garden*, [\(1879\) 5 QBD 1](#) . **Followed** in *Radhanath Rath (Dr) v Biraja Prasad Rai*, [1992 Cr LJ 938](#) (Ori), where the editor and publisher of a newspaper were held not liable as they happened to include a defamatory matter **relying** upon their reporter who had been a trustworthy journalist.

90. *Arundhati Roy Re*, [2002 Cr LJ 1792](#) : [AIR 2002 SC 1375](#) [LNIND 2002 SC 174] (para 24).



91. *Ibid.*
92. *McLeod*, (1880) 3 All 342 .
93. *T Kunhambu v A Sojath*, 1989 Cr LJ 1022 (Ker). See also *Dagar Singh v Shobha Gupta*, 1998 Cr LJ 1541 (P&H).
94. *Shatrughna Pd Sinha v Rajbhan Surajmal Rath*, 1997 Cr LJ 212 : (1996) 6 SCC 263 (SC).
95. *Tata Press Ltd v Mahanagar Telephone Nigam Ltd*, (1995) 5 SCC 139 [LNIND 1995 SC 755] : AIR 1995 SC 2438 [LNIND 1995 SC 755] .
96. *Godrej Sara Lee Ltd v Reckitt Benckiser (I) Ltd*, (2006 (32) PTC 307) : ( 2006 CLC 1105 ).
97. *Nippon Sheet Glass Co Ltd v Raman Fibre Sciences Pvt Ltd*, 2011 Cr LJ 2702 (Kar).
98. *Kimber v The Press Association*, (1893) 1 QB 65 , 68.
99. *J Wright*, (1799) 8 TR 293, 298.
100. *Kimber v The Press Association*, *supra*.
101. *Usill v Hales*, (1878) 3 CPD 319 .
102. *Clement*, (1821) 4 B & Ald. 218.
103. *Hicklin*, (1868) LR 3 QB 360.
104. *Carlile*, (1819) 3 B & Ald. 167.
105. *Singaraju Nagabhushanam*, (1902) 26 Mad 464; *Maksud Saiyed v State of Gujarat*, (2005) 5 SCC 668 : (2007) 140 COMP CASES 590.
106. *Woodgate v Ridout*, (1865) 4 F&F 202, 216. See also *Harbans Singh v State of Rajasthan*, 1998 Cr LJ 433 (Raj), the word "shatir" might be of offending nature and objectionable but not necessarily defamatory. The order dropping the proceedings was not interfered with.
107. *Abdool Wadood*, (1907) 9 Bom LR 230 [LNIND 1907 BOM 6] , 31 Bom 293. See *Ranganayakamma v K Venugopala Rao*, 1987 Cr LJ 2000 (AP), the complainant's foreword to a book was criticised by imputing words to the complainant himself which lacked good faith and showed malice.
108. Note R, p 183.
109. *Sankara v State*, (1883) 6 Mad 381, 395, 396.
110. *ADM Stubbings v Shella Muthu*, 1972 Cr LJ 968 (Ker).
111. *Dr. Vishnu Dutt Agarwal v State of UP*, 2012 Cr LJ 3595 (All).
112. *Yadav Motiram Patil v Rajiv G Ghodankar*, 2011 Cr LJ 528 (Bom).
113. *Kanwal Lal*, AIR 1963 SC 1317 [LNIND 1962 SC 322] .
114. See *Damodra Shenoi v PP Ernakulam*, 1989 Cr LJ 2398 where it is stressed that the accused must prove by preponderance of probability that he laboured under good faith as defined in section 52, IPC.
115. *J Sudershan v R Sankaran*, 1992 Cr LJ 2427 (Mad). The court referred to *MC Verugheese v TJ Ponnai*, AIR 1970 SC 1876 [LNIND 1968 SC 339] .
116. *MA Rumugam v Kittu alias Krishnamoorthy*, (2009) 1 SCC (Cr) 245 : AIR 2009 SC 341 [LNIND 2008 SC 2186] ; *Rallis India Ltd v K T Vijay Kumar*, 2010 Cr LJ 2485 (AP); *Nayana Jaikisan Tekwani v State of Maharashtra*, 2010 Cr LJ 4094 (Bom).
117. *Kanwal Lal*, AIR 1963 SC 1317 [LNIND 1962 SC 322] .
118. *Chamanlal*, (1970) 3 SCR 913 [LNIND 1970 SC 106] .
119. *Vedurumudi Rama Rao v Chennuri Venkat Rao*, 1997 Cr LJ 3851 (AP).
120. *Standard Chartered Bank v Vinay Kumar Sood*, 2010 Cr LJ 1277 (Del).
121. *Mrs. Jinnat Ara Borbora*, 1980 Cr LJ NOC (Gau).
122. *Sewakram v RK Karanjia*, 1981 Cr LJ 894 (SC) : AIR 1981 SC 514 : 1514 : (1981) 3 SCC 208 [LNIND 1981 SC 265] .
123. *Muhammad Gul v Haji Fazley Karim*, (1929) 56 Cal 1013 .

124. *Karuppusamy*, 1974 Cr LJ 33 (Mad).
125. *Chamanlal*, *supra*; see also *Sukra Mahato v Basudeo Kumar*, 1971 Cr LJ 1168 (SC); *Prayagdutt*, 1977 Cr LJ 1258 (MP).
126. *Pratibha (Dr.) v State of Maharashtra*, (1995) 1 Cr LJ 997 (Bom).
127. *P Swaminathan v Lakshmanan*, 1992 Cr LJ 990 (Mad).
128. *Yadav Motiram Patil v Rajiv G Ghodankar*, 2011 Cr LJ 528 (Bom).
129. *Beckett v Norris*, (1945) Mad 749.
130. *Virji Bhagwan*, (1909) 11 Bom LR 638 .
131. *Vinayak Atmaram v Shantaram Janardan*, (1941) 43 Bom LR 737 .
132. *Cooppoosami Chetty v Duraisami Chetty*, (1909) 33 Mad 67.
133. *Abdul Hakim v Tej Chandar Mukarji*, (1881) 3 All 815 .
134. *Baboo Gunnesh Dutt Singh v Mugneeram Chowdhry*, (1872) 11 Beng LR 321 (PC).
135. *Satish Chandra Chakravarti v Ram Doyal De*, (1920) 48 Cal 388 (SB).
136. *Karu Singh*, (1926) 7 PLT 587 .
137. *Sukhdeo Vithal Pansare*, 1974 Cr LJ 1435 (Bom); see also *Jiban Krishna Das*, 1983 Cr LJ NOC 39 (Cal).
138. *Parameswara v Krishna Pillai*, AIR 1966 Ker 264 [LNIND 1966 KER 11] .
139. *Bai Shanta v Umrao Amir*, (1925) 50 Bom 162 : 28 Bom LR 1 (FB), **overruling** *Babaji*, (1892) 17 Bom 127, and *Balkrishna Vithal*, (1893) 17 Bom 573.
140. *Ganga Prasad*, (1907) 29 All 685 (FB); *Isuri Prasad Singh v Umrao Singh*, (1900) 22 All 234 .
141. *Chotelal v Phulchand*, (1937) Nag 425.
142. *Hemraj v Babulal*, AIR 1962 MP 241 [LNIND 1961 MP 92] .
143. *Bai Shanta v Umrao Amir*, (1925) 50 Bom 162 : 28 Bom LR 1 (FB). Denial of the relationship of husband and wife in an eviction proceeding between the tenant and complainant was held to be not defamatory, *Girish Kakkar v Dr. (Mrs.) Dhanwantri*, 1991 Cr LJ 5 (Del). If the words are defamatory, the proceedings cannot be stayed because it is for the court to decide whether a privilege is available or not. *Pravinchand v Ibrahim Md*, 1987 Cr LJ 1795 (Bom).
144. *G Janardhana Reddy v A Narayana Reddy*, 2010 Cr LJ 2660 (AP).
145. *Tiruvengada Mudali v Tripurasundari Ammal*, (1926) 49 Mad 728, FB **overruling** *Venkata Reddy*, (1912) 36 Mad 216 (FB).
146. *Karu Singh*, (1926) 7 PLT 587 : 27 Cr LJ 1320, **following** *Kari Singh*, (1912) 40 Cal 433 .
147. *Narendra Kapoor v Ramesh C Bansal*, 1998 Cr LJ 1863 (Del).
148. *MC Vergheese v TJ Poonan*, AIR 1970 SC 1876 [LNIND 1968 SC 339] : 1970 Cr LJ 1651 .
149. The court also **distinguished** the present case from its earlier decision in *Rev Fr Bernard v Ramachandran Pillai*, 1986 Ker LT 1240 : 1987 Cr LJ 739 where in addition to the reply to the complainant's counsel, the accused spread the rumour in the locality about his alleged pilferage as an employee.
150. *Rajnarain Sein*, (1870) 6 Beng LR (Appx) 42 : 14 WR (Cr) 22.
151. *Fr. Thomas Maniankerikalam v Thomas J Padiyath*, 2003 Cr LJ 945 .
152. *Pat Sharpe Mrs. v Dwijendra Nath*, (1964) 1 Cr LJ 367 . *M S Jayaraj v Commissioner of Excise, Kerala*, (2000) 7 SCC 552 [LNIND 2000 SC 2302] : AIR 2000 SC 3266 [LNIND 2000 KER 461] - 'person aggrieved'- meaning
153. *U Aung Pe*, (1938) Ran 404 (FB).
154. *Homen Boroghain v Brahmaputra Valley Regional Handloom Weavers' Co-op Society*, (1995) 2 Cr LJ 2357 (Gau). *Viswanath v Shambhu Nath*, 1995 Cr LJ 277 (All) a complaint by a member of the community which was defamed in general, not maintainable. The complainant was not personally hurt. *MP Narayna Pillai v MP Chacko*, 1986 Cr LJ 2002 (Ker) a member of the