

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 1187 of 2022

with

CRAN 4 of 2022

Mr. Arnab Goswami & Anr.

Vs.

The State of West Bengal & Anr.

For the Petitioners : Mr. Mahesh Jettmalani, Sr. Adv.
 (Virtual Mode),
Mr. Sandipan Ganguly, Sr. Adv.
Mr. Apalak Basu,
Mr. Saket Shukla,
Mr. Nazir Ahmed,
Mr. Zoeb Cuteriywala,
Ms. Smita Mukherjee,
Ms. Saheli Bose.

For the State : Mr. Kishore Dutta, Id. AG
Mr. Rudradipta Nandy, Id. APP
Ms. Sanjana Saha.

Hearing concluded on : 05.03.2025

Judgment on : 08.04.2025

Shampa Dutt (Paul), J.:

1. The present criminal revision has been preferred praying for quashing of the impugned criminal proceeding being Phoolbagan P.S. Case No. 99/2020 dated 22nd April, 2020 under Section 153A/153-

B/500/504/120B of the Indian Penal Code and notices dated 19th November, 2021 and 01 April, 2022, issued to the petitioner no. 1 under Section 41-A of the Code of Criminal Procedure, 1973.

2. The petitioners' case in short is that the petitioner no. 1 is the Editor-in-Chief of the Republic Media Network. It owns and operates the Republic Media Network. The Network owns and operates news channels in English (Republic TV), Hindi (R. Bharat) and Bangla (R. Bangla) genres. The petitioner no. 2, media network is a news media organization.
3. The FIR pertains to the news debate aired on Republic TV on **21st April, 2020** at about 9 P.M. in the show called "The Debate" ("Broadcast") and a comment made by a panelist (Mr. Subhojit Ghosh) during the Broadcast. The Broadcast was **aired live** on Republic TV.
4. The petitioner no. 1 and Republic TV had **condemned** the comment made by Mr. Subhojit Ghosh in the Broadcast and had promptly issued a wide-reaching clarification on social media and assuaged the concerns raised by a representative claiming to be from Bharatvarshiya Marwari Samaj.
5. It is further stated that Mr. Subhojit Ghosh was also proactively and immediately cut-off and interrupted by the petitioner no. 1 who was hosting the Broadcast the moment the comment was made in the broadcast. The inappropriate comment made by Mr. Ghosh was not in any way endorsed by the petitioner no. 1 or by the Republic Media Network. Mr. Ghosh was not put on air after the said comment was

made by him. In fact, not only did the petitioner no. 1 reprimand Mr. Ghosh during the course of the live Broadcast but it is also part of the record, and well documented in the recordings which are available on YouTube, that various other panelists on the Broadcast had also called out the most disdainful statement made by Mr. Ghosh.

6. The relevant extract from the broadcast is as follows:-

“Subhojit Ghosh : Arnab I have a simple question, I have a simple question to the BJP person that the central team will investigate the, the uhh black marketing of the dishonest Marwaris in West Bengal?”

Arnab Goswami : What? What do you mean by that? I mean what kind of a comment is that? What kind of a comment is that? One minute. One minute, One minute. Least expected comment from you but anyway, Nalin Kohli. [emphasis supplied]

Subhojit Ghosh : Yes, the Marwaris (unclear) black-marketing of masks at large.

Nalin Kohli : You are demeaning a whole community. Black-marketing by Marwaris, oh my god you are making this a community fight now. Would you say the same thing about Bangladeshis who are coming into your state?

Subhojit Ghosh : The Marwaris are into black marketing in West Bengal.

Nalin Kohli : Would you say that they are eating away the jobs and eating away the resources of them?

Subhojit Ghosh : Yes

Nalin Kohli : Would you say the Rohingyas are being illegally settled in ? Would you say the same for people who are being hung on trees because they are supporters of BJP, they have been brutalized.

Arnab Goswami : I tell you. I tell you. No no, that’s not worth responding to. Kanchan Gupta, no no no. One minute one

munute, we will not go down that way, Subhojit. I don't think that is even worth responding to. That is not worth responding to. The question is. The question is. The question is... let's bring some substance into the debate. [emphasis supplied]

Subhojit Ghosh: The every black marketing person is a Marwari.

Kanchan Gupta: I think it is a very bigoted hateful comment that was just made on live tv, that person should either apologies or be taken off air but that is your editorial decision. Arnab, Swapan has made a point and that point needs explanation.”

7. **It is further stated by the petitioners that apart from and beyond immediate reprimanding on the show by the petitioner no. 1, separate, clear and immediate wide-reaching clarification on social media was issued by Republic TV. Republic TV had issued the clarification putting forth the full facts on social media and condemning the comment made by Mr. Ghosh.**

8. **In the Tweet, Republic TV clearly stated:-**

*“Republic TV **strongly condemns** the comment made by a panelist in the course of the debate on Bengal last night. Attached here is the unedited clip with details of the facts as they unfolded.”*

9. An entire sequence of events and action against Mr. Ghosh was listed and posted on the social media account of the Republic TV channel on 22nd April, 2020.
10. It is the further case of the petitioners that the **panelists air their own opinions** that are neither endorsed by Republic TV nor the petitioner no. 1. Given the nature and format of the debate shows, such as the

Broadcast, the panelists on the channel have differing opinions and viewpoints and air their stand on the issue at hand. The channel clarified that these comments were not endorsed and cannot be ascribed to Republic Media Network, Republic TV, or petitioner no. 1. The comment and views expressed by Mr. Subhojit Ghosh in the Broadcast reflected his personal opinion and cannot be attributed to petitioner no. 1 or the Republic Media Network in any manner whatsoever.

11. It is further stated that **the said broadcast was live and, as such, beyond the control of the petitioners to predict in advance the conduct of the accused Subhojit Ghosh.** The petitioners also condemned the conduct of Mr. Subhojit Ghosh to Mr. Man Mohan Garodia, a representative of Rashhtriya Ahinsa Manch and Bharatiya Marwari Samaj who in response to a e-mail sent by the petitioners Republic TV, stated as follows:-

“...Thanks for your response. We have not send any type of legal notices to you but only wanted to know about the identity of this Mr. Subhojit Ghosh who deliberately raised unwanted words about Marwari Community in your TV Debate on 21st April, 2020.
*The legal notice in question was issued by some advocate, which reached to us through social media and we had send the same to you for your knowledge and reference purpose only. Please avoid to call such persons in television debate in future who deliberately spread hatred to divide the communities and if possible please telecast in your news portal that your television and agency are not against Marwari Community as uttered by Mr. Subhojit Ghosh. **This denial telecast will definitely be taken by all Marwari Community in right spirit and image***

of your channel will improve in their eyes, mind and heart. Please response. [emphasis supplied]"

12. It is the further case of the petitioners that the right forum for any such complaint is the news broadcasters' federation. The News Broadcasters Federation (NBF) is an independent self-regulating news broadcasting association. It has been granted validation by the Union of India and is a recognised body regulating the news media sector. Any complaint regarding the content of a news broadcast or related to a news channel should be directed to this self-regulatory body.
13. The petitioners further stated that they are willing to cooperate with the investigation all along and also informed the police in response to the notice under Section 41-A of the Cr.P.C. It is thus stated that ingredients required to constitute the offence alleged are not present in respect of the petitioners herein and, as such, the proceedings is liable to be quashed.
14. **The written complaint** filed in the present case by one Mr. Man Mohan Bagri of Manicktala Main Road, Kankurgachi reads as follows:-

*"Yesterday i.e. 21st April, 2020, while watching the evening news on Republic TV, I was shocked to note that **a certain member of the panel, namely Subhojit Ghosh,** hosted by the channel made distasteful and offensive remarks against the Marwari Community when he said "I have a simple question to the BJP person, that the central team will investigate the black marketing of the dishonest Marwaris in West Bengal?" On national television, when the aforesaid statement was made by the said panelist, the news was being broadcast globally on the Republic TV news channel.*

*The statement made by the panelist was suggestive and pointed towards the people belonging to the Marwari community in the State of West Bengal being allegedly involved in the illegal act of “black marketing”. **The panelist made such nasty and groundless statement against the Marwari community with deliberate intention of defaming and disparaging the goodwill and reputation of Marwari community which is one of the most prominent communities not only in the State of West Bengal, but also in our country.** The malicious statement was published and broadcast on a national television knowing full well that such statement does not hold any truth and is incorrect, baseless and unsubstantiated.*

The statement was made by the accused person and hosted by Republic TV with the intention to promote enmity between the different communities at this difficult time faced by the country.** Such act committed by the accused person is prejudicial to the maintenance of harmony between the communities and people belonging to different walks of life. **The imputation made by the accused person is also prejudicial to the idea of national integration and is a threat to the social fabric.”

15. The complainant then prayed for necessary action against the Republic TV, the petitioners herein for the conduct of the said Subhojit Ghosh for being provided with the platform to make such objectionable remarks and also on the ground that such remarks were broadcasted and there has been **circulation** of false and baseless statements against a particular community and to promote enmity between different communities.

16. Learned Advocate General has relied upon certain extracts from the reply given by the petitioner no. 1 to the investigating agency in response to the notice under Section 41-A of the Cr.P.C.

17. The specific portion is reproduced herein:-

*“Republic TV strongly condemns the comment made by a panelist in course of the debate on Bengal last night. **Attached here is the unedited clip with details of the facts as they unfolded.***

*Given the nature and format of the debate shows, such as the Broadcast, the panelists on the channel have differing opinions and viewpoints and air their stand on the issue at hand. **The channel clarifies that these comments are not endorsed and cannot be ascribed to Republic Media Network, Republic TV, or me.** The comment and views expressed by Mr. Subhojit Ghosh in the Broadcast reflected **his personal opinion** and cannot be attributed to me or the Republic Media Network in any manner.”*

18. Both parties have filed their respective written notes along with the judgments relied upon.

19. The **petitioners** in their written notes have relied upon the following judgments:-

1. Manzar Sayeed Khan vs. State of Maharashtra & Anr. with Vinod Hansraj Goyal vs. State of Maharashtra, (2007) 5 SCC 1;

2. Patricia Mukhim vs. State of Meghalaya & Ors., (2021) 15 SCC 35;

3. *Bilal Ahmed Kaloo vs. State of A.P. and State of A.P. vs. Bilal Ahmed Kaloo, (1997) 7 SCC 431;*

20. On the other hand the **State** has relied upon the following judgments:-

1. *Rajarshi Sen vs. State & Ors., 2022 SCC OnLine Cal 3077;*

2. *Satender Kumar Antil vs. Central Bureau of Investigation & Anr., (2022) 10 SCC 51;*

21. The offences alleged in this case are under Sections 153A/153B/500/504/120B of the Indian Penal Code.

22. Section 153A of the Indian Penal Code:-

“153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.-(1) Whoever-

*(a) **by words**, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or*

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such

activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both."

23. The principle ingredient herein is **to promote enmity or hatred** between **two groups**. In the present case there is no such ingredient as no two groups are involved. So the question of promoting enmity does not arise. **The statement made in this case was a personal opinion/view during a live telecast. It was made by a panelist which did not prima facie have the approval of the petitioners to make such statement.**
24. As the statement was during a live show, it can be presumed that the petitioners did not foresee such statement being made by a panelist.
25. There is **nothing to show that there was any overact** on the part of the petitioners which led to the panelist make such statement. As such there is no ingredients to show that the petitioners acted in a manner which promotes enmity between different groups etc nor is there any material to show that the petitioners had done any act which was prejudicial to maintenance of harmony.
26. The Supreme Court in ***Shiv Prasad Semwal vs The State of Uttarakhand & Ors., in Criminal Appeal No(s). of 2024, (arising out of SLP (Crl.) No(s). 3687 of 2020), decided on 19th March, 2024***, the Court held:-

“26. From a bare reading of the language of Section 153A IPC, it is clear that in order to constitute such offence, the prosecution must come out with a case that the words ‘spoken’ or ‘written’ attributed to the accused, created enmity or bad blood between different groups on the ground of religion, race, place of birth, residence, language, etc., or that the acts so alleged were prejudicial to the maintenance of harmony.

*29. In the case of Manzar Sayeed Khan v. State of Maharashtra and Anr.1, **this Court held that for applying Section 153A IPC, the presence of two or more groups or communities is essential, whereas in the present case, no such groups or communities were referred to in the news article.***

*30. The other substantive offence which has been applied by the investigating agency is Section 504 IPC. The said offence can be invoked when the insult of a person provokes him to break public peace or to commit any other offence. There is no such allegation in the FIR that owing to the alleged offensive post attributable to the appellant, **the complainant was provoked to such an extent that he could indulge in disturbing the public peace or commit any other offence. Hence, the FIR lacks the necessary ingredients of the said offence as well. Since we have found that the foundational facts essential for constituting the substantive offences under Sections 153A and 504 IPC are not available from the admitted allegations of prosecution, the allegations qua the subsidiary offences under Sections 34 and 120B IPC would also be non est.**”*

27. In the present case, the statement on the basis of which the present case has been registered was **made by another accused** on a live show and as such there is nothing on record to prima facie substantiate the allegations under Section 153A of IPC against the petitioners herein as nothing was done by them to prima facie make out a case under Section 153A IPC as none of ingredients required to constitute the offence under this Section could be attributed to the petitioners herein.

(Shiv Prasad Semwal vs The State of Uttarakhand & Ors. (Supra))

28. In *Javed Ahmad Hajam vs State of Maharashtra & Anr.*, in Criminal Appeal No. 886 of 2024, decided on 07 March, 2024, the Supreme Court held:-

“Held: “Intention” as an essential ingredient of offence u/s.153-A– Alleged objectionable words or expressions used by the appellant cannot promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities – WhatsApp status of the appellant had a photograph of two barbed wires below which it was mentioned “August 5- Black Day- Jammu & Kashmir” – **This was an expression of his individual view and his reaction to the abrogation of Article 370 – It does not reflect any intention to do something prohibited u/s.153-A – At best, it was a protest, which is a part of his freedom of speech and expression guaranteed by Article 19(1)(a)** – Describing the day the abrogation happened as a “Black Day” was an expression of protest and anguish – Further, the appellant had posted that “Article 370 was abrogated, we are not happy”– He intended to criticise the action of the abrogation of Article 370 – He had expressed unhappiness over the act of abrogation – The aforesaid words do not refer to any religion, race, place of birth, residence, language, caste or community – It was a simple protest against the decision to abrogate Article 370 – If every criticism or protest of the actions of the State is to be held as an offence u/s.153-A, democracy, an essential feature of the Constitution of India, will not survive – The right to dissent in a legitimate and lawful manner is an integral part of the rights guaranteed u/Article 19(1)(a) – Effect of the words used by the appellant on his WhatsApp status will have to be judged from the standards of reasonable women and men – The test to be applied is not the effect of the words on some individuals with weak minds or who see a danger in every hostile point of view – The test is of the general impact of the utterances on reasonable people who are significant in numbers– Merely because a few individuals may develop hatred or ill will, it will not be sufficient to attract clause (a) of sub-sec.(1) of s.153-A– Also, the picture containing “Chand” and below that the words “14th August-Happy Independence Day Pakistan”, will not attract clause (a) of sub-sec.(1) of s.153-A – Nothing wrong with a citizen of India extending good wishes to the citizens of Pakistan on 14th August, their Independence

Day – It's a gesture of goodwill – It cannot be said that such acts will tend to create disharmony or feelings of enmity, hatred or ill-will between different religious groups – Clause (b) of sub-sec.(1) of s.153-A not attracted – Impugned judgment and FIR, quashed. [Paras 10, 9, 11, 12, 14, 15]

Constitution of India – Articles 19, 21 – Right to dissent, a part of the right to lead a dignified and meaningful life guaranteed by Article 21 – Police to be sensitised about the democratic values enshrined in the Constitution:

Held: Right to dissent in a lawful manner must be treated as a part of the right to lead a dignified and meaningful life guaranteed by Article 21 – But the protest or dissent must be within four corners of the modes permissible in a democratic set-up – **It is subject to reasonable restrictions imposed in accordance with clause (2) of Article 19 – In the present case, the appellant did not at all cross the line** – Now, the time has come to enlighten and educate the police machinery on the concept of freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution and the extent of reasonable restraint on their free speech and expression – They must be sensitised about the democratic values enshrined in the Constitution. [Paras 10, 13]”

29. Section 153B of the Indian Penal Code:-

“153B. Imputations, assertions prejudicial to national integration.-

(1) Whoever, **by words** either spoken or written or by signs or by visible representations or otherwise,-

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional

group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Ingredients of offence.- *The essential ingredients of the offence under sec. 153B are as follows:-*

(1) The accused read or spoke or made signs or representations either visible or otherwise, or made or published any imputation;

(2) Accused thereby intended that member of any religious, racial or language or regional group, caste or community cannot bear true faith and religion to the citizens of India or to break the sovereignty and integrity of India, or

(3) Accused asserted that any class of persons shall by reason of their being members of any religious, racial, language or regional group or community be denied or deprived of their rights as citizens of India;

4) Accused made or published any imputation;

(5) Such imputation was likely to cause disharmony or actually caused disharmony;

(6) Accused committed any of the things either (i) at any place of worship, or (ii) in any assembly in performance of religious worship) or religious ceremony.”

30. In the present case, the petitioners herein did not make the alleged comments.
31. The program was being broadcast “live”, so the question of any “intention” to publish such statements cannot be attributed to the petitioners herein.
32. There has been nothing which attributes **the petitioners** herein of breaking the sovereignty and integrity of India.
33. Learned Advocate General has argued on placing his case that the petitioners herein by subsequently expressing regret by enclosing unedited clip of the telecast in dispute has published the said imputation. Such imputation has caused disharmony and as such there being a prima facie case made out against the petitioners herein, they are liable to be prosecuted by facing trial.
34. To counter this, **Mr. Jettmalani** learned Senior Counsel for the Petitioners has argued that by enclosing an unedited clip of the telecast along with the statement of **condemning** such expression of the panelist during a live telecast is part of the process as without the entire clip, it’s not understood as to what is being condemned.
35. In reply, learned Advocate General has submitted that in the guise of such acts, the petitioners have further published such imputation causing disharmony and their intention being clear are liable to face prosecution.

36. Freedom of the press or freedom of the media is the fundamental principle that communication and expression through various media, including printed and electronic media, especially published materials, should be considered a right to be exercised freely. Such freedom implies the absence of interference from an overreaching state.

37. Reasonable Restrictions (Article 19(2)):

While freedom of speech is a fundamental right, Article 19(2) allows for certain restrictions in the interest of:

- **Sovereignty and integrity of India**
- **Security of the State**
- **Friendly relations with foreign states**
- **Public order**
- **Decency or morality**
- **Contempt of court**
- **Defamation**
- **Incitement to an offence**

Meaning of "Reasonable Restrictions":

The phrase "reasonable restrictions" means that the limitations imposed on the right to freedom of speech should not be arbitrary or

excessive. A restriction must have a direct and proximate nexus with the object it seeks to achieve, and must not be in excess of that object.

38. It appears that the controversial telecast in this case **was condemned** by the petitioners, on such sites where the clip was already available. The alleged controversial statement was a personal opinion of a panelist **relating to certain incidents during the Covid 19 pandemic**. The opinion was personal and that of an individual panelist as a member of the public or as a representative of a certain organization herein being an activist of Bengali Nationalist Group “Bangla Pokkho” being aggrieved with the plight of the people during the severe pandemic when it was **as it’s peak** and had just started causing havoc and essential articles being not easily available were scarce and highly priced.
39. Recently, the Supreme Court in the case of Pod caster Ranveer Allahbadia, **condemned** the alleged remarks **made** by the Pod caster, who then issued a public apology and deleted the ‘vulgar’, ‘filthy’, ‘insulting’ and ‘obscene video’s’.
40. The Supreme Court observed that “free speech” does not grant an unfettered right to indulge in “obscenity”.
41. **In the present case**, the petitioners having **distanced** themselves from the statements made by the panelist **condemned** such opinions expressed on a public platform and have done so on every platform (public) where it was available for viewing.

- 42.** Admittedly the statements made by panelist clearly does not fall in the category of the “Allahbadia” case. Further it is clear that the petitioners neither encouraged such comments nor permitted the discussion to continue on the alleged objectionable topic.
- 43.** The petitioners have condemned the act of the panelist having distanced themselves from him and his views. It is for the said panelist to issue an apology if he desires to do so.

44. Section 500 of the Indian Penal Code lays down as follows:-

“Section 500. Punishment for defamation.— Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Scope.— The essential ingredient of the offence is that the imputation should have been made or published with the intention of harming or with the knowledge or with reasons to believe that the imputation will harm the reputation of such person.

Ingredients of offence.— The offence of defamation consist of three essential ingredients, viz.:

(1) Making or publishing any imputation concerning any person;

(2) Such imputation must have been made by words either spoken or intended to be read, or by signs, or by visible representations, and

(3) Such imputation must have been made with the intent to harm, or with knowledge or belief that it will harm the reputation of the person concerned.”

45. Section 504 of I.P.C., lays down:-

“504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either

description for a term which may extend to two years, or with fine, or with both.

Ingredients of offence.- *The essential ingredients of the offence under sec. 504 are as follows:-*

- (1) The accused intentionally insulted someone;*
- (2) He thereby intended to give him provocation;*
- (3) He knew that it was likely that such provocation would cause that person to commit a breach of the peace or to commit any other offence.”*

- 46.** Section 500/504 of IPC relates to making or publishing any imputation concerning **any person or** intentionally insulting and provoking such person. In this case no particular person has been allegedly defamed, intentionally insulted or provoked by the petitioners herein.

47. Section 120B of the Indian Penal Code:-

“120B. Punishment of criminal conspiracy.-(1)
Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

Ingredients of offence. -*The essential ingredients of the offence under sec. 120B are as follows:*

(1) An agreement between two or more persons to commit an offence;

(2) In doing so the accused either did or caused to be done:

(i) an illegal act, or

(ii) an act, which is not in itself illegal, by illegal means,

(3) Such an act done or caused to be done was an offence punishable under the Indian Penal Code;

(4) If the act so done was not an offence then an overt act had been done by one or more parties to such agreement in pursuance thereof.”

- 48.** There is no prima facie material to show that there was an agreement between the petitioners and the (accused) panelist in this case. The foundational facts essential for constituting the substantive offences as alleged are not available from the admitted allegations of prosecution. *“The allegations qua the subsidiary offences under Sections 34 and 120B IPC would also be non est.” (Shiv Prasad Semwal vs The State of Uttarakhand & Ors. (Supra))*
- 49.** Thus the ingredients required to constitute the offences alleged against the petitioners not having been prima facie made out, permitting the proceedings to continue against the petitioners will be an abuse of the process of law and thus the proceeding is liable to be quashed in respect of the petitioners herein.
- 50. CRR 1187 of 2022 is allowed.**
- 51.** The proceeding in Phoolbagan P.S. Case No. 99/2020 dated 22nd April, 2020 under Section 153A/153-B/500/504/120B of the Indian Penal Code **are hereby quashed along with all notices therein under the Cr.P.C. in respect of the petitioners herein, being Arnab Goswami and ARG Outlier Media Private Limited.**
- 52.** All connected applications, if any, stands disposed of.
- 53.** Interim order, if any, stands vacated.

54. Copy of this judgment be sent to the learned Trial Court for necessary compliance.
55. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(Shampa Dutt (Paul), J.)