

UID: HR-0392
COMI-34-2019

Sukrampal **versus** Hoshiyar Singh

HRREA10009922019



Presented on : 05-10-2019
Registered on : 05-10-2019
Decided on : **03-07-2026**
Duration : 6 years, 8 months, 29 days

**IN THE COURT OF
SUB DIVISIONAL JUDICIAL MAGISTRATE
at Kosli, Rewari
(Presided Over by Sh. Ashok Kumar-IV)**

COMI/34/2019

1. Retd. Subedar Sukrampal son of late Sh. Ram Kumar Nambardar
2. Devender Singh son of late Sh. Chander Singh, residents of village Kosli, Tehsil Kosli & District Rewari.

.....Complainant.

versus

Hoshiyar Singh son of Bani Singh @ Hathiya Singh, resident of village Kosli, Tehsil Kosli & District Rewari.

.....Accused.

COMPLAINT UNDER SECTION 295-A, 500 and 506 of IPC

Present when argued: Complainant in person with Sh. Suresh Kumar Yadav, Advocate.

JUDGMENT

The present complaint has been filed by the complainant against accused for committing offence punishable under sections 295-A, 500 and 506 of the Code, 1860 (**hereinafter, the Code, 1860**).

2. Shorn of unnecessary details, brief facts material for adjudication of the case are that the complainants are law-abiding citizens

UID: HR-0392
COMI-34-2019
Wazir

and residents of village Kosli, District Rewari. That the complainants, along with Captain Suchet Singh son of Sh. Karan Singh, Subedar Brahmanand son of Late Sh. Sheotaj Singh and accountant Narender Singh son of Late Sh. Gheesa Ram, all residents of village Kosli, District Rewari are respectable and reputed persons of the locality.

3. The complainant No. 1 is a retired army personnel whereas complainant No. 2 is a social worker. They are serving members of Baba Mukteshwar Puri Adarsh Math Society, Kosli, District Rewari. They are socially active, cooperative, responsible and respectable members of the said Society and have always remained dedicated to the welfare and betterment of the Society as well as community. The complainants, along with other members of Baba Mukteshwar Puri Adarsh Math Society had planned a programme to visit Mehandipur Balaji for Darshan. During the course of planning, the committee suggested that since the members were travelling to Mehandipur, the contractor, Satyanarain, should also accompany them because construction work relating to the tomb of Baba Mukteshwar Puri Math, Kosli, was in progress at Sikandra. It was, therefore, decided that the contractor would accompany the members so that the progress and quality of the construction work could also be inspected. Accordingly, the complainants and other members first decided to visit Sikandra, as the distance between Sikandra and Mehandipur Balaji is approximately 15 kilometres.

4. On 22.04.2019, the complainants with other members of

Society, along with contractor Satyanarain, comprising a total of ten persons, departed for Sikandra in two private cars at their own personal expense. After reaching Sikandra, they inspected the construction work of tomb. Thereafter, owing to their hectic schedule, they stayed for the night at Mittal Dharamshala at about 8:30 p.m. Their programme to visit Mehandipur Balaji was fixed for 23.04.2019. As they were tired after the journey, one retired army personnel, who had brought some liquor with him, offered drinks to the other members to relieve their fatigue. Some of the members who were willingly accepted the offer and consumed liquor. During that time, one of the members clicked few photographs and, inadvertently, uploaded the same in the Whats-app group, for which he later felt guilty.

5. It is alleged that their journey was entirely a personal tour to Sikandra and Mehandipur Balaji undertaken at the personal expense of the participants and not at the expense of Baba Mukteshwar Puri Adarsh Math Society. Now, complainants came to know through reliable sources that accused namely Hoshiyar Singh, using his Facebook account, had misused, shared and published the photographs taken during the aforesaid tour of the complainants and other members of Baba Mukteshwar Puri Adarsh Math Society with a malafide intention. The accused uploaded said photographs on 28.04.2019 at about 7:24 p.m. on his Facebook wall along with defamatory comments against the complainants, who are reputed and responsible members of Baba Mukteshwar Puri Adarsh Math

Society, Kosli. The accused was fully aware that the said photographs had not been taken inside the Math. Nevertheless, with the deliberate intention to malign and defame the complainants and other respectable members of the Society in village Kosli, he knowingly misused the photographs by publishing them on social media along with false and defamatory allegations.

6. The accused falsely alleged in his Facebook post that the complainants and other members of the Society were consuming liquor inside the rooms constructed over the Samadhis of the Mathadheesh of Baba Mukteshwar Puri Math, Kosli. Besides publishing the said post on Facebook, the accused also spread the same false information amongst the villagers of Kosli with the intention of lowering the reputation of complainants and other members. The accused have specifically mentioned the names of the complainants, who are members of the aforesaid Society, and published their photographs along with the defamatory post on his Facebook wall. The defamatory post, as published by the accused reads as under :-

"मठ कमेटी के खजांची डॉक्टर सुचेत सिंह, अकाउंटेंट नरेंद्र सिंह, देवेंद्र सिंह नम्बरदार व अन्य मठ कमेटी के सदस्य बाबा मुक्तेश्वरपुरी मठधाम के अन्दर हमारे मठाधीशों की समाधियों के ऊपर बनाये गए रिहायशी कमरों में शराब पीकर मस्ती करते हुए।"

7. It is alleged that by his aforesaid malicious conduct, accused seriously tarnished the reputation and public image of complainants and other accompanying members in the eyes of the general public and

persons known to them. With an ulterior motive and malafide intention, accused deliberately uploaded and published false, fabricated, defamatory and unsustainable comments on his Facebook account, namely Hoshiyar Singh, with sole object of damaging and lowering the reputation of complainants in society.

8. It is alleged that the complainants and other affected persons submitted a written complaint dated 30.04.2019 to local police, Kosli against accused Hoshiyar Singh regarding aforesaid incident. However, instead of registering an FIR, the police merely recorded rojnamcha No. 21 dated 25.05.2019 showing that enquiry was conducted by police officials who concluded that allegations primarily disclosed a case of defamation and, therefore, no FIR was registered.

9. It is alleged that accused has consistently made attempts to tarnish and lower the reputation of complainants and other respectable members of the aforesaid Society. His conduct has throughout been malicious, and he is a habitual litigant. On 03.08.2019 at about 9:06 pm, accused, with deliberate and malicious intention to outrage religious feelings and beliefs of complainants, residents of village and people of the neighbouring villages having faith in Baba Mukteshwar Puri Math, Kosli, published another provocative, false, fabricated and defamatory post on his Facebook wall. The complainants have suffered immense mental agony, harassment and humiliation on account of the false, fabricated and

baseless allegations levelled by the accused without any cogent material or justification. By publishing aforesaid defamatory posts, accused has seriously harmed the reputation, dignity and social standing of complainants in the entire village as well as amongst all persons acquainted with them. The cause of action for filing this complaint first arose when accused started humiliating and defaming the complainants and other members of the Society by publishing defamatory material against them. The cause of action has continued to arise on every occasion, when accused repeated his defamatory acts. It lastly arose on 01.09.2019, when accused again insulted complainants by publishing another defamatory post on his Facebook wall, thereby further lowering their reputation through his acts and conduct. Lastly, it is prayed that accused be summoned under section 295-A, 500 and 506 of the Code, 1860.

10. In a preliminary evidence, the complainant have examined CW1 Devender Singh, CW2 Sukrampal, CW3 Bhagwan Sahay who proved photo Ex. CW3/1, CD Ex. CW3/2 and photo Ex. CW3/3 whereas CW4 Narender Singh proved facebook screen shot Ex. CW4/1 and Ex. CW4/2 with face-book comments Ex. CW4/3 beside proving documents mark A to D.

11. They have further examined CW5 Bhramanand and CW6 Sanjay Kumar who proved notarized affidavit Ex. CW6/A. They have

examined CW7 Mahant Shivpuri Mathadish and CW8 Capt. Suchet Singh. They have examined CW9 Subedar Mahender Singh whereas CW10 MHC Rajesh Kosli who tendered copy of daily diary as Ex. CW10/A.

12. Thereafter, learned counsel for complainant closed preliminary evidence vide statement dated 20.10.2023 after tendering whats-app chat mark “E”.

13. Thereafter, report under Section 202 Cr.P.C. was filed on 29.05.2026.

14. I have heard learned counsel for complainant who argued at bar what ever been pleaded with request to allow the complaint as sought.

15. I have considered the argument advanced by learned counsel for complainant and one through the case file very carefully and minutely.

16. The complainant has filed present complaint against accused for committing offences punishable under section 295-A, 500 and 506 of the Code, 1860 but they failed to prove prima-facie case against accused by leading cogent and reliable evidence. A careful scrutiny of complaint, preliminary evidence and the report submitted under Section 202 Cr.P.C. reveals that the complainants have failed to place prima-facie material establishing that the impugned Facebook post was authored or published by accused. Although Facebook screenshots, photographs, CD and Whats-App chats have been produced, none of the material connects

accused with the ownership or operation of alleged Facebook account or with the publication of impugned post. Rather, complainants themselves have pleaded that the photographs were initially clicked by **one of their own companions** during the tour and were inadvertently uploaded in a WhatsApp group by him. The complaint is conspicuously silent as to how alleged photographs travelled from the said WhatsApp group to the alleged Facebook account of accused. The inquiry conducted under Section 202 Cr.P.C. also records that no cogent material could be collected to establish that accused had uploaded or made the photographs viral on social media and that no material regarding criminal intimidation was found. Even if the entire preliminary evidence is accepted as correct, the essential ingredients of offences alleged are not prima facie disclosed. So, mere allegation that accused falsely portrayed the place of consumption of liquor does not, by itself, satisfy the stringent requirements of Section 295-A of the Code, 1860.

17. It is apposite to mention that complainants have primarily relied upon Facebook screenshots, WhatsApp chats, photographs and a CD. But, mere production of such electronic records, without any prima facie material establishing their source, authenticity, integrity and nexus with accused, is insufficient to justify issuance of criminal process. The material placed on record does not disclose how the impugned Facebook account has been connected with accused or whether alleged post was actually authored or published by him. Consequently, the electronic

evidence, in its present form, does not furnish any foundational basis necessary for proceeding against the accused.

18. Here, it is apposite to mention that report submitted pursuant to the inquiry under Section 202 Cr.P.C. does not lend support to the core allegations levelled by complainants. On contrary, it records that the photographs in question were taken during a **private journey** undertaken by the complainants and other members of the Society and that photographs were initially uploaded in a WhatsApp group by one of their **own companions**. More importantly, the inquiry specifically records that no cogent material could be collected to establish that accused had uploaded or made the photographs viral on social media.

19. Significantly, the averments made in the complaint itself create a serious gap in the prosecution version. The complainants have categorically pleaded that **one of their own companions** had clicked the photographs and inadvertently **uploaded** them in a WhatsApp group. However, the complaint is completely silent as to how those photographs reached alleged Facebook account of accused, who downloaded or forwarded them, or whether the accused ever received them. The crucial link connecting accused with alleged publication is thus conspicuously absent, rendering the allegations against him purely inferential.

20. Another circumstance which renders complainant's version doubtful is that they themselves have pleaded that one of their

companions had inadvertently uploaded the photographs in a WhatsApp group, whereafter the same came into circulation. Although, it has been alleged that said member subsequently deleted the uploaded data after realizing his mistake, no material has been placed on record to show that photographs were withdrawn before they could be accessed, downloaded or forwarded by other members of the group. The complaint is completely silent as to who, if anyone, downloaded the photographs from the WhatsApp group and how they eventually reached alleged Facebook account of accused. Thus, once photographs were admittedly published in the WhatsApp group by a member of the complainant's own party, the possibility of their dissemination by any member of the group or any other recipient cannot be ruled out. In the absence of any material establishing chain of transmission from the WhatsApp group to the alleged Facebook account of accused, the necessary nexus connecting accused with impugned publication remains unsubstantiated.

21. Before parting with order, it is apposite to mention that allegations constituting the offence of criminal intimidation are equally vague and devoid of material particulars. The complaint does not disclose the date, time or place of alleged threat, nor does it specify the exact words uttered by accused, the nature of threat extended or the manner in which it caused alarm to the complainants. So, a bald allegation that accused threatened complainants, without any specific

factual foundation, is insufficient to prima facie attract the ingredients of Section 506 of the Code, 1860. None of the witnesses examined during preliminary evidence has narrated any specific act or utterance constituting criminal intimidation. Significantly, the inquiry conducted under Section 202 Cr.P.C. also did not reveal any material substantiating the allegations of criminal intimidation.

22. Therefore, in absence of cogent, trustworthy and prima-facie incriminating material and particularly in view of adverse findings emerging from inquiry conducted under Section 202 Cr.P.C., this Court does not find existence of sufficient grounds to proceed against accused persons. So, permitting criminal prosecution to continue in such circumstances would amount to allowing criminal process to be employed as instrument of harassment, which cannot be countenanced in law. Sequally, no good reasons are made out for proceeding against accused for alleged offences. Hence, complaint is hereby **dismissed** in the interest of justice. File be consigned to record room after due compliance.

Pronounced in open Court.
Dated: 03.07.2026

(Ashok Kumar-IV)
Sub-Division Judicial Magistrate
Kosli.

Note: All the eleven pages of this judgment have been duly checked and signed by me.

Wazir Stenographer Gr. II

(Ashok Kumar-IV)
Sub-Division Judicial Magistrate
Kosli. 03.07.2026
UID: HR-0392