JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CRIMINAL REVISION NO. 59 OF 2024

PERVAIZ AKHTER AND OTHERS

VS

MUHAMMAD ALI RAZA AND ANOTHER

Petitioner by : **Mr. Sufyan Haider, Advocate for the Petitioner**.

Respondents by : **Raja Yasir Shakeel Janjua, Advocate for the Respondent No. 1.**
Mr. Hassan Abbas, ADPP.

Date of hearing : **12.2.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Criminal Revision Petition under Sections 435/439 of the Code of Criminal Procedure, 1898 **("Cr.P.C")** the Petitioners/Accused have assailed the Order dated 6.2.2024 **("Impugned Order")** passed by the learned Additional District & Sessions Judge-IX, Islamabad-West whereby the Application under Section 265-K, Cr.P.C filed by the Petitioners/Accused, in Complaint under Section 500, Pakistan Penal Code, 1860 **("PPC")** filed by the Respondent No. 1, has been dismissed.

2. The brief facts of the case as per the Memo of Petition are that the Petitioners submitted an application against the Respondent No.1/Complainant [Muhammad Ali Raza, working as Personal Assistant BPS (17)] in this Court. On 25.2.2022, the Additional Registrar (Establishment) Islamabad High Court, Islamabad issued Notice No.216/Estb/Inq/IHC **("Notice")** to the Respondent No.1. On 4.3.2022, the Respondent No.1/Complainant filed written reply of the notice dated 25.2.2022. The Respondent No.1 filed an application for provision of copies of the departmental probe, which was denied through Letter No.Admn.IHC/434 dated 9.6.2022. On 29.7.2022, the Respondent No.1/Complainant filed Complaint under Section 500, PPC against the Petitioners/Accused alleging therein that the Petitioners/Accused made serious, false and frivolous allegations against him and the Petitioner No. 1/Accused in order to harm his reputation affixed the picture of Notice on his Whatsapp status which has been seen by hundreds of peoples and all this has also been done with

the consultation of all the Petitioners/Accused. On 24.8.2022, the cursory statements of the Respondent No.1/Complainant and witness namely Noman Shahzad were recorded by the learned Trial Court. After recording of statements of the Respondent No. 1/Complainant and one witness, the Petitioners/Accused were summoned.

3. On 19.12.2022, the Petitioner No.1/Accused Pervaiz Akhter, filed an application for recalling the order of the Complaint filed before Islamabad High Court, Islamabad which was duly admitted. Through Office Order No.Admn/IHC/1109 dated 4.1.2023 **("Office Order")**, the Hon'ble Chief Justice of this Court ordered to conduct a fresh probe in the matter and deputed Mr. Ijaz Ahmed, Additional Registrar (Establishment) to conduct the probe afresh by providing a fair opportunity to the Petitioner No. 1/Accused. The Respondent No. 1/Complainant submitted written request for reconsideration of the Office Order which was declined by the Mr. Ijaz Ahmed, Additional Registrar (Establishment) of this Court. The Petitioners/Accused submitted an Application under Section 265-K Cr.P.C before the learned Trial Court which was dismissed vide the Impugned Order. Being aggrieved of the Impugned Order, the Petitioners/Accused have filed the instant Criminal Revision Petition.

4. The learned counsel for the Petitioners/Accused argued that the Impugned Order contravenes established law and the facts available on record, resulting in a severe miscarriage of justice; that the Impugned Order has significantly undermined the administration of justice and the same is not sustainable under the principles of natural justice; that the Impugned Order violates the tenets of natural justice; that the learned Trial Court adequately assessed the material available on record and neglected to consider the facts of the case and passed the Impugned Order in a hasty manner; and that the reasons given by the learned Trial Court in the Impugned Order lack the legal merits; that the Impugned Order is illegal, unlawful, perverse, arbitrary, result of misreading and non-reading of material available on record. The learned counsel prayed that the instant Petition may be accepted and Impugned Order may be set-aside and Petitioners/Accused may kindly be acquitted.

5. The learned counsel on behalf of the Respondent No.1/Complainant argued that the Impugned Order is passed keeping in view the facts and material

available on record; that the learned Trial Court passed a well-reasoned order; and that there is sufficient material available on record for the conviction of Petitioners/Accused in the instant case. The learned counsel prayed for dismissal of the instant Criminal Revision Petition.

6. The learned Assistant District Public Prosecutor (ADPP) submitted that in the facts and circumstances of the case Section 499, Cr.P.C. Eighth Exception will be applicable.

7. I have heard the learned counsel for the parties and have also perused the available record with their able assistance.

8. The Petitioner No. 2/Accused, Mr. Nisar Ahmed submitted a Complaint against the Respondent No. 1/Complainant, Mr. Muhammad Ali Raza, who is serving as a Personal Assistant (BPS-17) in this Court, leveling allegations (i) misuse of official position; (ii) setting up of a pressure group in the name of welfare committee in the village; (iii) illegal occupation of *Shamlati* land; and (iv) insulting behavior with aged co-villagers. The contents of the Complaint further revealed that the Respondent No. 1/Complainant, Mr. Muhammad Ali Raza is holding key positions of (i) President, *Falahi Islahi* Committee, Khajola, District Chakwal; (ii) President, Jamia Masjid Committee, Khajola, District Chakwal; and (iii) President, Water User Committee, Khajula, District Chakwal. The Complaint was probed by the Administration of this Court and ultimately the Complaint was “filed” by the orders of the Hon’ble Chief Justice.

9. The core issue for determination before this Court is ‘whether a complaint under Section 500, P.P.C. can be filed under the specific circumstances and facts of the present case’. In the current situation, Petitioner No. 2/Accused, Mr. Nisar Ahmed, filed a Complaint against the Respondent No. 1/Complainant, Mr. Muhammad Ali Raza, who is serving as a Personal Assistant (BPS-17) in this Court, in the Administration of this Court. The outcome of the Complaint resulted in the issuance of Letter Admin/IHC/434, dated 9.6.2022, which is addressed to the Respondent No. 1/Complainant by the Registrar of the Islamabad High Court, stated, “*I am directed to inform that upon receipt of complaint against you by Mr. Nisar Ahmed, a departmental probe was ordered to be conducted and its report was placed before the Honorable Chief Justice, wherein his Lordship has been pleased to file the complaint”.*

10. The Respondent No. 1/Complainant subsequently filed a Private Complaint on 29.7.2022 before the learned Additional Sessions Judge, Islamabad-West. Following a cursory statement, the complaint was admitted, and notices were issued to the Petitioners/Accused. The Private Complaint was filed on the grounds that the Petitioners/Accused had failed to substantiate the allegations, which were claimed to constitute defamation.

11. On 19.12.2022, the Petitioners Nos. 1 and 2/Accused again filed an Application before Administration of this Court, for recalling the order passed in the Complaint, which was duly admitted and vide Office Order, the Honorable Chief Justice of this Court ordered to conduct a fresh probe in the matter and deputed Mr. Ijaz Ahmed, Additional Registrar (Establishment) to conduct fresh probe by providing fair opportunity to the Petitioners/Accused. The matter was fixed for providing evidence. Following the inquiry, the complaint against Respondent No. 1/Complainant was once again "filed" by the Honorable Chief Justice.

12. To resolve the controversy involved it is necessary to examine the provisions of Section 499, PPC. The relevant portion of this section, for ease of reference, is reproduced below:-

> *"Whoever by words either spoken or intended to be read, or by sign or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.*
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> ***Eighth Exception. Accusation preferred in good faith to authorized person.*** *It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.*
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> ***Illustration****: If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good with complains of the conduct of Z, a child, to Z's father—A is within this exception."*

13. A complaint made against an employee to their employer can amount to defamation if it meets certain criteria. According to Section, 499, PPC defamation occurs when a person makes or publishes any imputation concerning another person intending to harm, or knowing or having reason to believe that

such imputation will harm the reputation of that person. If the complaint is found to be false and was made with the intent to harm the employee's reputation, it could indeed constitute defamation. A person aggrieved by defamatory statements has the right to file a complaint, and the court must consider whether the statements made were indeed defamatory and whether the complainant had the standing to bring the case. Thus if a complaint against an employee is proven to be false and made with malicious intent, it can lead to a successful defamation claim against the complainant.

14. In the present case the Complaint filed by the Petitioners/Accused against the Respondent No.1/Complainant was "filed" by the Honorable Chief Justice and there was no observation made that the complaint was false or made with the intent to damage the reputation of the Respondent No. 1/Complainant. Therefore, under these circumstances, this Court is of the opinion that a private complaint under Section 500, PPC is not competent and cannot be held maintainable. Moreover the case of Petitioners/Accused will come under the Eighth Exception of Section 499, Cr.P.C.

15. For what has been discussed above, the instant Criminal Revision Petition is **allowed**. Resultantly, the Impugned Order is **set aside** and the Petitioners/Accused's application under Section 265-K, Cr.P.C is **allowed/accepted**.

(MUHAMMAD AZAM KHAN)
JUDGE

Adnan