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(Hari Kishan)
Judicial Magistrate Ist Class,
Gurugram/ 17.07.2026

Lt. Gen. Raj Kadian Vs. GP Capt. (Retd.) Vinod K. Gandhi

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Indian Air Force, to the complainant, who is a retired Lieutenant General of Indian Army.

2. The facts as culled out from the complaint in hand are that, the complainant is a highly decorated retired officer of the Indian Army who served the Nation with distinction for more than forty years and attained the rank of Lieutenant General, one of the highest ranks in the Armed Forces. The complainant has earned immense respect, goodwill and reputation in society as well as amongst the armed forces fraternity on account of his exemplary military career, integrity and distinguished service record. After retirement, the complainant devoted himself towards the welfare of ex-servicemen, war widows and veterans and, with this objective, founded the Indian Ex-Servicemen Movement (IESM) in the year 2008. The complainant has continuously enjoyed the confidence of members of the organization and has been re-elected as Chairman of IESM in every election conducted till date. The complainant has also been one of the principal voices spearheading the cause of “One Rank One Pension” (OROP), which, after persistent efforts and sustained struggle, came to be accepted by Parliament on 17.02.2014 and implemented in the year 2015.

3. It is further stated in the complaint that accused is the General Secretary of IESM. Serious allegations regarding cheating and misappropriation of organizational funds were brought to light against the accused and other persons by the complainant, whereupon complaints

were lodged before the competent authorities. Pursuant thereto, proceedings under Section 156(3) Cr.P.C. were initiated before the competent Court at Gurgaon and directions were issued for registration of FIR and investigation into the matter. The anticipatory bail application filed by the accused before the learned Addl. Sessions Judge, Gurgaon was dismissed, though interim protection was subsequently granted by the Hon'ble Punjab and Haryana High Court. Thereafter, with mala fide intention to malign, humiliate and tarnish the reputation of the complainant, the accused circulated various emails dated 11.02.2016, 12.10.2015, 15.10.2015 and 03.12.2015 amongst members of IESM and veterans groups containing false, reckless, derogatory and defamatory imputations against the complainant.

4. In the aforesaid emails, the accused deliberately used insulting and scandalous language against the complainant and falsely alleged, inter alia, that the complainant did not deserve to be addressed by his military rank, that he was acting to ensure failure of the OROP agitation, that he had exerted political pressure upon Courts and Government authorities, that he was associated with Shri Suresh Kalmadi in Commonwealth Flag Ceremony as Kalmadi was Buddy of Complainant from NDA, that adverse remarks of "cowardice" existed in his confidential reports, that he had manipulated promotions by pulling others down, that he was mentally unstable and vindictive in nature and that he had attempted to sabotage the agitation at Jantar Mantar by getting

the bank account of IESM blocked. The aforesaid allegations are wholly false, fabricated, malicious and devoid of any factual basis. The statements made by the accused were intentionally circulated amongst the ex-servicemen fraternity and public at large with the sole object of lowering the dignity, reputation and standing of the complainant in the eyes of society and to create distrust against him amongst members of IESM and the veterans community.

5. It is further stated that the imputations made by the accused squarely fall within the ambit of defamation as defined under Section 499 IPC, as the accused knowingly published false statements concerning the complainant with full knowledge and intention that the same would harm the reputation, dignity and goodwill of the complainant. The defamatory emails were widely circulated in online groups associated with ex-servicemen and veterans and thereby caused serious injury to the reputation and public standing of the complainant. A legal notice dated 09.03.2016 was duly served upon the accused calling upon him to withdraw the defamatory allegations and tender an unconditional apology. However, no reply thereto was furnished by the accused. The failure of the accused to respond to the legal notice clearly demonstrates absence of any bona fide justification and further establishes the malicious intent underlying the defamatory publications made against the complainant.

PRELIMINARY EVIDENCE & SUMMONING OF ACCUSED

6. In the course of preliminary evidence, the complainant

examined 4 witnesses, wherein he examined himself as CW1 and deposed in the line of his complaint. The Complainant also examined one Nagender Singh as CW2, who stated that he is retired as a Captain from Army and is member of IESM society. The above said society was formed by Lt. General Raj Kadyan and issue of one rank one pension was also raised by him. But in the year 2015-2016, Sh.V.K. Gandhi, Group Captain, who is also General Secretary of IESM, wrote something bad about complainant and also instigate the members against him. Sh.V.K.Gandhi posted some E-mail Ex.CW1/A to Ex.CW1/D on social media i.e. E-mail of IESM Groups in order to malign the reputation of Lt. Gen. Raj Kadyan. Due to this the reputation of Sh. Raj Kadyan lowered down in the eyes of members. In this regard he wrote letter dated 18.05.2016 to Raj Kadyan which is Ex CW1/G. Sh.V.K.Gandhi has used some derogatory remarks against Sh. Raj Kadyan in order to malign his reputation. Further, CW3, Jai singh, Ex- Dafedar also corroborated the version of CW2. The CW4, Retd. Honorary Captain Jagbir Singh also deposed on oath in the line of CW2 and CW3.

7. Finding the grounds to proceed against accused, learned Court of Shri Ashok Kumar-III, the then Judicial Magistrate First Class, Gurugram vide order dated 05.09.2017 summoned the accused to face the trial under Section 499 read with 500 of IPC 1860.

PRECHARGE EVIDENCE

8. Vide order dated 20.12.2019, the court decided to try the

present case as a warrant case in view of section 259 of CrPC and invited the pre-charge evidence. Thereon, learned counsel for the complaint wished not to re-examine the CW1 namely Jai Singh and stated that the evidence already adduced by CW1 at preliminary stage be read in pre-charge evidence against accused. However, the complainant re-examined the other witnesses at pre-charge stage, the account of which is discussed herein below:

CW2 Captain (Hony.) Nagender Singh:

(a). This witness was cross-examined by the accused. During his cross-examination, the witness deposed that he became a member of IESM in the year 2012 and, at present, is not a member of the General Body. He further deposed that the complainant was the Chairman of IESM in the year 2012 and continued to hold the said position in the year 2015. The witness further stated that the accused was serving as Secretary of IESM in the year 2012. He deposed that he had knowledge of the affairs of IESM till the year 2015, when the complainant was removed from IESM, and thereafter he did not attend any meeting of the organization. The witness further stated that Exhibit CW2/A (Letter by him to the complainant) was sent through post, however, no documentary proof or postal receipt has been placed on record to substantiate the same. He further deposed that the letter Ex. CW2/A had been typed on a computer in his village. The witness admitted that Ex.

CW2/A is not the original document. He further stated that Ex. CW2/A had not been filed by him personally before the Court. The witness also deposed that the complainant initially belonged to District Rohtak and that his own village is situated at a distance of approximately 14-15 kilometres from the village of the complainant.

CW3 Captain (Hony.) Jagbir Singh:

(a). During his examination-in-chief, deposed that he had written letter Ex. CW1/E to the complainant. The witness stated that the accused used to make derogatory remarks against the complainant and had alleged that the complainant would indulge in scams relating to ex-servicemen matters and was not properly running the organization. The witness further deposed that the persons present there had expressed that they knew the complainant well and considered him to be an honest person. He further stated that the accused intended to malign and disrepute the complainant and, accordingly, persons present there were asked to write to the complainant to stop such alleged acts. The witness further deposed regarding the elections of IESM and stated that the complainant had been elected as Chairman of IESM in the year 2012. He further stated that this witness had also applied for membership of the Governing Body of IESM, however, according to him, the accused accepted nomination papers of only eleven officers and

rejected the remaining nomination forms.

(b) The witness further deposed that the accused intended to misuse the funds collected and donated by various persons for the OROP movement. He further stated that six persons whose nomination papers had been rejected approached the Registrar at Chandigarh and thereafter 4 out of them became members of the Governing Body of IESM. According to the witness, the accused convened meetings by calling only persons close to him and excluded other members of the Governing Body and, through such process, got the complainant removed from the post of Chairman of IESM. The witness further deposed that the District Registrar had subsequently ordered restoration of the complainant to the post of Chairman. He also stated that an FIR had been lodged by the complainant against the accused regarding the aforesaid allegations and since the police allegedly did not take action, the complainant approached the Court. The witness further alleged that the accused, along with others, withdrew money from the bank account without the consent or knowledge of the complainant. He further deposed that the accused had made statements alleging that the complainant was acting at the instance of the Congress Government and had further stated that the complainant's promotions in service were questionable and that he would be removed from IESM.

(c) During his cross-examination, CW3 deposed that he did not know the native village of the complainant, though he was residing in Sector-17A, Gurugram. He further stated that he had first met the complainant in the year 2008 and the accused in the year 2012. The witness further stated that his membership of the General Body of IESM had been cancelled by the accused in the year 2015 and thereafter he had preferred an appeal before the Registrar, Chandigarh. He further deposed that after the year 2014 he did not participate in any election and did not know as to who attended the meetings of the Governing Body thereafter. The witness denied the suggestion that the accused had not misused the funds collected for the OROP movement. He further denied the suggestion that the FIR lodged by the complainant against the accused had been filed with mala fide intention. However, he admitted that no quarrel had ever taken place in his presence between the complainant and the accused. He also denied the suggestion that the accused had never referred to the complainant as a “Pithu” of the Congress Party.

CW4: Lt General (Retd) Raj Kadiyan:

(a) The complainant, namely Lt. Gen. Raj Kadyan (Retd.), examined himself in examination-in-chief in length and deposed that he was born in a poor family in a village situated in the State of Haryana. It was further deposed that his father was initially recruited in the Indian Army as a Sepoy and ultimately retired with

the honorary rank of Honorary Captain. The witness stated that his father had cherished a dream that he should become an Army Officer. After passing matriculation from the village school, the witness secured admission in the National Defence Academy through open competition. It was deposed that at the Academy he competed with cadets from reputed public schools including Mayo College, Doon School and Lawrence School, Sanawar. The witness further deposed that by virtue of hard work and dedication he was adjudged the Best All-Round Cadet of the Academy and was awarded the President's Gold Medal. He was also awarded the Silver Medal for standing first in the overall order of merit, both medals having been awarded simultaneously to one cadet being a rare distinction. The witness proved photographs in support thereof as Ex. PW4/A and other exhibits on record. It was further deposed that during his military career he completed several prestigious courses with distinction including Platoon Weapons Course, Commando Course and Higher Command Course. The witness stated that he was awarded the Best Shot Silver Spoon and Commando Dagger respectively for outstanding performance.

(b) The witness further deposed that after promotion to the rank of Lieutenant Colonel, he was posted in Nagaland and successfully commanded operations against insurgents, for which he was awarded the Vishisht Seva Medal (VSM) by the President of India.

It was further deposed that thereafter he was selected as Instructor at the War College and subsequently appointed as the founding Chief Instructor of the National Security Guard (Black Cats) in the year 1985. The witness further deposed that he later commanded a Brigade on the China border in Eastern Sikkim and was thereafter selected as Military Attaché to France. It was stated that out of twenty Brigadiers shortlisted, the witness was placed at Serial No.1 and was ultimately selected after interview by a high-powered committee comprising senior Army officers. The witness deposed that after returning from France he was promoted to the rank of Major General and appointed as Force Commander in Nagaland where, during his tenure, six underground ministers were apprehended leading to a ceasefire declared on 01.08.1997, which continues till date. It was further deposed that for such distinguished service he was awarded the Ati Vishisht Seva Medal (AVSM). Thereafter, he was promoted to the rank of Lieutenant General and appointed as Commander of an elite Strike Corps during the Kargil conflict of 1999, for which he was awarded the Param Vishisht Seva Medal (PVSM). The witness stated that after more than forty years of meritorious service he retired in the year 2002 from the post of Deputy Chief of Army Staff, which is amongst the highest positions in the Indian Army and attained by less than 0.1% officers.

(c) *The witness further deposed that after retirement he voluntarily devoted himself to the welfare of ex-servicemen and war widows. It was stated that in April 2008 he, along with certain associates, founded the Indian Ex-Servicemen Movement (IESM) for securing “One Rank One Pension” for ex-servicemen. The witness deposed that he was unanimously elected Chairman of IESM in the elections held from time to time and continued to hold the said office without opposition. It was further deposed that in the year 2013 he developed suspicion regarding misuse and misappropriation of funds collected in the name of ex-servicemen and widows by accused Group Captain V.K. Gandhi and others. The witness stated that under the Memorandum and Rules of the Society, counter-signatures of the Chairman were mandatory on accounts and financial transactions; however, despite repeated requests the accounts were not shown to him. It was further deposed that owing to such irregularities he lodged complaints before the police and thereafter approached the Court, pursuant to which FIR No. 153/2016 came to be registered against the accused persons. The witness further deposed that after registration of the FIR, the accused persons, with mala fide intention and in retaliation, circulated various defamatory emails amongst thousands of ex-servicemen in India and abroad.*

(d) *The witness further deposed that accused Group Captain V.K.*

Gandhi circulated various emails dated 12.10.2015, 15.10.2015, 03.12.2015 and 11.02.2016 containing false, malicious and defamatory allegations against him. It was specifically deposed that the accused falsely alleged that adverse remarks relating to “cowardice” existed in the ACRs of the complainant and further alleged that the complainant manipulated promotions by pulling others down. The witness categorically denied such allegations and deposed that during his entire military service spanning more than forty years no such remark had ever been recorded in any confidential report. The witness further deposed that such allegations were deliberately made to tarnish his reputation, question his integrity and lower his standing in the eyes of Army personnel and ex-servicemen. It was also deposed that the accused falsely associated him with Shri Suresh Kalmadi and falsely alleged that he had sought political patronage and party tickets from political parties. The witness denied all such allegations and stated that meetings with political leaders and ministers were held solely in connection with the OROP movement and welfare of ex-servicemen. The witness further deposed that the accused falsely alleged that the complainant had got the IESM bank account blocked, whereas no such letter had ever been written by him to the bank. The witness stated that the defamatory emails were circulated widely amongst retired Army officers, serving personnel and ex-servicemen communities, resulting in serious harm to his image,

goodwill and reputation earned over decades of distinguished military and public service. It was further deposed that despite service of legal notice upon the accused, no reply or apology was ever tendered by him.

(e). The witness Lt. Gen. (Retd.) Raj Kadiyan was recalled for further cross-examination. During the course of his cross-examination, the witness was asked whether he had brought the record of the General Body Meeting dated 22.06.2017, which he had been directed to produce on the previous date of hearing. In response, the witness stated that he most humbly requested that the questions be confined to the subject matter of the complaint; however, he further stated that no signed minutes of the meeting dated 22.06.2017 existed as per the rules of the Society.

(f). The witness denied the suggestion that he had intentionally withheld the records of the meetings despite agreeing to produce the same. He further denied the suggestion that he had never been given any special honour or respect during his tenure in the Academy. The witness admitted that he had not produced any certificate in his examination-in-chief to show that he had been awarded “Best Cadet”, but denied the suggestion that Ex. PW4/B did not prove the same. He further admitted that he had not placed on record any certificate or document showing that he had received the Silver Spoon Award or secured first position after

commissioning.

(g). The witness admitted that promotions in the Army were governed by prescribed criteria. He further admitted that the contents of his examination-in-chief dated 10.02.2021 had not been reproduced in toto in the complaint filed before the Court. He denied the suggestion that he was never appointed as Commander during the Kargil period or in Nagaland. He also denied the suggestion that he had not attached any proof regarding medals allegedly awarded to him by the President of India.

(h). The witness admitted that the postings and responsibilities mentioned by him were assigned as per orders issued by Army Headquarters. He denied the suggestion that after retirement he had never worked for the welfare of soldiers. He also denied the suggestion that he was removed from the post of Chairman/President of the Society in the year 2013 due to misconduct.

(i). The witness denied the suggestion that the IESM Society was initially formed solely on the initiative of Gen. Satbir Singh and further denied that he had intentionally and wilfully not produced the election record of the Society. However, he admitted that, being Chairman of the Society, all affairs relating to the Society, including accounts, membership and upkeep of proceedings, were under his responsibility. The witness stated that he did not know

when FIR No. 153/2016 had been stayed by the Hon'ble Court.

(j). The witness admitted that the Society had included Shri Satbir Singh as Chairman for liaison with political authorities and Army officials in connection with implementation of OROP. He denied the suggestion that he was working against the interests of the Society and that he had therefore been removed from the Chairmanship.

(k). The witness denied the suggestion that the emails Ex. PW4/E to Ex. PW4/H merely contained relevant facts and were not defamatory in nature. He further denied that the said emails had been written with the consent of other members of the Society. However, he admitted that Ex. PW4/H contained only his own email address and not that of Shri V.K. Gandhi. The witness denied the suggestion that no defamation had been caused to him due to the said emails.

(l). The witness admitted that the accused had never pressurised him to withdraw the present case. He further admitted that he had contested the Parliamentary Elections from Jhunjhunu, Rajasthan in the year 2014 and had lost the same. He also admitted that he had contested the election on the symbol of the Aam Aadmi Party and not on a Congress Party ticket.

(m). The witness denied the suggestion that by blocking the Society account he had caused financial hardship to the Society after his

removal from the Chairmanship. He admitted that Shri V.K. Gandhi had never been Treasurer or Incharge of Accounts of the Society and stated that initially Major Gen. Ranjan and thereafter Wing Commander C.K. Sharma had handled the accounts.

(n). The witness further admitted that he had never received any phone calls from any person regarding the alleged defamatory emails. He denied the suggestion that Ex. CW1/A, Ex. CW2/A and Ex. PW4/A were false and fabricated documents. The witness admitted that the legal notice Ex. PW4/K was only a photocopy and that no proof of its receipt had been filed by him. He further admitted that no copy of FIR No. 71/2016 had been annexed with the present complaint. He also admitted that he had not filed any civil suit for damages against Shri V.K. Gandhi.

(o). Lastly, the witness denied the suggestion that he was harbouring personal grudges against Shri V.K. Gandhi and Gen. Satbir Singh after his removal from the Chairmanship of IESM. He further denied the suggestion that he had been removed as Chairman by majority vote and denied the suggestion that he was deposing falsely before the Court or had filed a false complaint.

CHARGE-SHEET

9. The complainant vide his separately recorded statement closed pre charge evidence on 01.07.2023 and also tendered Certificate under Section 65B of Evidence Act (Ex PA) and documents Mark A to O.

Thereafter, finding prima-facie case, the court of Shri Anil Yadav, the then Learned JMFC Gurugram framed the charge against accused person under section 500 of IPC on 22.04.2024.

POST-CHARGE EVIDENCE:

10. The learned counsel for the accused vide his separate statement expressed his willingness to cross-examine all the witnesses already examined at pre-charge stage. In his cross examination at post charge stage, CW2 Captain(Hony.) Nagender Singh deposed that his email address is nagendersingh59@gamil.com and he wrote the letter to complainant at his Gurugram address. The said letter was hand-written and sent by post. Similarly, CW3 Capt. Jagbir Singh is recalled for his cross-examination wherein he deposed that his email address is jaibirnara@gmail.com and this email address is not in Ex PW4/E, Ex PW4/B and Ex PW4/H. He denied of having original of letter Ex PW4/J. He admits he does not have any proof of sending letter Ex PW4/J and this letter has no reference of emails. Jai Singh is recalled as CW4, who deposed on the line of other witnesses. Further the CW1 Lt Gen Raj Kadiyan was again recalled at post charge stage for cross-examination wherein he deposed that 4 emails which he has filed along with complaint were sent to him by three witnesses through post. Further he stated in reply to the question qua remark in his ACR by superior officer, that there is no word 'Coward' in his ACR.

11. The complainant has adduced the following documents to

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support his case:

Ex PA	Certificate under Section 65B of Act
Ex CW1/A	Letter of DFR Jai Singh
Ex CW1/E	Letter of Capt Jagbir Singh
Ex CW1/G	Letter of Capt Nagender Singh
Ex PW4/A	Photographs of complaint with PM
Ex PW4/B	Photographs receiving award
Ex PW4/C	Photograph of PVSM Conferment
Ex PW4/D	Booklet
Ex PW4/E	Email dated 11.02.2016
Ex PW4/F	Email dated 13.10.2015
Ex PW4/G	Email dated 12.10.2015
Ex PW4/H	Email dated 13.12.2015
Mark A	Photographs of complaint with PM
Mark B	Photographs receiving award
Mark C	Photo of Gold Medal of best cadet
Mark D & E	Photo of President Gold Medal
Mark F	Gold Medal of First in Oder of Merit
Mark G& H	Silver Medal of First in Oder of Merit
Mark K	Photo of complaint as CI, NSG
Mark L	Commendation Letter by COAS
Mark M	Photo of complainant receiving PVSM
Mark N	Award letter of VSM & AVSM to Comp
Mark O	Award letter of PVSM to Complainant
Mark PA	Representation to chairman JAFRA
Mark PB	Email dated 26.11.2012
Mark PC	Order of Registrar in appeal No 34 of 2013

Mark PD	Order of CWP 18468 of 2014
Mark PE	Affidavit of Maj Gen Satbir
Mark PF	Receipt cum Acknowledgement
Mark PG	Statement of Smt. Shakuntala in FIR 71

STATEMENT OF ACCUSED PERSONS UNDER SECTION 313

CRPC

12. Statements of accused were recorded under Section 313 Cr.P.C wherein all the incriminating evidence including emails dated 12.10.2015, 15.10.2015, 03.12.2015 and 11.0.2015 (Ex PW4/E to Ex PW4/H), complaint, legal notices, testimonies of witnesses and documents adduced by complainant were put to him, to which accused pleaded his innocence and stated that he is falsely implicated. He stated that he wants to lead evidence in his defence.

DEFENCE EVIDENCE :

13. DW1 Hony. Lt. Kameshwar Pandey:

This defence witness deposed that he retired from the Army in the year 1999. He further deposed that the IESM Organisation had been constituted for pursuing the demand of “One Rank One Pension” from the Government and that the complainant was serving as Chairman of the said organisation. He stated that after some time, owing to differences of opinion within the Governing Body and amongst the defence personnel associated with the organisation, the Society became divided due to internal

contradictions. The witness further deposed that he had cordial working relations with the complainant and that the complainant had always been a respectable person in his eyes. He categorically stated that he had neither seen nor heard that the complainant had ever been defamed by the accused.

DW2 Havildar (Retd.) Manohar Singh Rawat, in his examination-in-chief, deposed that he is a retired Army personnel and that during the OROP demonstrations no defamatory statements were made against anyone from the stage, as there were clear instructions issued by the accused in that regard. During his cross-examination, the witness stated that his email address was “manoharrawat1969@gmail.com” and that he was not a member of any IESM email group. He further deposed that he had never received any email from IESM. The witness stated that he had read emails Ex. PW4/E to Ex. PW4/H, however, he could not state whether the same had been written by the accused or not. He further deposed that the accused had informed him that the emails allegedly sent by him did not contain the words which were allegedly spoken at Jantar Mantar. The witness denied having any knowledge regarding the emails containing any defamatory content.

DW3 Major General (Retd.) Satbir Singh:

(a). *This witness was examined on behalf of the defence. He*

deposed that after his retirement, he had formed the IESM on 15.12.2008 for carrying out a peaceful movement for the welfare of ex-servicemen, including the implementation of One Rank One Pension (OROP). He further deposed that during the course of the OROP movement, certain ex-servicemen informed him about a judgment passed by the Hon'ble Supreme Court concerning the complainant, wherein adverse observations had allegedly been recorded regarding the complainant's military service, including allegations that he did not participate in the wars of 1962 and 1965 and that during the 1971 war, while serving as Company Commander, he had hesitated to accompany his jawans to difficult targets. The witness further deposed that he was informed that in the complainant's ACR, the Reporting Officer had remarked that the complainant's service was "satisfactory but expected be better."

(b). The witness further stated that he came to know through an email dated 11.02.2016 that the complainant had made allegations against the accused to the effect that the accused had referred to him as a "coward". However, according to the witness, the accused had never used such expression and had merely referred to the contents allegedly recorded in the judgment of the Hon'ble Supreme Court. The witness further deposed that the allegations levelled by the complainant against the accused were false and

incorrect.

(c). In his cross-examination, the witness admitted that he had read emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H, which were circulated by the accused in the IESM group. He further deposed that it was correct that the alleged observations of the Hon'ble Supreme Court did not specifically contain the word "coward." The witness further stated that he was surprised that the complainant was opposing the movement for One Rank One Pension.

(d). During cross-examination, the witness deposed that two FIRs had been registered against him, one in Delhi and another in Gurugram, and according to him the allegations therein were false. He further stated that the Hon'ble High Court had stayed the said cases instituted at the instance of the complainant. The witness denied the suggestion that he had visited the house of the complainant in April 2017 requesting withdrawal of the FIRs lodged against him.

(e). The witness further deposed that the emails written by the accused in the years 2015–2016 had been written after consultation with him, as at the relevant time he was the Chairman of the Society while the accused was serving as Vice-Chairman. Upon a specific question being put to him regarding the objective behind emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H

circulated in the group, the witness replied that the intention behind the said emails was to demonstrate that the complainant did not wish to support or initiate the movement for OROP.

ARGUMENTS:

14. The Learned counsel for the complainant argued that the complainant has proved its case beyond reasonable doubt and that the complainant version is fully corroborated by sufficient, credible and cogent documentary evidence on record. It is for that, the fact of circulation of emails by accused in ESM group are not denied by the accused. Even the defence witness DW3 has admitted that such emails were written by accused with his consultation. It is further argued that the emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H contains defamatory language as defined under section 499 of IPC, which includes the word Coward for the complainant, a decorated Army Officer, and hence sufficient to attract the penal provision of Section 500 IPC. Further, the posting of such emails in online group amounts to publication. The learned counsel for the complainant has contented the defence of accused that the statement in the impugned emails falls under exception of section 499 IPC is without merit and liable to be rejected. With the submission, Learned counsel for complainant has prayed for conviction of accused charged with section 500 of IPC for criminal defamation.

15. *On the contrary*, the Learned Counsel for the defence has most vehemently contended that the edifice of the complainant case

crumbles under its own weight, inasmuch as the complainant has miserably failed to adduce any independent or cogent evidence to lend credence to his version. It is further submitted that the emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H are not proved as per Evidence Act and not supported by proper Certificate under Section 65 B of Evidence Act. The said Certificate adduced in evidence is not given by the person to whom the emails were sent. Further, there examination in chief of the complainant is devoid of any content reflecting the act of defamation. Further, it is argued that the alleged statement falls under exception to section 499 IPC as it was merely reiteration of a court judgment. No person to whom, the email was sent is examined and hence publication of alleged statements is not proved. None of complainant witness received the alleged defamatory emails and hence conviction under section 500 IPC is not tenable.

POINTS OF DETERMINATION AND FINDINGS :

16. The first and foremost issue that commands the attention of this Court is whether the complaint has succeeded in establishing its case beyond the pale of reasonable doubt. It is a cardinal and time-honoured principle of criminal jurisprudence that the burden of proof rests squarely and uncompromisingly upon the shoulders of the complainant. This burden is neither lightened by presumption nor mitigated by surmise; it must be discharged in its entirety, and that too, to the hilt, without concession, reservation, or remiss. The standard to be met is one that

traverses beyond mere probability or conjecture; it must rise to the level where no reasonable doubt lingers in the judicial conscience.

17. In the matter at hand, it is incumbent upon the court to return its findings on the following points of determination to fix the liability of accused (if any) :

- a) Whether the emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H were written/sent/ published in Public domain/group by accused person?*
- b) Whether the aforesaid emails had the content sufficient to impute/defame the complainant with the intention or knowledge to harm the reputation of the complainant and it lowered the moral/character of the complainant in the estimation of others?*
- c) Whether the alleged imputations through impugned emails are protected under any of the exceptions as provided in Section 499 of IPC?*

18. Before advertng to the facts of case and to return the findings on aforesaid issues, it shall be appropriate to discuss the law applicable in cases of defamation as punishable under section 499 read with 500 IPC. For easy reference, section 499 of IPC is extracted herein below:

499. Defamation.—

Whoever, by words either spoken or intended to be read, or by signs 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 expected, 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.

Fourth Exception.— Publication of reports of proceedings of Courts.—
It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.— A Justice of the Peace or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice, is a Court

within the meaning of the above section.

Fifth Exception.— Merits of case decided in Court or conduct of witnesses and others concerned.— It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further. (Emphasis Supplied)

19. From the aforesaid provision, it is explicitly clear that a person can be guilty of defamation if he by words, spoken or written makes or publish any imputation concerning any person with intention or knowledge to harm the reputation of such person in the eyes of others. The essential ingredients include the publication of such words to at least one person other than the person defamed. The defamation is made up to a chain of acts, that is, the accusation, its consequences, the means and the manner of accusation and, behind them, all guilty intent, or knowledge. It is not the form of language used, but the intent behind the language that constitutes defamation. The language must however, be effective in the circumstances to convey the intended meaning. An imputation in the form of an alternative or expressed ironically may amount to defamation **(Explanation 3 of Section 499 IPC).**

20. Now reverting back to the facts of the case, it is alleged in the complaint Ex CW1/1 that in the email Ex PW4/E to Ex PW4/H the accused has by way of written words published among members of IESM

community that complainant is coward and he does not deserve to be addressed with his rank of Lt General. It is further alleged that by the said emails, accused has attempted to convey that complainant got his promotions by manipulative tricks by pulling down the others. First of all, the court has perused the email Ex PW4/E allegedly circulated by accused Vinod Gandhi to IESM group on 11.02.2016 at 11:12 am having a subject “ Truth about the false case registered against IESM under political pressure to force closure of agitation at JM”. The said email is addressed to several persons including some Indian Veteran groups. For easy understanding, the email Ex PW4/E is reproduced as verbatim:

“Dear Members

There is no need to any advise to Kadyan (he does not deserve to be addressed with his rank) as he has shown his real intent that is come what may agitation for OROP must fail. Now the members will understand why IESM had been always saying No to talk to him and also the reason.

This is the same complaint he filed with Police in Haryana in Apr/May 2013. Police came to IESM for investigation. The issue was investigated by ACP Bhagwan Singh. I and Wg Cdr CK Sharma gave a reply to police and after reading our reply ACP Bhagwan Singh called for a meeting with us and Kadyan. ACP offered us tea and told Kadyan that there is nothing in his complaint other than his ego. Kadyan was so humiliated that he left the room without drinking tea and without even thanking him for tea. I am saying this because I was present in the office. ACP Bhagwan Singh sent the case to record room meaning the complaint was false and the issue was closed.

After a couple of months Kadyan again approached Police Commissioner Gurgaon and asked him to order fresh investigation. Police under political pressure again came for investigation and was given the same reply. The police party was once again satisfied and closed the case.

Kadyan then approached district court in Gurgaon to order Police to file register his complaint. The judge found no substance in the complaint and dismissed it. Police investigating team was given account of every penny withdrawn from bank and its disposal. The point to be noted here is that even under political pressure Police did not find any wrongdoing and in-fact commented that the fund position is improved as compared to earlier as this time Kadyan was frustrated (as police and even courts did not come under pressure refused to register his false complaint) and approached session court that he had not been heard in the district court. At this stage he presumably brought political pressure and the session judge was forced to order the district judge to order police to investigate the issue. **By this time he had made inroads to new Government. New Govt was as it is feeling embarrassed because of ongoing agitation at JM even after giving OROP, albeit truncated. The Govt would do anything and placate any one who would help them to break agitation at JM. The Govt found an accomplice in Kadyan and probably encouraged him.** Session judge cancelled the judgment pronounced by district judge and ordered him to issue instructions to police to register the complaint and investigate it again.

Incidentally Kadyan was in charge of commonwealth games flag ceremony along with famous Kalmadi. Kadyan and Kalmadi are buddies from NDA. After leaving CW games he was again given a job as Managing Director of Urban Development Company a job offered by Government as a lolly pop to those who tow Government line. He is still working as MD of Urban Development company. Do I need to write about his extended stay in Paris and his case with Govt subsequently which he lost? I do not wish to make comments on remark of cowardice in his ACR by his superiors. It is surprising that he still made to higher ranks despite such remarks. Does it not speak about his manipulative skills to get promotions by pulling others down. Point to ponder here is that this maligning campaign which Kadyan has started against IESM elected office bearers is the result of his frustration that he was not permitted to use IESM and IESM funds for his election by the GB IESM. IESM is proud to safe guard IESM funds from the ill intentions of Kadyan to use these funds for his personal comforts and ambition.

IESM is confident and is ready to face any inquiry any number of times. There is nothing to worry as our accounts are transparent and updated. IESM had been constantly confirming that every member of IESM can come and see the accounts. Incidentally the

accounts have been passed by AGM in 2012 and then in 2014. I am intentionally not writing that accounts have been audited by a competent audit firm as Col Raman has very low impression of audit firms. Col Raman some upright audit firm might sue you for your remarks about them (fun intended).

The fact that Kadyan has been given access to a regional TV channel and some national channels, to air to spread his falsehood and venom, is an indication of patronage given to him by some political powers. JM will not close even if he shows our photograph on main media channels and shouts from his roof top.

Members there is absolutely nothing to worry about this case. IESM and those who are in-charge of running the agitation are resolute to ensure that the ongoing agitation at JM will run as per plans and will be wound up only on approval of full OROP. JM has been flooded with calls from Punjab, Haryana, Rajasthan, UP, HP and UK that their teams will soon be reaching JM to ensure that agitation is strengthened. Once again assures all members that JM will not be closed under any pressure. Kadyan has no authenticity and will not be able to put any pressure to close JM agitation. JM is sure that Govt will be wise to not to repeat the mistake of 14 Aug 2015.

Strong rebuttal has been issued to HT Gurgaon for printing false news. Similar strong rebuttals will be sent to all channels for airing the false news.

Regard

Gp Capt VK Gandhi VSM

Gen Sec IESM

Flat no 801, Tower N5

Pocket D6

Narmada Apartments Vasant Kunj

Nelson Mandela Marg

New Delhi. 110070

Mobile 09810541222”

21. There are other emails on record exhibited as Ex. PW4/F, Ex. PW4/G and Ex. PW4/H; however, for the sake of brevity, this Court

does not deem it necessary to reproduce the contents of all the said emails in this judgment and shall discuss the relevant portions thereof at the appropriate stage.

Whether the impugned E-mails were authored and circulated by accused?

22. The first issue which falls for determination before this Court is whether the impugned emails were authored and circulated by the accused to various veterans and members of the IESM group. Upon appreciation of the material available on record, this Court finds that there is sufficient evidence to establish that the impugned emails were indeed written and transmitted by the accused.

23. A perusal of Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H reveals that the sender column of the emails reflects the name “Vinod Gandhi” along with the email address “vkgandhi@yahoo.com”. Further, at the end of the contents of the said emails, the name of the accused along with his residential address and mobile number have been specifically mentioned. Ex. PW4/F is directly addressed to the complainant. Similarly, Ex. PW4/G and Ex. PW4/H were addressed to different veterans, and in all the said emails the name of the accused appears both in the sender details as well as in the concluding portion of the communication.

24. Significantly, throughout the entire course of trial, including the cross-examination of prosecution witnesses, defence evidence and the

statement of the accused recorded under Section 313 Cr.P.C., the accused has not taken any specific defence denying authorship or transmission of the impugned emails. In the cross-examination of complainant, there is nothing to suggest that the accused ever any question/suggestion denying the authorship of impugned emails by him. It has never been the case of the accused that any third person impersonated him as “V.K. Gandhi” or circulated the said emails without his knowledge, authority or consent.

25. Though learned counsel for the accused attempted to challenge the authenticity and admissibility of Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H on the ground that the said printouts were not accompanied by a certificate under Section 65B of the Indian Evidence Act from the person to whom the emails were allegedly sent, contrarily, said certificate is tendered by complainant himself. This objection does not merit acceptance for more than one reason. Firstly, during the entire cross-examination of the complainant and other witnesses, several questions were put regarding the IESM, its functioning and the role of the complainant therein; however, no suggestion whatsoever was put disputing the genuineness or authenticity of the impugned emails. It is a settled principle of law that failure to challenge a material fact in cross-examination amounts to deemed admission of such fact. Secondly, this Court has also carefully considered the defence evidence, particularly the testimony of DW3, Major General (Retd.) Satbir Singh, who categorically admitted in his cross-examination recorded on 20.01.2025 that the

impugned emails had been written by the accused after consultation with him. Such categorical admission on the part of a defence witness substantially corroborates the complainant's case regarding authorship of the emails.

26. In these circumstances, where there exists a clear and unequivocal admission regarding the authorship and circulation of the impugned emails by the accused, the absence of a certificate under Section 65B of the Indian Evidence Act does not prove fatal to the case of the complainant. Even otherwise, the complainant has tendered these print-out of email as CW4 and has tendered the certificate under section 65B of Evidence Act. Tendering of certificate at later stage is not fatal to the case and evidence of complainant (**refer Arjun Panditrao Khotkar vs Kailash Khushrao Gorantyal AIR 2020 SC 4908**) Accordingly, this Court holds that the impugned emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H were authored and circulated by none other than accused.

Whether the Imputations against complainant get Published as required under Section 499 of IPC?

27. The next question which arises for consideration before this Court is whether the impugned imputations were "published" by the accused within the meaning of Section 499 IPC. As already discussed hereinabove, publication is an essential ingredient of the offence of defamation and in the absence of publication, no offence under Section 499 IPC can be said to be made out.

28. In law, “publication” means communication of the defamatory imputation to at least one person other than the person against whom the imputation is made. Mere communication to the person defamed does not amount to publication within the meaning of Section 499 IPC. The essence of publication lies in making the defamatory matter known to a third person. Thus, whenever a defamatory statement is communicated to any person other than the person for whom it is intended, the same constitutes publication in its legal sense.

29. In the present case, the material available on record (recipients of emails as shown in Ex PW4/E-Ex PW4/H) clearly establishes that the impugned emails were circulated to multiple persons, including various veterans and members of the IESM group. The defence sought to contend that the emails were not sent to the complainant or to certain selective persons who were examined as witnesses by the complainant. However, such contention does not negate the element of publication. What is required for constituting publication is transmission of the defamatory material to any third person other than the person defamed. Once the impugned emails were transmitted to multiple recipients through electronic communication, the requirement of publication stood satisfied.

30. A perusal of the impugned emails further reveals that there were multiple recipients in the “To” and related fields of the emails. In electronic communication, once the information is uploaded and

transmitted to recipients through email, the same amounts to publication in the eyes of law.

31. This Court has also considered the testimonies of complainant witnesses, namely Hony Captain (Retd) Jagbir Singh, Hony Captain (Retd) Nagendra Singh and Havildar/Dafedar (Retd) Jai Singh. The said witnesses had addressed letters to the complainant regarding the allegedly defamatory emails circulated by the accused. The said letters have been placed on record and exhibited as Ex. CW1/E, Ex. CW1/F and Ex. CW1/G. These letters were written in the months of February and April, 2016, much prior to the institution of the present complaint. Though certain minor contradictions emerged during the cross-examination of the aforesaid witnesses regarding the mode through which the letters were sent and whether copies thereof were retained by them, or written by hand or printed, but such minor discrepancies do not affect the core of the complainant case. The said letters can safely be relied upon, at least for the limited purpose of establishing publication of the defamatory material. The contents of these letters (CW1/E, Ex. CW1/F and Ex. CW1/G) clearly indicate that the complainant witnesses had become aware of the alleged defamatory imputations circulated through the impugned emails. Such awareness on the part of third persons clearly establishes that the contents of the emails had been communicated beyond the complainant and had reached other veterans and members of the organisation. Furthermore, DW3 Maj Gen (Retd) Satbir Singh has

admitted that the judgment of Hon'ble Supreme Court was brought at Jantar-Mantar. Accordingly, this Court is satisfied that the impugned emails were communicated to third persons and thereby constituted "publication" within the meaning of Section 499 IPC.

Whether the imputations made by accused against complainant in email Ex PW4/E to Ex PW4/H are sufficient to lower down the moral/character or reputation of complainant in estimation of others?

32. The next question which requires determination by this Court is whether the contents of the impugned emails were sufficient to impute or defame the complainant with the requisite intention or knowledge of harming his reputation and whether the same had the tendency to lower the moral character, dignity and reputation of the complainant in the estimation of others.

33. This Court has meticulously and microscopically examined the contents of the impugned emails Ex. PW4/E, Ex. PW4/F, Ex. PW4/G and Ex. PW4/H in order to ascertain whether the allegations contained therein constitute defamatory imputations within the meaning of Section 499 IPC.

34. Upon careful scrutiny of the email dated 13.10.2015, exhibited as Ex. PW4/F, sent by the accused to various defence veterans including the complainant and specifically addressed to the complainant, this Court does not find any statement which can be termed defamatory in nature so as to attract criminal liability under Section 500 IPC. In the said

email, the accused appears to have communicated his grievances regarding certain minutes of meeting allegedly conducted at the residence of the complainant. The tenor of the email undoubtedly reflects discord, contradictions and strained relations between the accused and the complainant; however, mere hostile communication or expression of grievance, in the absence of any imputation lowering the reputation of the complainant, does not constitute defamation within the meaning of Section 499 IPC.

35. Similarly, in another email dated 15.10.2015, exhibited as Ex. PW4/G, the accused addressed various veterans stating that IESM had become a political organisation and questioning how the complainant, while holding the office of Chairman of IESM, could contest elections without resigning from the said post. In the said email, allegations regarding the alleged “double standards” of the complainant were made. However, this Court is of the considered opinion that the contents of the said communication also do not amount to defamatory imputations attracting Section 499 IPC.

36. Likewise, in the email dated 03.12.2015, exhibited as Ex. PW4/H, sent by the accused to members of the OROP group, allegations were made that the bank account of IESM had been blocked for debit facilities at the instance of the complainant in order to obstruct the OROP movement and prevent its success. Though the contents of the said email may indicate internal disputes and allegations concerning functioning of

the organisation, this Court is of the opinion that the said communication, by itself, does not contain such imputations as would attract criminal defamation under Section 500 IPC.

37. However, the principal grievance of the complainant, and the communication which has substantially engaged the attention of this Court, pertains to the email exhibited as Ex. PW4/E. The contents of the said email, already reproduced hereinabove, require closer scrutiny. In Ex. PW4/E, it has been alleged that the Government was embarrassed by the ongoing agitation at Jantar Mantar even after announcement of OROP and was, therefore, searching for persons who could assist in weakening or breaking the agitation, and that the complainant had acted in concert with the Government in that regard. The email further attempts to associate the complainant with Shri Suresh Kalmadi by referring to him as a “buddy” of Shri Suresh Kalmadi since NDA days. More significantly, based upon a judgment passed by Hon’ble Supreme Court, reference has been made to some adverse remarks recorded by his senior officers in the complainant’s service record, including allegations of his being “coward”. The email further states that despite such remarks, the complainant rose to higher ranks, allegedly reflecting manipulative skills and an inclination to secure promotions by pulling others down. Before returning any findings on the content of email Ex PW4/E, the court has perused the aforesaid judgment of Hon’ble Supreme Court (Mark DA) and relevant portion of said judgment is extracted herein below:

“12. Lt. Gen. RS Kadyan:- He was commissioned in the Rajputana rifles regiment of the Infantry in June, 1962 and has held various Command, Staff and Instructional appointments. He picked up the rank of Lt. Gen. On 24th September, 1997 and started functioning as regular Corps Commander. The General Officer has a balance exposure in Command, Staff and Instructional appointments. However, his staff experience in senior ranks from Brig. onwards is only limited to that of Military Attachee. He has no experience of working in Northern Command and Army Headquarters. Since 1980 he has worked for about 4 years in field areas. It also appears from his records that he did not participate in 1962, 1965 operations. In his report of 1971, when he participates in the operations, there are some advisory remarks both by the IO and RO as below:-

..Should be bold and aggressive in operation. Should lead his mean personally to difficult objectives. (Remarks by IO).

.. his performance as a Rifle Coy Commander in the recent operations has been satisfactory though not upto the expected level. (Remarks by RO).

The overall profile of the officer, especially in senior ranks has been clearly above average. All the reporting officers gave him above average ratings with sprinkling of outstanding ratings.”

38. In the considered opinion of this Court, statement like manipulative, association with Government or any political party or with Shri Suresh Kalmadi may be insulting but not defamatory in nature. However, the aforesaid imputations of “Coward” are certainly defamatory in nature, when there is nothing in the said judgment of Hon’ble Supreme Court of India qua the ACR of Complainant. Alleging that a senior military officer, who rendered more than four decades of service and attained the rank of Lieutenant General, had acted as a “**coward**” during military operations is undoubtedly an allegation capable of seriously lowering his reputation, dignity and standing in the eyes of

fellow officers, veterans and society at large more particularly when no such remark is made in ACR/Service record of the complainant. Such imputation directly attacks the courage, integrity, professional competence and honour of the complainant, which are attributes of the highest significance in military service.

39. The Black's Law Dictionary defines the term "cowardice" as "pusillanimity; fear; misbehaviour through fear in relation to some duty to be performed before an enemy." Similarly, Webster's Dictionary defines a "coward" as a person who displays disgraceful fear or timidity. Undoubtedly, the use of such expression against a high-ranking military officer, without lawful justification or protection under any of the exceptions to Section 499 IPC, is sufficient to lower his reputation, dignity and character in the estimation of society, particularly amongst members of the armed forces and veterans' community.

40. In the present case, the complainant, during his lengthy examination-in-chief as CW4 recorded on 10.02.2021, 04.04.2021, 09.04.2021 and 08.10.2021 gave a detailed account of his military service spanning more than four decades and his participation in several important military operations. In support of his testimony, the complainant has also placed on record various documents and photographs reflecting his achievements, distinctions and commendations earned during the course of his service career.

41. The Ex. PW4/A is a photograph showing the complainant

being conferred the appointment of Cadet Captain at the National Defence Academy and being photographed with the then Hon'ble Prime Minister Pt. Jawaharlal Nehru on 14.05.1961. Ex. PW4/B consists of photographs depicting the complainant receiving the President's Gold Medal on 03.06.1961 from Shri Y.B. Chavan, the then Hon'ble Chief Minister of Bombay, at NDA Khadakwasla. Ex. PW4/C reflects the complainant being honoured by the Hon'ble President of India with the award of PVSM (Param Vishisht Seva Medal).

42. Further, Mark E pertains to the President's Gold Medal awarded to the Best Cadet at the National Defence Academy in June 1961. Mark F pertains to the award of the Soldier's Medal conferred upon the complainant for securing first position in the order of merit at the National Defence Academy. Mark G pertains to the Silver Medal awarded to the complainant for securing first position in the order of merit at NDA. Mark K is a photograph depicting the complainant, while serving as Chief Instructor at the National Security Guard Training Centre, Manesar, receiving the then Hon'ble Prime Minister Shri Rajiv Gandhi in October, 1986. Mark L is a recommendation letter issued by the then Chief of Army Staff appreciating the complainant's services at the NSG Training Centre, Gurugram. Mark M is a photograph showing the complainant receiving the Param Vishisht Seva Medal from the Hon'ble President of India in the year 2001. Mark N pertains to the award letter relating to AVSM and VSM, while Mark O pertains to the award of PVSM. The

accused, otherwise than mere some suggestion, failed to contradict the aforesaid service record of complainant in Army.

43. The aforesaid material placed on record clearly demonstrates the distinguished and continuous military service rendered by the complainant over several decades. Merely because certain advisory or adverse remarks existed in portions of the complainant's service record does not *ipso facto* diminish or erase his long and decorated service career. In these circumstances, the use of the expression "coward" in circulated email Ex. PW4/E, without any lawful justification or applicability of any statutory exception, assumes serious significance. Significantly, neither the judgment of the Hon'ble Supreme Court (Ex DA) relied upon by the accused nor the remarks referred to therein contain the expression "coward" or any equivalent terminology. The said expression appears to have been consciously, deliberately and intentionally employed by the accused while circulating the impugned email.

44. The advisory note recorded in the ACR to the effect that the officer ought to be "bold and aggressive in operations" cannot, by any stretch of imagination, be construed to mean that the officer was a coward. This Court is therefore of the considered opinion that the use of the said expression was intended to malign the image of the complainant and had a clear tendency to lower his dignity, reputation and standing in the estimation of others, particularly amongst members of the armed

forces and veteran community. The expression “coward” carries far graver and more damaging connotations when used against a member of the Armed Forces than when used against an ordinary individual. Courage, valour, leadership and devotion to duty constitute the very foundation of military service. The honour, reputation and identity of a soldier are inseparably attached to his bravery and conduct in the face of danger. Unlike an ordinary profession, military service demands exceptional standards of courage, sacrifice and personal integrity, often requiring an officer to lead troops in life-threatening situations and operations concerning national security.

45. Therefore, to describe a military officer as a “coward” is not merely to use an insulting expression; rather, it directly attacks the core attributes upon which his entire service career, honour and professional reputation are built. Such an allegation has the tendency to undermine not only the personal dignity of the officer concerned but also his standing amongst fellow officers, subordinates, veterans and society at large. In military tradition and ethos, bravery and leadership in adverse circumstances are matters of the highest esteem, and conversely, cowardice is viewed as a matter of extreme disgrace.

46. In the present case, the complainant had served the Indian Army for more than four decades and attained the rank of Lieutenant General. The allegation of cowardice levelled against such an officer is therefore inherently humiliating and carries far greater defamatory impact

than the same expression used in ordinary social discourse. The imputation strikes at the very honour and credibility earned by the complainant throughout his distinguished military career.

47. This Court is of the considered opinion that branding a decorated Army Officer as a “coward”, particularly in communications circulated amongst veterans and defence personnel, is *per se* defamatory in nature and is reasonably capable of lowering the complainant moral, character and professional standing in the estimation of right-thinking members of society and attracts the offence punishable under section 500 of IPC.

Does the case of accused falls under any of the Exceptions to Section 499 of IPC?

48. In view of the aforesaid facts, circumstances, evidence available on record and plea of defence, this Court proceeds to examine whether the accused is entitled to protection under the First, Fourth, Fifth and Sixth Exceptions to Section 499 IPC.

49. At the outset, the burden to establish the applicability of any of the statutory exceptions lies upon the accused. Though such burden is not as onerous as that cast upon the prosecution in a criminal trial, the accused is nevertheless required to establish, on the touchstone of preponderance of probabilities, the foundational facts necessary to attract the protection of the relevant exception.

50. So far as the **First Exception to Section 499 IPC** is concerned,

the same protects an imputation which is true and whose publication is for the public good. In the present case, the accused has failed to establish that the allegation describing the complainant in email Ex PW4/E as a “coward” was true in substance or fact. Neither the judgment of the Hon’ble Supreme Court (Ex DA) relied upon by the accused nor any document placed on record contains any finding declaring the complainant to be a coward. At best, the service records referred to in the judgment (Ex DA) contained certain advisory or assessment remarks regarding operational conduct. The accused, however, went much beyond the contents of the judicial record and consciously used the expression “coward” while circulating the impugned email amongst veterans and members of the organisation. No evidence has been led to establish that publication of such expression was for public good. Accordingly, the accused is not entitled to protection under the First Exception to Section 499 IPC.

51. The accused is equally not entitled to the benefit of the **Fourth Exception to Section 499 IPC**, which protects publication of substantially true reports of proceedings of a Court. The impugned email was not a fair or substantially accurate reproduction of the judgment of the Hon’ble Supreme Court. The expression “coward” does not find mention anywhere in the said judgment. The accused selectively referred to portions of the judgment and added his own interpretation and language which travelled beyond the judicial record. Such embellishment and

amplification cannot be treated as faithful reporting of judicial proceedings. Consequently, the protection of the Fourth Exception is not available to the accused.

52. Similarly, the **Fifth Exception to Section 499 IPC**, relating to expression of opinion in good faith respecting the merits of a case decided by a Court or the conduct of parties and witnesses therein, is also not attracted in the present matter. The language employed in the impugned email was not confined to fair comment upon the merits of the judicial proceedings. Rather, the accused used derogatory expressions attacking the personal and professional character of the complainant. The evidence on record further reflects strained relations and hostility between the parties arising out of disputes within the IESM organisation. In such circumstances, the publication cannot be said to have been made in good faith. The accused has failed to establish due care, caution or bona fide intention necessary to invoke the Fifth Exception.

53. The accused is also not entitled to protection under the **Sixth Exception to Section 499 IPC**, which protects criticism made in good faith regarding performance of a public function. Though the complainant, as Chairman of IESM, may have been discharging functions connected with a public movement relating to OROP, the imputations contained in Ex. PW4/E were not limited to criticism of his public conduct. The allegations directly attacked his military courage, integrity and personal honour by branding him as a “coward” and as a

manipulative person securing promotions by pulling others down. Such imputations clearly transgress the limits of fair criticism and amount to an attack upon personal character and reputation. Moreover, the accused has failed to prove that the imputations were made in good faith or after due verification of facts.

54. Accordingly, upon appreciation of the entire evidence and material on record, this Court holds that the accused has failed to establish the applicability of the First, Fourth, Fifth and Sixth Exceptions to Section 499 IPC. The defamatory imputations made in the impugned email Ex. PW4/E are therefore not protected under law

CONCLUSION:

55. In view of the aforesaid discussion, appreciation of oral and documentary evidence, and the findings returned hereinabove, this Court is of the considered opinion that the complainant has been successful in proving all the essential ingredients of the offence of defamation punishable under Section 500 IPC beyond reasonable doubt. The evidence on record clearly establishes that the accused authored and circulated the impugned emails, particularly Ex. PW4/E, to various veterans and members of the IESM group. The contents of the said email contained imputations against the complainant which were defamatory in nature and had the clear tendency to lower his moral, professional and social reputation in the estimation of others. The use of the expression “coward” against a decorated senior Army Officer, who served the nation for more

than four decades and attained the rank of Lieutenant General, was inherently humiliating and damaging to his honour and dignity. The complainant has further successfully proved publication of the defamatory material to third persons. The evidence of Complainant witnesses, coupled with the contents and circulation details of the emails, sufficiently establish communication of the defamatory imputations beyond the complainant himself. The defence taken by the accused has failed to probabalise any lawful justification or statutory protection under the exceptions to Section 499 IPC. This Court further finds that the accused failed to establish the applicability of the First, Fourth, Fifth or Sixth Exceptions to Section 499 IPC. The imputations made by the accused were neither shown to be true nor proved to have been made in good faith or for public good. The impugned communications travelled beyond fair criticism and amounted to a deliberate attack upon the reputation, courage and professional integrity of the complainant.

56. Accordingly, this Court holds that the complainant has proved his case beyond reasonable doubt and that the offence punishable under Section 500 IPC stands fully made out against the accused. **Hence, the accused namely Group Captain (Retd) Vinod Kumar Gandhi is hereby held guilty and stands convicted for the offence punishable under Section 500 of the Indian Penal Code.**

57. The bail bonds of convict hereby stand canceled and surety stands discharged. The convict is directed to be taken into judicial custody

with immediate effect. Now to come up for hearing on the point of quantum of sentence after lunch.

**Pronounced in open Court :
17.07.2026**

**(HARI KISHAN)
Judicial Magistrate Ist Class,
Gurugram/UID No. : HR-0607**

Note: This Judgment contains 50 pages and each page has been checked and signed by me.

**(HARI KISHAN)
Judicial Magistrate Ist Class,
Gurugram/UID No. : HR-0607**

Lt. Gen. Raj Kadian Vs. GP Capt. (Retd.) Vinod K. Gandhi

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Present : Sh. D.C Gupta, Ld. Counsel for the complainant.
Accused Cap. (Retd.) Vinod K. Gandhi is on bail with Sh. Sandeep Aneja, Advocate.

Today the case was fixed for final arguments. Arguments heard.

Vide separate judgment of even date, the accused has been held guilty and convicted for the commission of offences punishable under section 500 of the Indian Penal Code, 1860. Let, he be heard on point of quantum of sentence after lunch.

Date of Order: 17.07.2026
Reetu SG-II

(Hari Kishan)
Judicial Magistrate First Class
Gurugram/UID No HR00607

(Hari Kishan)
Judicial Magistrate Ist Class,
Gurugram/ 17.07.2026