

HIGH COURT FOR THE STATE OF TELANGANA

CRIMINAL PETITION No.6179 of 2023

Between:

S.Siddharth

... Petitioner

AND

The State of Telangana, Rep. by its Public Prosecutor, High
Court, Hyderabad and another

...Respondents

DATE OF ORDER: 25th July, 2025

SUBMITTED FOR APPROVAL:

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

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|-----------------|---|----------------------|
| <u>1</u> | <u>Whether Reporters of Local newspapers may be allowed to see the Judgment?</u> | <u>Yes/No</u> |
| <u>2</u> | <u>Whether the copies of judgment may be marked to Law Reporters/Journals</u> | <u>Yes/No</u> |
| <u>3</u> | <u>Whether HER Lordship wish to see the fair copy of the Judgment?</u> | <u>Yes/No</u> |

JUVVADI SRIDEVI, J

*** THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

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! Counsel for the Petitioner:

Sri N. Naveen Kumar

**! Assistant Public Prosecutor for
the Respondent No.1-State:**

Smt.S.Madhavi

>HEAD NOTE:

? Cases referred

1. (2024) 6 SUPREME COURT CASES 181
2. 1992 SCC (SUPP) 1 335

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION No.6179 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner-accused seeking to quash the proceedings against him in C.C.No.3610 of 2023 on the file of the learned XII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, registered for the offences under Section 67 of the Information Technology Act (for short 'the Act') and Section 509 of the Indian Penal Code (for short 'IPC').

02. Heard Sri N. Naveen Kumar, learned counsel for the petitioner-accused and Smt.S.Madhavi, learned Assistant Public Prosecutor for the State-respondent No.1. No representation on behalf of the unofficial respondent. Perused the record.

03. The brief case of the prosecution is that the petitioner-accused had intentionally made sexist and derogatory remarks on Twitter against women who have attained significant achievements in their respective fields. It is alleged that the petitioner-accused had tweeted as: *"Subtle cock champion of the world... Thank God we have*

protectors of India. (Sic) Shame on you #Rihanna". The said tweet is alleged to be defamatory in nature and specifically aimed at Ms. Saina Nehwal, thereby tarnishing her reputation and undermining the dignity of a woman who has not only represented India at international platforms but has also brought glories for the country. Hence, the respondent No.2 requested for necessary action against the petitioner-accused.

04. Learned counsel for the petitioner submits that the petitioner-accused has no involvement in the alleged offence. It is contended that the impugned tweet was made by the petitioner-accused in exercise of his right to freedom of speech and expression, without any malice or ill intent. In order to avoid any misunderstanding, the petitioner, acting bona fide, issued a clarification on 10.01.2022 regarding the jovial remark made in reference to Ms. Saina Nehwal, stating that the comment was intended as a reference to the idiom "cock-and-bull story" and not otherwise. The clarification read as follows: "*COCK & BULL — That's the reference. Reading otherwise is unfair and leading! Nothing disrespectful was intended, said or*

insinuated. Period.” Furthermore, Ms. Saina Nehwal, in a press statement published in the *New Indian Express* (Online Edition) dated 13.01.2022, acknowledged that the petitioner had apologized for the comment and expressed satisfaction with the same. It is further submitted that the respondent No.2 has no *locus standi* to lodge the present complaint. There is no incriminating material on record to substantiate the allegations made against the petitioner-accused. The contents of the FIR as well as charge sheet do not disclose the necessary and essential ingredients required to constitute the offences under Section 67 of the Act and Section 509 of the IPC.

05. With the above submissions, learned counsel for the petitioner-accused while praying for the quashment of criminal proceedings relied upon a decision of the Honourable Supreme Court in ***Apoorva Arora and another v. State (Government of NCT of Delhi) and another***¹, wherein it was held at Paragraph Nos.41 to 43, 52 to 54 that:

¹ (2024) 6 Supreme Court Cases 181

41. *The specific material which the High Court found to be obscene, i.e., that which tends to deprave and corrupt impressionable minds, was “foul, indecent and profane” language. Nothing more. The High Court has equated profanities and vulgarity with obscenity, without undertaking a proper or detailed analysis into how such language, by itself, could be sexual, lascivious, prurient, or depraving and corrupting. It is well-established from the precedents cited that vulgarity and profanities do not per se amount to obscenity. While a person may find vulgar and expletive-filled language to be distasteful, unpalatable, uncivil, and improper, that by itself is not sufficient to be ‘obscene’. Obscenity relates to material that arouses sexual and lustful thoughts, which is not at all the effect of the abusive language or profanities that have been employed in the episode. Rather, such language may evoke disgust, revulsion, or shock. The reality of the High Court’s finding is that once it found the language to be profane and vulgar, it has in fact moved away from the requirements of obscenity under Section 67 of the IT Act. The High Court failed to notice the inherent contradiction in its conclusions.*

42. *Third, the High Court has erred in the legal approach followed by it while assessing whether the material is obscene. In Samaresh Bose (supra), this Court has laid down, in great depth and detail, the process and method that must be followed to objectively judge whether the material is obscene. The court must consider the work as a whole and then the specific portions that have been alleged to be obscene in the context of the whole work to arrive at its conclusion. Further, the court must first step into the position of the creator to*

understand what he intends to convey from the work and whether it has any literary or artistic value. It must then step into the position of the reader or viewer who is likely to consume the work and appreciate the possible influence on the minds of such reader. However, the High Court has not followed this judicial process before arriving at its conclusion, which is as follows:

*“**43.** Coming back to case at hand, the specific complaint of petitioner is that in Episode 05 of Season 01, airtime starting from 5 minutes and 24 seconds onwards upto 6 minutes and 40 seconds as well as from 25 minutes and 28 seconds upto 25 minutes and 46 seconds, the language of male and female protagonist is full of obscenity, vulgar words and expletives, without there being any warning or filter imposing restriction of age of viewers to whom the content should be visible. The language used in Episode 05 of Season 01 was heard by this Court, and the level of obscenity of the language and sentences used was such that this Court cannot reproduce it in the judgment itself for the purpose of adjudication. The language used in the web series at the abovementioned time referred to a sexually explicit act in spoken language. It is not just an expletive, but is profane and vulgar language being used referring to a sexually explicit act which certainly cannot be termed common or commonly accepted language. Rather the female protagonist in the series itself*

is heard objecting to the male protagonist and expressing her disgust over use of this language by repeating the same language herself to the male protagonist. In answer to that, the male protagonist further uses more vulgar expletives and indecent language which is bound to disgust a normal prudent man, if heard in public. Later in the said episode, the female protagonist uses the same obscene, sexually explicit language to others and the male protagonist is seen enjoying and appreciating her conduct. The male protagonist uses words describing male and female genitalia and sexual act, thus by words, painting pictures of sexually explicit act which brings it under ambit of arousing prurient feelings by so doing. There's no escape from the same by saying that the said act was not done, shown or filmed. Depiction does not connote filming alone but conveying by a medium, which in this case is spoken language. Therefore, the content as discussed above will attract the criminality as laid down under Section 67 as well as 67A of IT Act."

43. *It is evident from the above passages that the High Court has taken the meaning of the language in its literal sense, outside the context in which such expletives have been spoken. While the literal meaning of the terms used may be sexual in nature and they may refer to sexual acts, their usage does not arouse sexual feelings or lust in any viewer of*

ordinary prudence and common sense. Rather, the common usage of these words is reflective of emotions of anger, rage, frustration, grief, or perhaps excitement. By taking the literal meaning of these words, the High Court failed to consider the specific material (profane language) in the context of the larger web-series and by the standard of an “ordinary man of common sense and prudence”. When we notice the use of such language in the context of the plot and theme of the web-series, which is a light-hearted show on the college lives of young students, it is clear that the use of these terms is not related to sex and does not have any sexual connotation. Neither did the creator of the web-series intend for the language to be taken in its literal sense nor is that the impact on a reasonable viewer who will watch the material. Therefore, there is a clear error in the legal approach adopted by the High Court in analysing and examining the material to determine obscenity.

52. *The facts of the present case certainly do not attract Section 67A as the complainant’s grievance is about excessive usage of vulgar expletives, swear words, and profanities. There is no allegation of any ‘sexually explicit act or conduct’ in the complaint and as such, Section 67A does not get attracted.*

53. *Section 67A criminalises publication, transmission, causing to publish or transmit – in electronic form – any material that contains sexually explicit act or conduct. Though the three expressions “explicit”, “act”, and “conduct” are open-textured and are capable of encompassing wide meaning, the phrase may have to be seen in the context of ‘obscenity’ as provided in Section 67. Thus, there could be a*

connect between Section 67A and Section 67 itself. For example, there could be sexually explicit act or conduct which may not be lascivious. Equally, such act or conduct might not appeal to prurient interests. On the contrary, a sexually explicit act or conduct presented in an artistic or a devotional form may have exactly the opposite effect, rather than tending to deprave and corrupt a person.

54. *No offence of publication or transmission of any material in electronic form, which is obscene, lascivious, or appealing to prurient interest, and/or having the effect of tending to deprave and corrupt persons, as provided under Section 67 of the IT act, is made out. Equally, no case of publication or transmission of material containing sexually explicit act or conduct, as provided under Section 67A, is made out from the bare reading of the complaint. It is settled that a court must exercise its jurisdiction to quash an FIR or criminal complaint when the allegations made therein, taken prima facie, do not disclose the commission of any offence."*

06. On the other hand, learned Assistant Public Prosecutor appearing for the State-respondent No.1 contended that there are triable issues and factual aspects to be examined by the learned trial Court and it is not a fit case to quash the proceedings against the petitioner at this juncture and the matter is to be decided after conducting trial by the learned trial Court and prayed to dismiss this Criminal Petition.

07. In view of the facts and circumstances of the case, it is relevant to extract Section 67 of the Act and Section 509 of the IPC, which reads as under:

Section 67 of the Act: Punishment for publishing or transmitting obscene material in electronic form- Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

Section 509 of IPC: Word, gesture or act intended to insult the modesty of a woman.— Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.

08. Having regard to the submissions made by both sides and upon perusal of the material available on record, it is evident that the present complaint arises out of a tweet dated 06.01.2022 made by the petitioner-accused in response to an earlier tweet dated 05.01.2022 posted by Ms. Saina Nehwal concerning the alleged security lapse in the convoy of the Prime Minister. The petitioner-accused is stated to have retweeted the said post with the following comment: *"Subtle cock champion of the world... Thank God we have protectors of India. (Sic) Shame on you #Rihanna."* Alleging that the said tweet was defamatory in nature and derogatory towards Ms. Saina Nehwal, the respondent No.2, a third party and unconnected with the incident, has filed the present complaint against the petitioner-accused.

09. In order to attract the offence under Section 67 of the Act, there must be specific allegations pertaining to the publication or transmission of obscene material in electronic form, which is lascivious in nature, appeals to the prurient interest, or has the tendency to deprave and corrupt persons who are likely to read, see, or hear the

content. Similarly, for the offence under Section 509 of the IPC to be made out, there must be a clear allegation that the accused uttered words, made gestures, or exhibited any act intended to insult the modesty of a woman. In the absence of such foundational allegations, the essential ingredients of the aforementioned offences cannot be said to be satisfied.

10. It is pertinent to note that the petitioner-accused subsequently issued a clarification by way of a tweet dated 10.01.2022, wherein he stated that his earlier comment was intended to be interpreted as a reference to a "cock-and-bull" story and not otherwise. The clarification reads as follows: *"COCK & BULL — That's the reference. Reading otherwise is unfair and leading! Nothing disrespectful was intended, said or insinuated. Period."* In response thereto, Ms. Saina Nehwal issued a press statement, as reported in the *New Indian Express* (Online Edition) dated 13.01.2022, wherein she stated that she was satisfied with the clarification and apology tendered by the petitioner-accused in respect of the said comment.

11. It is a well-settled principle of law, as affirmed by various judicial pronouncements, that the mere use of vulgar, profane, or intemperate language does not, in itself, amount to "obscenity" within the meaning of the law. While such language may be regarded by some as offensive, distasteful, uncivil, or inappropriate, such subjective perceptions are not sufficient to attract the legal definition of 'obscenity'. In legal parlance, obscenity refers to material which has the tendency to deprave or corrupt the minds of those likely to read, see, or hear it by arousing prurient interest or sexually explicit thoughts. In the present context, the alleged use of abusive or expletive-laden language does not satisfy this threshold, as it neither evokes nor is intended to evoke any sexual or lustful imagery or connotation.

12. In order to attract the alleged offences under Section 67 of the Act and Section 509 of IPC, there must be publication, or transmission of obscene material that outrages the modesty of a woman or is intended to do so. However, upon a careful and meticulous examination of the material available on record, it is evident that the

controversy stems from an exchange of tweets between the petitioner-accused and Ms. Saina Nehwal, wherein a tweet made by the petitioner-accused intended in a jocular manner was allegedly misconstrued. The petitioner-accused promptly issued a clarification dated 10.01.2022, explaining the context and denying any intent to cause offence. It is further borne out from the record that Ms. Saina Nehwal, in a public statement reported in the *New Indian Express* (Online Edition) dated 13.01.2022, expressed satisfaction with the petitioner's apology and stated that she was not troubled by the remark. Apart from the statement of the respondent No.2, who is a third party and not personally aggrieved, there is no material on record to suggest that Ms. Saina Nehwal herself felt outraged or insulted by the said tweet. In such circumstances, even if the contents of the FIR and charge sheet are taken at face value and accepted in their entirety, they do not disclose the essential ingredients required to constitute offences under Section 67 of the Act and Section 509 of IPC.

13. In ***State of Haryana and others v. Ch.Bhajan Lal and others***² the Hon'ble Supreme Court of India held that:

"In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide myriad kinds of cases wherein such power should be exercised:

(1) *where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*

(2) *where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;*

(3) *where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same*

² 1992 SCC (SUPP) 1 335

do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

14. In the present case, as discussed hereinabove, the material on record reveals that the controversy arose from an exchange of tweets between the petitioner-accused and Ms. Saina Nehwal. Notably, the respondent

No.2, who is a third party and not personally aggrieved by the alleged act, has lodged the present complaint without any locus standi. A perusal of the charge sheet fails to disclose any specific instance of obscene content having been published that would amount to outraging the modesty of a woman, as contemplated under the relevant provisions of law. Furthermore, no independent witnesses including Ms. Saina Nehwal herself or any representative from the Twitter platform were examined by the investigating agency to substantiate the allegations levelled against the petitioner-accused. In the absence of such material, even if the allegations contained in the FIR and the charge sheet are taken at their face value and accepted in their entirety, they do not, prima facie, disclose the commission of any cognizable offence against the petitioner-accused. Therefore, the present case falls within the parameters of point No.3 of **Ch.Bhajan Lal's** case cited supra.

15. In view of the aforementioned facts and circumstances and having regard to the well-settled principles of law enunciated by the Honourable Supreme

Court in the decisions referred supra, this Court is of the considered view that the essential ingredients necessary to constitute the offences under Sections 67 of the Act and 509 of the IPC are not made out against the petitioner-accused. Hence, the continuation of the criminal proceedings against the petitioner-accused amounts to abuse of process of law and the same are liable to be quashed.

16. Accordingly, this Criminal Petition is allowed and the criminal proceedings against the petitioner-accused in C.C.No.3610 of 2023 on the file of the learned XII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad, are hereby quashed.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

Dated: 25-JUL-2025
KHRM

JUVVADI SRIDEVI, J