

DLCT120001502025



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**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE-01,
ROUSE AVENUE DISTRICT COURTS, NEW DELHI
- Presided by: PARAS DALAL, D.J.S.**

**CNR No. DLCT12-000150-2025
Complaint Case No. 13 of 2025
Complaint under Section 223 r/w 222(1) BNSS
For offences alleged u/s. 356 BNS**

Ms. Lipika Mitra
W/o Sh. Somnath Bharti
R/o Nil 26 AB, Malviya Nagar,
New Delhi-110017

Vs.

Smt. Nirmala Sitaraman
Minister of Finance and Corporate Affairs
Government of India,
15, Safdarjung Road, New Delhi-110001

01.04.2026

ORDER ON COGNIZANCE

Factual Background

1. This is an Order on cognizance on a complaint case filed by the complainant Ms. Lipika Mitra under Section 223 of the Bharatiya Nagarik

Suraksha Sanhita (hereinafter referred to as 'BNSS') for alleged offence punishable under Section 356 of Bharatiya Nyay Sanhita (hereinafter referred to as 'BNS') against respondent i.e. Ms. Nirmala Sitaraman (Minister of Finance and Minister of Corporate Affairs in the Government of India).

2. To make up to the jurisdiction of this Court, it is submitted that the proposed accused Ms. Nirmala Sitaraman is sitting Member of Parliament from Rajya Sabha. It is also averred that the proposed accused is Cabinet Minister serving as Minister of Finance and Corporate Affairs. This Court has been setup for trials against sitting and former Members of Parliament (MPs) and Members of Legislative Assemblies (MLAs) and as such has jurisdiction to try the present complaint.

3. The present complaint introduces the complainant as wife of Shri Somnath Bharti who is a former Member of the Legislative Assembly from Malviya Nagar Constituency, Delhi (2013-2025). Then the complaint for next four paragraphs (3 to 6) only avers about the reputation of complainant's husband. Infact until the last paragraph (13), the complaint does not state anything about professional life or reputation of the complainant. The complaint then introduces the accused and avers about

the alleged defamatory, false and malicious statements in a press conference published on Youtube and broadcast on national TV Channels namely Republic TV, NDTV etc. on 17th May 2024.

4. The complaint then avers that the utterances were made by accused during the election campaign of Lok Sabha 2024 with the sole intention to tarnish the reputation of Mr. Somnath Bharti, husband of the complainant, and weaken his chances of winning from New Delhi Parliamentary Constituency as India Alliance Candidate and caused him immense mental anguish, damaged his public standing as an elected representative and continue to damage it even today unless retracted/ apologized. Complaint then avers that, her utterance has caused and continue to cause irreparable mental agony to complainant as well as to their children. Further it is averred that being an alumnus of IIT Delhi, the complainant's husband has friends and following across the World and hence reputation of the complainant and her family have got tarnished across the globe.

5. It is also averred that the complainant is constrained to file the prompt complaint against the aforementioned accused person by virtue of prima facie injury that has been caused and prejudiced her as her husband's right of personal liberty by defaming Mr Bharti through her press interview

electronically, i.e. on Republic TV, NDTV, etc., as well as in print and web, which have access of massive degree of population across the world and has left the darkest stain on the character of the complainant as well as her husband and family members.

6. The complaint states in details that proposed accused's interview was aired on Republic TV, NDTV and many other TV and Social Media Channels and subsequently uploaded to Youtube and alleged false and defamatory remarks against Sh. Somnath Bharti, the complainant's husband were "सोमनाथ भारती जी जिनकी पत्नी जब प्रेग्नंट थीं उनके पेट के ऊपर मार्कर और उनके कुत्ते से अटैक करा कर भेजने वाले आज कॉन्टेस्ट कर रहे हैं एम.पी. ... पिटाई करने वाले सोमनाथ भारती ... सोमनाथ भारती जी। दूसरा पत्नी को भी मारते हैं पत्रकार को भी मारा 2018". The above statement when translated into English would mean "Somnath Bharti, the man who attacked on his wife's stomach with a marker and his dog while she was pregnant, is contesting today for M.P. ... Somnath Bharti, the man who beat her ... Mr. Somnath Bharti. Second he beats his wife and also beat a journalist in 2018".
7. The complainant then avers that almost like every couple, she and her husband had developed certain issues and the same though unfortunately, had got blown out of proportion resulting in media trial etc. but courtesy

well wishers of the family, the matter was finally settled in all aspects on May 7, 2019 and since then the complainant and her husband Mr. Somnath Bharti are living happily with children, a fact which was widely reported in the media and everyone had come to know of it but during the press conference, solely with an intent to hurt the complainant and her husband solely for political gains to BJP's candidate and political loss to the complainant's husband during 2024 Lok Sabha Election, the accused spoke about the matrimonial discord of the complainant and her husband but withheld the information of their reunion and living together happily. It is also averred that the complainant and her husband, in their joint application filed with the Delhi High Court have already extinguished their grievances against each other which finally resulted in quashing of the cases on May 07, 2019 but the accused through her press conference has attempted to showcase to the world as if their matrimonial dispute continues and thus brought defamation to the complainant and her family.

The eclipsed Orders

8. This Court deems it appropriate to highlight the proceedings in the present case between 19.05.2025 to 08.10.2025. Since the fresh complaint was under Section 223 BNSS, in compliance of the Proviso to the said Section, the respondent/ proposed accused were issued notice for opportunity of

being heard before taking cognizance. The respondent appeared on 12.06.2025 and arguments were heard from both sides on point of taking cognizance. Three miscellaneous interim applications were also filed, of which two have already been disposed off, while third is pending, filed by proposed accused. The earlier Orders also covers about the disposal and pendency of these applications and same are not iterated in this Order.

9. Noteworthy are two aspects of earlier proceedings. One aspect is that the judgment of **Brand Protectors India Pvt. Ltd. v. Anil Kumar, Crl. M.C. No. 1465 of 2025** passed by the Hon'ble High Court of Delhi on 25.07.2025 have eclipsed the Orders of this Court on issuance of notice to proposed accused immediately after filing of fresh complaint. The correct proposition of law, is once the complainant and its witnesses, if any are examined, the Court shall issue notice to proposed accused for hearing before taking cognizance. The second aspect is Order on I.A. No. 2 of 2025 passed by this Court on the application then filed by the proposed accused. The proposed accused, prayed before this Court to direct Mr. Somnath Bharti to withdraw his Vakalatnama since he was the spouse of the complainant and also the main counsel. The proposed accused cited conflict of interest, and while this Court rejected the application, also held

that a wife and her husband may have difference proprietary interests and naturally and by law they have separate legal identity.

10. The complaint however in the present case, has dented this prima facie finding. The defamation suit is filed by the complainant Ms. Lipika Mitra, yet the complainant avers volumes about how her husband Mr. Somnath Bharti has active social and political life, while amassing huge reputation. The complainant even spoke about some of the education qualifications of Mr. Somnath Bharti, yet the complaint is bereft of personal, social, educational backgrounds of the complainant herself. The entire complaint thrusts upon how the alleged false, malicious and defamatory statements of the proposed accused has dented the personal and political carrier of Sh. Somnath Bharti, yet the complaint only states that proposed accused's publication has hampered the life of complainant and her family. In the entire averments, this Court failed to find the individual identity of the complainant being averred, even though vehement arguments were made when complainant tried to explain that husband can contest the case of his wife since they are separate legal entity.

Pre-summoning/ Pre-notice evidence

11. Continuing with the inquiry proceedings in the present case, the complainant has examined a total of eight witnesses in pre-summoning/pre-notice evidence stage. CW1 Sh. Satish Kumar Nangia, CW2 Smt. Manju Bansal, CW4 Sh. Pankaj Mittal, CW5 Mrs. Vani Kumar, CW6 Mrs. Sharmila, CW7 Sh. Hari Ram Valmiki and CW8 Mrs. Pushpa have all witnessed the publication and alleged defamation of the complainant. CW3 is the complainant herself. The above eight witnesses can be broadly classified in two groups i.e. complainant herself and others who are testifying about her reputation, alleged defamation and publication.

12. Complainant Ms. Lipika Mitra/ CW3 deposed in line with her complaint. She deposed about her matrimonial life and two issues of her wedlock, she even deposed that she had marital discord with her husband in the year 2015 which reached the Court and at all levels from District Court upto the Supreme Court, they were advised for mediation. She deposed that all differences were sorted and since then she is living amicably and happily together and as well as raising our children to be good citizens. She further deposed about the professional and political carrier of her husband and she stated to have distanced herself from politics to raise both her children, however admits to having volunteered for Lok Sabha election 2024 to help her husband with the campaigning because the huge size of his Lok Sabha

Constituency. She deposed to be actively involved in day to day campaigning especially in Karol Bagh, Patel Nagar, Rajender Nagar, Moti Nagar, New Delhi, Greater Kailash, R.K. Puram, etc. She stated to have received outstanding response during the campaign in lieu of her husband's hard work and dedication. She deposed that on 17.05.2025, proposed accused Mr. Nirmala Sitaraman, who belongs to ruling party at the Centre and is a Cabinet Minister, enjoying following and respect from every citizen of the country; and because of her popularity, the press-conference was picked up by all the media houses and print media. She stated that after coming to know that through press conference at NDTV and other media channels, proposed accused has attacked her family on personal matters which has no connection and no truthfulness in whatsoever manner, she was aghast at the personal remarks by proposed accused without authenticating/ verifying the details she mentioned in her press-conference. CW3 deposed that proposed accused brought her marital discord which was sorted appropriately a decade ago and since then she and her husband are staying happily with their children. CW3 deposed that charges/ FIR were quashed by the Hon'ble High Court and the same were covered and broadcasted by print and electronic media and being a responsible position of power, it was incumbent upon her to know the correct position of anything she is commenting on. CW3 however neither exhibited any

document about her residence, educational record, professional work, nor she exhibited any press-interview which is alleged to be false, malicious and defamatory.

13. The remaining seven witnesses were examined to show wider reach of the publication of press interview of the proposed accused. The seven witnesses came from different places in Delhi namely, Malviya Nagar, Safdarjung Development Area, Rajender Nagar, Kidwai Nagar, Kotla Mubarakapur, Todapur. All deposed to be witness to alleged press-interview, however, CW1 and CW2 did not exhibit or identify any press-interview, even though same was filed with the complaint. CW1 and CW2 both deposed to have known Mr. Somnath Bharti and then through his political campaign, deposed to have been seen Mrs. Lipika Mitra. Both deposed that they saw both Mr. and Mrs. Bharti campaign for Mr. Somnath Bharti and very close to each other. Both then deposed to have heard many defamatory statements of Mrs. Sitaraman, which deeply hurt Mrs. Bharti and they both saw her to be disturbed by the statements of the proposed accused. None of them however deposed as to which were statements they were referring to, which proposed accused Mrs. Sitaraman had uttered which were defamatory towards Mrs. Bharti. Both closed their testimony by stating that the defamatory statement of the proposed accused was one

of the factor responsible for the loss of election to Mr. Somnath Bharti by 77000 votes.

14. CW4 Sh. Pankaj Mittal, then deposed that he was associated with Aam Aadmi Party (AAP) to ensure smooth resolution of people concerns and he was part of the election campaign of Mr. Somnath Bharti during Lok Sabha Election 2024, where he witnessed Mrs. Bharti (Lipika Mitra) campaigning for Mr. Bharti and while campaigning, he had occasion to convince local voters in favour of Mr. Bharti and the scenario was sounding favourable to him. He deposed that on 17.05.2025, he came across a news item on Republic TV where he saw Mrs. Nirmala Sitharaman doing a press conference which was available on judicial file in a pen drive Ex.CW4/A and he also deposed that the same video was available on Youtube at <https://www.youtube.com/watch?v+ZijRLfoNpTE>. CW4 deposed that people in the Assembly Constituency started questioning on the candidature of Mr. Somnath Bharti and since this statement was coming from a person of stature of a Finance Ministry, it was becoming difficult to convince people otherwise. CW4 further stated that people started passing loose comments about Mr. Bharti and Mrs. Bharti. He deposed that the proposed accused through her press conference made derogatory and defamatory statements, not only about family life of Mr. Bharti and Mrs. Bharti but

also talked about an utter lie about beating of a journalist. CW4 then deposed that he could see change in voter's mind against Mr. Somnath Bharti, and he as volunteer had to face agony and embarrassment because of the same. He deposed to have advised Mrs. Bharti to counter his allegation through a press conference to do damage control which is stored by the name "Complainant and her husband video.mp4" and is part of the judicial file in form of pen drive which is Ex.CW4/A. CW4 also deposed that "...possibly such derogatory, defamatory and full of lies press conference of Mrs. Sitharaman, result of New Delhi Constituency did not come in favour of Mr. Somnath Bharti in addition to causing immense mental torture to his family including his wife Mrs. Lipika Mitra and their children... Mrs. Sitharaman caused agony to Aam Aadmi Party (AAP) volunteers as well by such irresponsible and defamatory statements about Mr. Somnath Bharti who is the founder leader of AAP and three time MLA from Malviya Nagar Assembly Constituency".

15. PW5 Mrs. Vani Kumar, deposed in similar lines as CW4 about being volunteer with AAP and with regard to Mr. Somnath Bharti's candidature from New Delhi Constituency in Lok Sabha Election 2024. She also deposed that prior to press conference of proposed accused on 17.05.2024, public were seemingly in favour of Mr. Somnath Bharti but after the press

conference was played, specially women starting questioning about Mr. Bharti being worthy of their votes. CW5 also deposed that the press conference has caused a lot of disturbance in his family specially his wife and children and has hurt volunteers of AAP and well wishers of Mr. Bharti. CW5 also exhibited news item appearing on the website of NDTV which is Ex.CW5/A and news item appearing on the website of Indian Express which is Ex.CW5/B, which she deposed to have adversely impacted the vote share of Mr. Bharti.

16. CW6, CW7 and CW8 deposed on similar lines, while identifying the press conference through Ex.CW4/A, they deposed to have seen the press conference which was false, concocted and defamatory. All three witnesses deposed to have known both Mr. Bharti and Mrs. Bharti/ complainant and stated that they felt the press conference of the proposed accused dented the poll prospects of the complainant's husband while also causing trauma and hurt the family.

Arguments

17. The complainant side has, at this stage, argued that sufficient grounds exists to issue notice to the proposed accused to proceed further in taking cognizance in the matter. The complainant side argues that at this stage, the

onus is complaint of facts which disclose commission of an offence. The sufficiency of evidence, proof, are subject matter of trial. The complainant side has also filed written submission reiterating the same and it is vehemently argued that the present case is not one of neutral reportage and statements are direct imputations made by the proposed accused herself in a press conference. It is also the complainant's case that defamatory imputations were widely amplified through electronic and digital media. The complainant side finally argues that there is no jurisdictional defect or procedural infirmity or inherent improbability.

Provisions of Law

18. The first provision for consideration is Section 223 BNSS, which empowers any Magistrate to take cognizance of any offence upon a police report of such facts. 'Cognizance' otherwise has not been defined in the Code, what however has been explained is the process of what means by taking cognizance. Section 223 read with Section 227 BNSS next explains that where Magistrate takes cognizance of the offence he may issue summons and warrants, as may deem fit depending upon the nature of the case. Here again what is explained is the process. Section 210 provides on what material the Magistrate may take cognizance and Section 227 BNSS provides what Magistrate has to do when taking cognizance. 'Cognizance'

vide settled law in form of case laws thus means application of judicial mind by the Magistrate to set criminal process in motion.

19. Taking cognizance i.e. to set criminal procedure in motion would thus require establishing facts that offence has been committed. Therefore, the requirement under law as per Section 210(a) is that facts must be disclosed in 'complaint of facts' and if these facts disclose an offence, cognizance has to be taken. Section 227 BNS provides that the extent of proof required at this stage is 'prima facie case' that an offence has been committed and further 'prima facie substance exists' that the accused alleged in the complaint of facts has committed the offence.

20. The first hurdle thus for the 'complaint of facts' to clear for taking cognizance is to state facts that an offence has been committed. The complainant alleges that the respondents have made imputation that defame him and as such offence punishable under Section 356 BNS has been committed. Section 356 of the BNS provides punishment for defamation. The Section 356 of the BNS reads as –

“Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes in any manner, 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.

Explanation 1: It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2: It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3: An imputation in the form of an alternative or expressed ironically, may amount to defamation.

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.”

21. Succinctly put, criminal defamation requires actus reus of making of an imputation intended to be heard, seen or read, by signs or by visible

representation; it also requires mens rea of intention, knowledge or reason to believe that such imputation will harm the reputation. Criminal defamation thus requires three ingredients – imputation, publication and mental element to cause harm. The moot question before this Court is whether ingredients of Section 356 BNS have been established by the complaint of fact.

Analysis

22. This Court is not to judge the evidence on its merits at this stage and it is taken that whatever happened as alleged in the ‘complaint of fact’ is true. This Court accepts that respondent organized a press conference on 17.05.2026. This Court also accepts that the press conference was telecast by news channel Republic TV and NTDV, and the news also found its place in national daily newspaper Indian Express.

23. The complaint in paragraph 10 states that respondent defamed the complainant when he made the statement which has already been reproduced in vernacular in paragraph 6 of this Order earlier. The pen drive containing the said press conference is Ex.CW4/A and two other print articles covering the said press conference is Ex.CW5/A and Ex.CW5/B. The print articles does not contain the alleged defamatory material, and

were only exhibited to show publication and wide circulation of the press conference. No other statement made in the conference has been referred to in the complaint to be defamatory. The complaint generally states that statements were made which were false, malicious and defamatory with ill intent to harm the reputation of the complainant. However, except for the above, no other statement has been quoted in the complaint to be defamatory.

24. This Court should however ought to see the entire length of the press conference referred to by the complainant. The press conference of length 3 minutes : 33 seconds is exhibited in pen drive Ex.CW4/A and is also available on the youtube link deposited by the complainant side. The press conference is titled “Sitharaman Lashes Out At AAP, Accused Party Of Giving Ticket To Somnath Bharti Who Beat His Wife”. The video as stated is 3:33 long and the transcript is as under –

“जिस पार्टी के एक और एकमात्र नेता हैं क्योंकि संस्थापक नेता सब तो भाग गए अभी बचा हुआ सिर्फ अरविंद केजरीवाल है और वो बचा हुआ है अरविंद केजरीवाल महिला के खिलाफ है महिलाओं को पिटाई करने वाले लेता है। मगर उनके पार्टी का चरित्र देखिए, एक मिनट में हाइलाइट कर रही हूं। इस विषय में केवल सिर्फ अरविंद केजरीवाल ही हम सब का निशान होना चाहिए क्योंकि मीडिया से मैं पूछ रही हूं क्या सवाल पूछेंगे नहीं जिम्मेदार वो खड़े

रखना नहीं है उनको। मगर उस पार्टी का देखिये हालात, मैं मेरे बगल में मुझे आज गर्व से कह रही हूँ शाजिया इमली वो जो आम आदमी पार्टी का फर्स्ट हैंड एक्सपीरियंस करके आये हैं महिला नेता है। उनका बयान भी है इसपे, उनके बयान से मैं शुरू कर रही हूँ। क्या था उनका बयान हर महिला नेता या पुरुष नेता भी साथ। बस बाहर निकलेंगे नहीं, बाउंसर्स से पिटवाएंगे या उनके पी.ए. से पिटवाएंगे। आदमी को जलील करके निकालेंगे। कोई सीधा रास्ता बाहर जाने के लिए नहीं है। और शरद चौहान जो विधायक हैं सोनी मिश्रा के आत्महत्या के केस में, वे भी आम आदमी पार्टी में हैं। सोमनाथ भारती जी जिनकी पत्नी जब प्रेग्नंट थी उनके पेट के ऊपर मार्कर और उनके कुत्ते से अटैक करके भेजने वाले आज कॉन्टेस्ट कर रहे हैं एम.पी.। और मैं इसमे तुरेंट मेरे मन में बात आ रही है एक भी महिला उम्मीदवार नहीं दिया उस पार्टी ने दिल्ली में। मगर इंडी एलायंस का दुर्भाग्य देखिए ना, श्रीमती सोनिया गांधी, प्रियंका गांधी, राहुल गांधी आज वो सोमनाथ भारती का वोट देने के लिए हैं। महिला नेत्रित्व कांग्रेस के, भारतीय गठबंधन के, कोई भी एक नेता नहीं है दिल्ली में महिला कॉन्टेस्ट करने के लिए। मगर वोट दे रहे हैं महिला को उनकी याद आती है जो पिटाई करने वाले लोग, पिटाई करने वाले सोमनाथ भारती को आज उनका बुरा नसीब देखिये, वोट उनको दे रहे हैं कांग्रेस वाले नेतागण परिवार और तीसरे सोमनाथ भारती जी दूसरे पाटनी को भी मारा पत्रकार को भी **2018** में मारा। फिर अमानतुल्लाह खान ओखला के विधायक 2016 में जामिया नगर पुलिस स्टेशन के अंतरगत केस

की फाइल हुई है यौन उत्पीड़न करने का आरोप। तो क्या पार्टी में ऐसी ही चमत्कारी नेत्रत्व है जो महिला के खिलाफ है।”

25. This Court has gone through the entire press conference and reproduced the transcript as above. The press conference was in response to the incident of a woman M.P. assaulted at the Official Residence of Chief Minister of Delhi. The said matter was widely reported in the media and since it was during the General Election 2024 for Lok Sabha in India, the proposed accused who is sitting Cabinet Minister did a press conference to target the Aam Aadmi Party (AAP) to which complainant's husband/ Sh. Somnath Bharti belongs. The tone and tenor of the press conference is to target the opposition AAP and INDI Alliance. The proposed accused thus referred to several instances to target that AAP and INDI Alliance is not concerned with women safety and women representation in Lok Sabha from Delhi. Furthering her attack she names one Sharad Chauhan, Somnath Bharti and Amantullah Khan who she alleged are accused in cases filed by women. The proposed accused in particular did not mention, name or say anything against the complainant Ms. Lipika Mitra. The complainant however is aggrieved by the naming of her husband Mr. Somnath Bharti in the press conference, while stating that 'he attacked his wife/ complainant Ms. Lipika Mitra with marker and his pet dog while she was pregnant'. The

complainant is further aggrieved that said statement were malicious since the proposed accused failed to clarify that the complainant and her husband had amicably settled their dispute before the Hon'ble High Court of Delhi, which had quashed all cases involving the complainant and her husband.

26. Apart from the above, the complainant through her complaint and through witnesses CW1, CW2 and CW4 to CW8 have referred to reputation of her husband and his professional, political and social life. This Court however is not concerned with the reputation, alleged defamation of complainant's husband. There is no prayer that the complainant be allowed leave by this Court to prosecute the proposed accused against any alleged defamation of her husband. Although averments have been written in the complaint and deposed by the eight witnesses as to how good reputation Mr. Somnath Bharti enjoys in the society and also that the alleged press conference hugely dented his prospects in winning the M.P. elections in Delhi. This Court however finds all these allegations, averments and deposition, as unnecessary and irrelevant.

27. The complainant/ CW3 however deposed that she earlier never took part in her husband's political life, however in 2024 General Elections for Lok Sabha, she deposed to have actively campaigned for her husband. She thus

was aware of political antagonism and opposition. This Court is reminded of caution made by the Hon'ble Supreme Court of India in **S. Khusboo v. Kanniammal & Anr., (2010) 5 SCC 600** to place a higher threshold level for attracting charges of defamation. With the discussion that defamation is one restriction over fundamental freedom, it was held that the threshold for placing reasonable restrictions on the 'freedom of speech and expression' is indeed a very high one and there should be a presumption in favour of the accused in such cases. It is only when the complainants produce materials that support prima facie case for a statutory offence that Magistrates can proceed to take cognizance of the same

28. The complainant in her complaint has not denied that there was prior litigation between her and her husband. The complainant even deposed as CW3 that like any other couple there was marital discord, which blew out of proportion and there were various litigations between her and her husband. She deposed that their matrimonial discord had reached even the Hon'ble Supreme Court of India, and it was only when both complainant and her husband were referred to mediation, that mediation was arrived and all cases were quashed by the Hon'ble High Court of Delhi.

29. The complainant here again failed to assist properly this Court as to what was arrived at the settlement. If it was mere mutual settlement, than all the allegations and counter-allegations by each side i.e. complainant and her husband still stands. If both had unequivocally withdrawn all the allegations, then it was more of an honourable settlement, which would not give any rise to future reference to such allegations, especially by any third person. The complainant has sought this Court to rely on news reporting and printed articles in the news to prove her prima facie case. None of the media house/ news channel or printed newspaper official was called to prove the same.

30. In view of the above discussion and particularly lack of assistance from the complainant side, this Court is constrained to look upon the proceedings between the parties before the Hon'ble High Court. Crl. M.C. 4020/2018 dated 07.05.2019. The Order clearly records in paragraph 6 that "in view of the aforesaid circumstances, their age and socio-economic background, more so, that the parties are living together happily, this Court is of the view that no fruitful purpose would be served in keeping the parties entangled in the criminal proceedings. Accordingly, in the interest of justice, FIR no. 745/2015, under Sections 307/313/324/498A/406/417 / 420/506/511/212/34 of the IPC, registered at P.S. Dwarka North, Delhi and

the proceedings emanating therefrom are quashed. The Orders also show that, the petitioner no.1/ Sh. Somnath Bharti was charged under Sections 324/417/420/498A/506 Para-1 of the IPC, whereas he was discharged under Sections 307/315/406 of the IPC.”

31. Now this Court does not deem it necessary to state the ingredients of the above offences, however clearly the complainant’s husband Sh. Somnath Bharti was Ordered to face trial qua charges of causing grievous hurt, etc.; whereas he was discharged for the offence of attempt to murder. The said charges stood, until the entire FIR and proceedings emanating therein were quashed. However the complainant Ms. Lipika Mitra did not withdraw her allegations. She never clarified that no such incident as alleged by her against her husband was false or misinterpreted.

32. Coming to the specific allegations which are against Mr. Somnath and Ms. Lipika/ complainant are – "सोमनाथ भारती जी जिनकी पत्नी जब प्रेग्नेंट थी उनके पेट के ऊपर मार्कर और उनके कुत्ते से अटैक करके भेजने वाले आज कॉन्टेस्ट कर रहे हैं एम.पी.।... मगर इंडी एलायंस का दुर्भाग्य देखिए ना, श्रीमती सोनिया गांधी, प्रियंका गांधी, राहुल गांधी आज वो सोमनाथ भारती का वोट देने के लिए हैं। ... मगर वोट दे रहे हैं महिला को उनकी याद आती है जो पिटाई करने वाले लोग, पिटाई करने वाले सोमनाथ भारती को आज उनका बुरा नसीब देखिये, वोट उनको दे रहे हैं

कांग्रेस वाले नेतागण परिवार और तीसरे सोमनाथ भारती जी दूसरे पाटनी को भी मारा पत्रकार को भी **2018** में मारा। These are the only instance that proposed accused named complainant's husband in her press conference. The complainant then in her testimony as CW3, has not denied these statements to be false. Complainant never denied that she had complaint alleging that her husband 'attacked her during pregnancy with her dog'.

33. The complainant has alleged that the defamation was when proposed accused stated about complainant's case/ allegations against her husband Mr. Somnath Bharti, without clarifying that both complainant and her husband are now residing peacefully and amicably. The complainant has not denied that the proposed accused was merely reiterating complainant's old allegations against her husband. The news articles which complainant has filed with the judicial file, are not established by the complainant by examining any witness and complainant has referred to a Youtube link where the alleged defamatory press conference of proposed accused is available. In the same way, the complainant's own allegations against her husband are available on the Youtube, news article and even quasi-judicial bodies and judicial Orders exists, which were never withdrawn by the accused. The complainant has made no effort to clarify that her allegations were false against her husband, she has not taken any effort to remove such

contents available online, which may still be available to her children, friends and family. Yet, when the same allegations were reiterated by the proposed accused, she claims that same are defamation towards her and her family.

34. Clearly the statement as referred to the complainant, is neither imputed towards her, nor any of the statement is prima facie defamatory. To the extent of the statements quoted by the complainant in her complaint of alleged defamatory statement, the requirement of defamation is not made since neither the imputation was towards the complainant, nor was there any imputation to harm the reputation. The reason is factual.

35. The statements of the proposed accused cannot be seen in piecemeal and in isolation. The entire context has to be seen. The context was that proposed accused who belongs to Bharatiya Janta Party, took note of the alleged assault on a sitting M.P. inside premises of Chief Minister Residence. In such contest, the proposed accused targeted Mr. Arvind Kejriwal, National Convener of AAP as well as INDI Alliance to be opposed to women. Proposed accused also targeted the opposition to be associated with persons who have allegations of assault or harassment of women. The proposed accused specifically referred to Mr. Somnath Bharti,

to be involved in the past of assaulting journalist in year 2018 and also of attempting to assault her wife (complainant herein), when she was pregnant. Here again, the proposed accused clearly referred to the incident to have occurred in the past. These statements of the proposed accused are not false or concocted, but complainant's own allegations against her husband Mr. Somnath Bharti, which were widely reported in the media. Even the complainant deposed as CW3 that there was marital discord in her family which was amicable settled, however, complainant never withdrew her allegations against her husband. The allegations of the complainant against her husband in earlier FIR are still readily present on the news and articles available online and is part of judicial orders.

36. The press conference opened with the respondent making their stand clear for the election. As already understood, the press conference was political in nature and clearly aimed in clarifying some stand of the ruling AAP in NCT of Delhi. The press conference was aimed at suggesting to the media and the public that AAP and Indi Alliance was associated with persons who have allegation of assaulting women. No allegations were made that have not already been made by the complainant in the past. The complainant however has made many more severe allegations as is clear from the judicial order dated 07.05.2019 passed in CrI. M.C. No 4020/2018.

37. Such averments and contentions are not imputation, rather political opposition and antagonism. A political opponent cannot be called to have defamed the other, when they are presenting certain scenarios against an opposite candidate. The press conference when seen in totality seems like narrations and political assertions made before the media and the public by the respondent. In the facts and circumstances of the present case especially the transcript of the press conference contained in pen drive Ex.CW4/A it cannot be seen that any imputation has been made by the proposed accused against the complainant. Proposed accused has not even named complainant and in the context in which proposed accused imputed that AAP and INDI Alliance was associated with persons who have alleged history of assault, was neither attributable to the complainant nor it is an imputation of defamatory character.

38. The complainant side has relied on some case laws to buttress its case. Reliance is placed on the case of – 1. **Pepsi Foods Ltd. v. Special Judicial Magistrate (1998) 5 SCC 749**; 2. **Nagawwa v. Veerana Shivalingappa Konjalgi, (1976) 3 SCC 736**; 3. **Bhushan Kumar v. State (NCT of Delhi) (2012) 5 SCC 424**; 4. **Jaideep Bose v. M/s. Bid and Hammer Auctioneers Private Limited 2025 SCC OnLine SC 348**; and 5. **Jeffery**

J. Diermeier & Anr. v. State of West Bengal & Anr. (2010) 6 SCC 243.

Judgement no. 1, 2 and 3 are generally on quashing and requirement under law to be satisfied by the Trial Court when deciding a prima facie case. Judgment no.4 and 5 are also on general law that defenses available to accused against defamation is matter of trial and cannot be decided at the initial stage.

39. This Court confirms that each of the cases relied by the complainant are settled law, but none applies to the case at hand. The reliance placed on the judgment have settled legal proposition qua 'prima facie case' and 'defamation viz-a-viz defense available to the accused'. In the present case, since allegations are against persons in opposite political parties, same requires a higher threshold level for attracting charges of defamation as settled by the Hon'ble Apex Court in **S. Khusboo Case (Supra)**.

ORDER

40. Returning to the facts of the present case, this Court fails to find that the necessary ingredients of criminal defamation are prima facie not made out. The press conference and averments made by the respondents is nothing more than political discourse amongst rival and competing parties.

41. Before parting with this Order, this Court would clarify that new provision under Section 223 of the BNSS states that before taking cognizance, the Court shall issue notice to the proposed accused, affording him/ her an opportunity of being heard. Vide judgment of Brand Protectors (Supra), it is settled that such notice can only be issued once complainant and her witnesses have been examined. The law, however, does not make it mandatory that Court shall issue notice in all such cases, where at the threshold the ‘complaint of facts’ fail to disclose commission of any offence.
42. From the entire material on record, this Court is reminded of a rather unusual word which can describe the present complaint as well as the entire proceedings. The word is ‘floccinaucinihilipilification’, which implies ‘something valueless or worthless’. The present complaint is nothing but the word stated above, wherein a valueless or worthless material has been stretched too long.
43. As already discussed above, the statements made by the respondent are nothing but political opposition and antagonism aimed at AAP and Indi Alliance. Nothing was aimed at the complainant Ms. Lipika Mitra and there is no imputation against her. Since no prima facie offence has been made

out from the 'complaint of facts', **this Court declines to take cognizance of the offence.**

44. **File be consigned to record room after due compliance.**

**Pronounced in the Open
Court on 01.04.2026**

**[PARAS DALAL]
ACJM-01, RADC
New Delhi**