

20 SCOB [2025] HCD**HIGH COURT DIVISION****Present:****Mr. Justice Md. Jahangir Hossain****And****Mr. Justice Md. Bazlur Rahman****Criminal Miscellaneous Case No. 39749 of 2022****Tasnova Iqbal****...Petitioner****-Versus-****The State****...Opposite-party**Mr. Md. Abdul Qaium, Advocate
...For the PetitionerSenior Advocate with
Mr. Md. Badrul Alam Chowdhury,
Advocate
...For the Complainant-Opposite-Party No.
02.
Mrs. Yesmin Begum Bithi, D.A.G. with
Mrs. Mst. Asma Khatun, A.A.G. with
Mr. ATM Aminur Rahman, A.A.G
...For the State

Mr. Mohammad Mehidi Hasan Chowdhury,

Date of Hearing and Judgment: 22-02-2023

Editor's Note:

In this case, Tasnova Iqbal was accused of defaming her husband and his father, a State Minister, through statements made to a TV reporter, arising from ongoing family disputes over custody and prior court proceedings. The complainant alleged that these statements harmed their reputation and social standing. The High Court held that while her spoken words constituted prima facie defamation under Section 500 of the Penal Code, no printed or engraved defamatory material existed to sustain proceedings under Section 501. Consequently, the cognizance under Section 501 was quashed, whereas the Section 500 case was directed to proceed before the Metropolitan Magistrate.

Key Words:

Defamation; Locus-standi; Cognizance; Prima-facie; Quashment

Cognizance under Section 501 Penal Code unsustainable without proof of printing or engraving of defamatory matter:

The above section manifestly indicates the defamatory matter, inter-alia, needs either to be printed or engraved by the defamer to constitute an offence under section 501 of the said Code. The word "print" has not been defined in the Penal Code and hence the word shall be understood in its ordinary literal meaning. However, the record does not enclose any single piece of paper or any other trivial material showing the accused-petitioner to have ever printed, computer composed, photocopied or cyclostyled any word of defamation by mechanical process involving the transfer of text or designs to paper. The accused-petitioner is also not found, on examination of the materials on record, to have cut or carved as letters or designs or figures on or into a hard surface like wood, metal, stone etc. Thus in the absence of printing or engraving any matter of

defamation on any paper or hard substance, taking of cognizance by learned Metropolitan Magistrate of the offence against the accused-petitioner under section 501 of Penal Code does not merit at all. ... (Para 16)

Complaint under Sections 499–501 Penal Code maintainable only at instance of ‘person aggrieved’ within meaning of Section 198 CrPC:

The third crux of the contention as agitated by the learned counsel for the accused-petitioner was about the locus-standi of the complainant-opposite-party No. 2 as to whether he could file a complaint-petition for also the defamation of his father when section 198 of the Code of Criminal Procedure bars the Magistrate to take cognizance of an offence falling under Chapter XXI (Of Defamation) except upon a complaint made by some person aggrieved by such offence. Thus the learned counsel submitted that in relation to offences covered by section 499 to 501 of Penal Code “only aggrieved person” and none else can file the complaint. The section mandates to file such a complaint by “person aggrieved”, not necessarily by “person defamed.” ... (Para 17)

JUDGMENT

Md. Bazlur Rahman, J:

1. This Rule issued on 02.08.2022 has been directed at the instance of the accused-petitioner, Tasnova Iqbal, challenging the legality of the proceeding of C.R. Case No. 546 of 2021 initiated at the instance of Mushfeq Alam Shaikat, complainant-opposite-party No.2, under sections 499/500/501 and 109 of Penal Code, 1860 wherein cognizance was taken against the accused-petitioner under section 500 and 501 of Penal Code, the case now pending in the Court of learned Metropolitan Magistrate, Court No. 30, Dhaka.

2. The Rule was followed by an order staying all further proceedings of the said C.R Case for a period of 06 (six) months from date.

3. The circumstances out of which this Rule has arisen are that the complainant-opposite-party submitted a petition of complaint before the learned Chief Metropolitan Magistrate, Dhaka on 25.10.2021 alleging therein, *inter-alia*, that he tied the knot with this accused-petitioner on 20.10.2015 as per the tenets of Islamic Shariah and were blessed with a baby girl on 18.12.2016 named Isfir Alam Anahita. Both of them along with their baby went to Malaysia for higher study. Gap gradually arose in their espousal bondage and at one stage the accused-petitioner started agitating and physically hitting the husband opposite-party No. 02. The matter was brought to the Malaysian police. The accused-petitioner also assembled different people around their residence and insulted and humiliated the complainant-opposite-party with false allegation before them. On being oppressed by the accused-petitioner the complainant-opposite-party was compelled to return to Bangladesh on 05.10.2018 with his baby girl. After 11 months of his return the accused-petitioner came back to the country but without spending time with her daughter she went to Indonesia and Thailand to attend optional conferences and to enjoy leisure trip. After her return to Bangladesh, she came to the complainant-opposite-party’s house on 06.02.2020 and started quarrelling and vandalizing and also physically injured him. The accused-petitioner filed a virtual- court Writ bearing No. 119 of 2020 in the Hon’ble High Court Division wherein the honorable Court directed the complainant-opposite-party to allow the accused-petitioner to visit her child on video call thrice a week on Friday, Saturday and Tuesday from 7 PM to 9 PM. Then the accused-petitioner instituted a Family Suit bearing No. 670 of 2020 before the concerned Family

Court, Dhaka against the complainant-opposite-party and his father, the later being a State Minister and high profile renowned personality of the country. The learned Judge of the Family Court reinstated the order of the Hon'ble High Court Division passed in the Virtual Court Writ petition No. 119 of 2020. The said Family Court order was challenged by the accused-petitioner in Family Appeal No. 153 of 2020 before the learned District Judge, Dhaka. Meanwhile, the complainant-opposite party sent a divorce notice on 03.01.2021 which the accused-petitioner received on 04.01.2021. She also filed two other Family Suits being No. 21 of 2021 for suspension of divorce proceeding and the other being Family Suit No. 548 of 2021 for realisation of dower and maintenance. The said Family Appeal being No. 153 of 2020 was disallowed on 27.09.2021. On being aggrieved by and dissatisfied with the said order of learned District Judge rejecting the appeal the accused-petitioner moved the Hon'ble High Court Division in Civil Revision No. 1961 of 2021 wherein the Rule issued earlier was made absolute on 14.12.2021. In the meantime, the accused-petitioner and her mother, complaint-named accused No.2, hiding the real scenario gave false statements about the visit of the baby girl to Channel-24 which was telecast by complaint-named accused No. 3, 4, and 5 on TV Channel 24 at 12.03 PM on 22.10.2021 upon the report prepared by complaint-named accused No. 6, reporter Masudur Rahman. The statements were designed to harass and humiliate the complainant-opposite-party and his State Minister-father in the society. Various people obliquely discussed and criticized the issue and made offensive remarks over phone. The accused-petitioner along with other complaint named accused defamed the complainant-opposite-party No.2 and his father to the tune of tk 100,00,00,000/- (one hundred crore). Hence the complainant-opposite-party No. 02 laid a petition of complaint before the learned Chief Metropolitan Magistrate, Dhaka, on 25.10.2021 under section 499/500/501 and 109 of Penal Code against this accused-petitioner and five others mentioned above. The learned Metropolitan Magistrate examining the complainant-opposite party and on perusal of the complaint petition registered the complaint and ordered DIG, PBI, Dhaka to investigate into the matter and to submit report by 06.12.2021. A report upon closure of investigation was, however, submitted on 30.11.2021 against this accused-petitioner alone under sections 500 and 501 of Penal Code recommending discharge of the rest.

4. The learned Metropolitan Magistrate accepted the said PBI investigation report and took cognizance of the offence against the accused-petitioner under sections 500 and 501 of Penal Code and discharged the other accused as recommended in the report. On 13.01.2022 the case record was transferred to the learned Metropolitan Magistrate Court No. 30 for disposal fixing date on 28.02.2022 for charge hearing but before the session for hearing of charge held the accused-petitioner moved this court under section 561A Code of Criminal Procedure for getting the said proceeding quashed.

5. The learned Counsel for the accused-petitioner, Mr. Md. Abdul Qaium, contended at the beginning of his submission that the allegation so brought against the accused-petitioner in the complaint petition do not constitute any offence under section 500 and 501 of Penal Code, as she was neither the propagandist, or a publisher, or a creator, or a printer of the alleged defamatory statements, nor she was the broadcaster or telecaster or reporter of those imputation of defamation aired on 22.10.2021 at 12.03 P.M on Channel 24. The prime accused of the news item being accused No. 3-6 mentioned in the complaint petition who either reported or telecast the alleged imputation have been discharged and instead, this innocent accused-petitioner has been falsely implicated in the case by the investigating officer and the order of taking cognizance thereupon by the learned Metropolitan Magistrate against this accused-petitioner is unfounded, illegal, untenable, perverted and the

continuation of the proceeding of C.R Case No. 546 of 2021 any longer is an abuse of the process of court . The proceeding is, therefore, liable to be quashed. It was also contended that the complainant-opposite-party No. 02 had no *locus-standi* to file any complaint petition for the defamation committed upon his father as per section 198 of the Code of Criminal Procedure. The learned Counsel concluded his submission by referring to a bunch of decision of the case laid down in 17 BLD (AD) page-44, 65 DLR, page-83, 24 BLC (AD) 9 etc. in support of his arguments.

6. Per contra, the learned Counsel Mr. Mohammad Mehidi Hasan Chowdhury, Senior Advocate with Mr. Md. Badrul Alam Chowdhury, learned advocate on behalf of the complainant-opposite-party No.2, contended that it was this accused-petitioner who was the maker of the scandalous statements defaming the complainant-opposite-party No. 2 and his father, a Minister for State of the current cabinet. TV Channel 24 in the form of news telecast those untrue statements and the PBI investigating officer on being assigned by the learned Court investigated into the facts of offence wherein he correctly found the truth thereof and thereafter submitted a report on 30.11.2021. The learned Additional Chief Metropolitan Magistrate, Dhaka on proper appreciation of the PBI investigation report and other materials on record rightly took cognizance on 06.12.2021 against this accused-petitioner under section 500 and 501 of Penal Code and discharged the complaint named other accused No. 2-6 as recommended in the said report. The learned counsel further submitted that the facts enunciated in the very averments of the complaint petition are not preposterous, rather they constituted offence under section 500 and 501 of Penal Code against this accused-petitioner. He also pointed out that no proceeding of any criminal case is liable to be quashed under section 561A of the Code of Criminal Procedure before charge is framed against the accused. The learned counsel before parting with, however, cited the ratios decided in 13 MLR (HCD) 2008, Page-222, 13 MLR (AD), Page-185, and XVIII ADC (2021) page-167 in support of his submission.

7. We have extensively gone through the propositions made in the quashment application along with the grounds of grievance, the supplementary affidavit, the documents annexed therewith and also analyzed other materials available on record.

8. We thus notice that the complainant-opposite-party No. 2 filed before the Chief Metropolitan Magistrate, Dhaka a petition of complaint against this accused-petitioner and her mother and several other TV Channel 24 mediemen for commission of the offence of defamation under section 499/500/501 and 109 of Penal Code alleging that this solitary accused-petitioner made some defamatory statements against the complainant-opposite-party No.2 and his father, a sitting member of the running cabinet having outstanding academic and distinguished State profile in order to lower and damage his image in the estimation of the right thinking members of the society. It is relevant here to reproduce the alleged words used by this accused-petitioner pertaining to the commission of the offence of defamation. The relevant words include as under:-

“যেহেতু বাদী এবং ১ নং আসামীর মধ্যকার বিষয়টি আদালতে মামলার মাধ্যমে চলমান রয়েছে এবং ১ নং আসামী বাদীর স্ত্রী নন এবং বাদী আদালতের আদেশ মেনে কন্যা সন্তানকে ভার্চুয়ালি দেখাচ্ছেন সেহেতু সত্য না জানিয়া, "প্রতিমন্ত্রীর ছেলের বিরুদ্ধে দেড় বছর ধরে স্ত্রীকে সন্তানের মুখ না দেখানোর অভিযোগ মর্মে টিভিতে ৩-৬নং আসামী সমগ্র জাতির সামনে বিষয়টি একতরফা সম্প্রচার এবং বাদী ও তার পিতার বিরুদ্ধে তথ্য প্রমাণ ছাড়া আক্রমণাত্মক, মিথ্যা, ভীতি প্রদর্শনমূলক এবং মানহানিকর তথ্য প্রকাশ ও প্রচার করায় বাদী শিক্ষিত সম্ভ্রান্ত মুসলিম পরিবারের ছেলে এবং তাহার পিতা দেশের বিশিষ্ট নাগরিক সাবেক সফল সিনিয়র সচিব (দীর্ঘ ১২ বছর), যিনি বাংলাদেশের "শতবর্ষী বাংলাদেশ বদ্বীপ পরিকল্পনা ষষ্ঠ পঞ্চ বার্ষিক পরিকল্পনা (২০১১-২০১৫), সপ্তম পঞ্চ বার্ষিক পরিকল্পনা ২০১৬-২০২০ এবং অষ্টম পঞ্চ বার্ষিক পরিকল্পনা (২০২১-২০২৫) সহ অনেক গুরুত্বপূর্ণ পরিকল্পনা কাজে নিয়োজিত ছিলেন এবং যার

স্বীকৃতি হিসাবে একুশে পদক প্রাপ্ত হন এবং বর্তমানে দেশ ও জাতির কল্যাণে নিয়োজিত প্রতিমন্ত্রীর এবং তাহার পরিবারের ১,০০,০০,০০,০০০/- (একশ কোটি) টাকার মানহানী হওয়ায় আসামীগণ দন্ডবিধি ১৮৬০ এর ৪৯৯, ৫০০, ৫০১ এবং ১০৯ ধারায় অপরাধ করায় বাদী বাধ্য হইয়া অত্র আদালতে মামলা দায়ের করিতেছেন।”

(Annexure-B, Para-16 of the complaint petition). Para 15 of the complaint petition further speaks as follows:

“এমতাবস্থায় আদালতের বিচারাধীন বিষয় নিয়ে বিগত ২২/১০/২০২১ তারিখে ৩,৪, ৫ ও ৬নং আসামীর টিভি চ্যানেলে প্রকৃত সত্য মিথ্যা না যাচাই করিয়া এবং প্রকৃত সত্যকে গোপন করিয়া বাদী এবং তাহার একুশে পদক প্রাপ্ত বিদ্বজন প্রতিমন্ত্রী পিতাকে প্রতিহিংসা পরায়ন হয়ে হয়ে প্রতিপন্ন করার জন্য দুপুর ১২.০৩ মিনিটের খবরে ১ ও ২ নং আসামী অসত্য বক্তব্য প্রদান করেন এবং ৬ নং আসামীর রিপোর্টে ৩, ৪ ও ৫ নং আসামী তা সম্প্রচার করেন। যাতে করিয়া বাদীর একুশে পদক প্রাপ্ত বর্তমান প্রতিমন্ত্রী পিতা এবং পরিবারকে সমাজ এবং জাতির সামনে ভাব মূর্তি নষ্ট করিয়া মানহানী করিয়াছে।”

9. In support of the said statements of allegation the PBI investigator during his investigation discovered the following facts,

“১নং বিবাদী পুনরায় উপরোক্ত বিষয়ে মহামান্য হাইকোর্টের সিভিল রিভিশন নং- ১৯৬১/২০২১ দায়ের করার পূর্বে মহামান্য হাইকোর্ট কেন্দ্রিক চ্যানেল-১৪ এর সাংবাদিক অত্র মামলার ৬নং বিবাদী মাসউদুর রহমান-কে পেয়ে জানায় যে তার স্বামী অত্র মামলার বাদীর পিতা একজন প্রতিমন্ত্রী সেই ক্ষমতায় তার স্বামী তথা অত্র মামলার বাদী তাদের নাবালিকা কন্যা সন্তানকে দেড় বছর ধরে দেখতে দিচ্ছেন।”

10. Thus it is obvious that the investigation report is substantially based on the basic facts of allegation made in the complaint petition. It is also evident that it was the accused-petitioner who spoke with a TV Channel-24 reporter, Mr. Masudur Rahman, that the complainant-opposite-party by means of the abuse of power of his minister father did not allow her (accused-petitioner) to visit her toddler daughter. Had not the accused-petitioner expressed the above malicious statements to the said electronic media reporter Mr. Masudur Rahman they would never have any scope to telecast the said statements in the form of news on their TV Channel. The investigation report further demonstrates that the media personnels before the said news was telecast by them tried to trace out the accused-petitioner to verify the authenticity of the news they were going to telecast but their attempt in this regard went futile. Thereafter the news was aired on the TV Channel in good faith on 22.10.2021 at 12.03 P.M. On careful appreciation of the above statements of facts and the circumstances unfolded in the investigation report it is clear to us that the words used by the accused-petitioner are defamatory per se. The accused petitioner directly pointing at a sitting cabinet minister, the father of the complainant-opposite-party, blamed him of inducing his son to deprive the accused-petitioner of visiting her daughter for about year and a half. But the judgment of Civil Revision being No. 1961 of 2021 passed by Hon'ble High Court Division on 14.12.2021 and a prior order passed on 03.12.2020 by the learned Judge of Family Court, Dhaka, in Family Suit No. 670 of 2020 indicate that the daughter was being allowed by the complainant-opposite-party to periodically visit by her mother as directed by both the family court as well as the hon'ble High Court Division.

11. Now it would be quite relevant to scrutinize section 500 of Penal Code whether the ingredients of defamation enumerated in the section are available in the above stated facts and circumstances. This section speaks- *“Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both”*

12. Defamation, according to section 499 of Penal Code, means. *“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 case hereinafter excepted, to defame that person.”

13. A defamatory statement thus means a statement about a person which exposes him to hatred, contempt or ridicule. It also causes him to be shunned or avoided by a large section of people, including sometimes his near and dear ones. Defamatory statements have a tendency to injure him in his office, reputation, profession or trade. It may be of two forms; if in writing or any other permanent manifestation, it constitutes a libel; if in spoken words or any other transient representation, it constitutes a slander.

14. Needless to say that our instant case is a kind of slanderous defamation as the accused-petitioner showed every demeanor by spoken words to lower the existing image and reputation of a sitting member of the current cabinet. For brevity's sake we are intentionally avoiding to mention the broad profile of complainant's father, Dr. Shamsul Alam but his summary profile as appears from the complaint petition is clear enough to perceive his background, achievement, contribution, reputation and the like for the country and the community where he has been placed or where he has worked. It is a gentlemen perception that there can not be any set standard what words will defame a person. It may vary from person to person or from position to position. We must conceive that the greater the person, the greater his honour. A statement defamatory for one may not be defamatory for other. In such view of the matter, we understand that the words used by the accused-petitioner quoted earlier about the power and position of a sitting cabinet member pertain to the ingredients to constitute a *prima-facie* offence under section 500 of the Penal Code, particularly when she disseminated those lowering words to an electronic media man with a hidden design to get an immediate transmission of the news on air.

15. The second issue to be determined is whether the cognizance taken against the accused-petitioner under section 501 of Penal Code is compitable with the ingredients enumerated in section 501 of Penal Code. This section speaks: “*Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.*”

16. The above section manifestly indicates the defamatory matter, *inter-alia*, needs either to be printed or engraved by the defamer to constitute an offence under section 501 of the said Code. The word ‘print’ has not been defined in the Penal Code and hence the word shall be understood in its ordinary literal meaning. However, the record does not enclose any single piece of paper or any other trivial material showing the accused-petitioner to have ever printed, computer composed, photocopied or cyclostyled any word of defamation by mechanical process involving the transfer of text or designs to paper. The accused-petitioner is also not found, on examination of the materials on record, to have cut or carved as letters or designs or figures on or into a hard surface like wood, metal, stone etc. Thus in the absence of printing or engraving any matter of defamation on any paper or hard substance, taking of cognizance by learned Metropolitan Magistrate of the offence against the accused-petitioner under section 501 of Penal Code does not merit at all.

17. The third crux of the contention as agitated by the learned counsel for the accused-petitioner was about the *locus-standi* of the complainant-opposite-party No. 2 as to whether he could file a complaint-petition for also the defamation of his father when section 198 of the Code of Criminal Procedure bars the Magistrate to take cognizance of an offence falling

under Chapter XXI (Of Defamation) except upon a complaint made by some person aggrieved by such offence. Thus the learned counsel submitted that in relation to offences covered by section 499 to 501 of Penal Code “only aggrieved person” and none else can file the complaint. The section mandates to file such a complaint by “person aggrieved”, not necessarily by “person defamed.” In the case of Hasan Razaki and others-Versus-Mst. Meherun Nisa (23 DLR) (Kar) (1971) page 15 and 19, the Hon’ble High Court Division held that the law does not restrict the right to file complaint by the person actually defamed but it allows complaint to be filed by “any person aggrieved” by the imputation. “The word ‘aggrieved’ has not been defined, it must be taken in its ordinary sense. The parents can be treated to be the “persons aggrieved” if unmarried daughter who are living with them are defamed. It was also observed in the above case that the offence, if true, seriously affected the reputation and status in society of the father-in law and he was a “person aggrieved” within the meaning of section 198 of the Code of Criminal Procedure and competent to institute a complaint. It was again held that in a case where false imputation of unchastity was made against the daughter-in-law, who was living with her father in law the imputation of the entire family suffered and if the husband of the woman was absent the father-in-law was an equally “aggrieved person” within meaning of expression in section 198 and as such he was entitled to initiate proceeding under section 500 of the Penal Code.

18. Besides the case of our own jurisdiction we prefer to refer two of the cases of Indian jurisdiction on the self same subject matter. In the case of John Thomas- Versus- K. Jagadeesan (MANU/SC/0362/2001; AIR 2001 SC 2651) a renowned hospital (KJ Hospital) in the Metropolis of Madras (Chennai) has been caricatured in a newspaper (The Madras Times) as the abattoir of human kidneys for trafficking purpose. When the Director of the hospital complained of defamation, the publisher of the newspaper sought shelter under the umbrage that the libel is not against the Director personally, but against the hospital only and hence the Director cannot feel aggrieved and as such he had no *locus-standi* to file the complaint. Hon’ble judges/coram held as under:-

“The collocation of the words “by some persons aggrieved” definitely indicates that the complainant need not necessarily be the defamed person himself. Whether the complainant has reason to feel hurt on account of the publication is a matter to be determined by the court depending upon the facts of each case. If a company is described as engaging itself in nefarious activities its impact would certainly fall on every Director of the company and hence he can legitimately feel the pinch of it. Similarly, if a firm is described in a publication as carrying on offensive trade, every working partner of the firm can reasonably be expected to feel aggrieved by it. If K.J. Hospital is a private Limited company, it is too farfetched to rule out any one of its Directors, feeling aggrieved on account of pejoratives hurled at the company. Hence the appellant cannot justifiably contend that the Director of the K.J Hospital would not fall within the wide purview of “some person aggrieved” as envisaged in Section 199 (1) of the Code”.

19. In Ram Swarup -Verus- Mohd. Javed Razack and others (MANU/SC/0161/2005; AIR 2005 SC 2005) it was held that when similar defamatory words are used against the complainant also apart from his father and, therefore, the right of the complainant to move the court and also lodge a complaint before competent magistrate cannot be challenged. Clearly speaking, when defamatory words are used against the complainant and also against his father complainant is entitled to move the court for himself and also for his father.

20. In the above state of facts and circumstances and in view of the said judicial pronouncements of both Bangladesh and the Indian jurisdiction our considered view is that the complainant-opposite-party No.2 in the instant case has *locus-standi* to file complaint on behalf of himself and also for his father as both are living together in the same house at Minister's Apartment-3, Baily Road, Dhaka.

21. It is clearly manifest from the above discussion and materials on record that the facts mentioned in the petition of complaint followed by the report of investigation are not preposterous in its entirety, rather they disclose an offence under section 500 of Penal Code which should be tried upon evidence. Thus the reference of Ali Akkas Case (17 BLD (AD) 1997) made by learned counsel for the accused-petitioner has no application to our instant case. The learned counsels of both the sides firmly differed with each other on the subject whether or not a criminal proceeding can be quashed before the stage of framing of charge. The position on the issue has been settled by our Hon'ble Appellate Division of the Supreme Court in the case of Mohammad Amir Ali Mostafa-Vs.-Shah Md. Nurul Alam reported in XVIII ADC (2021), Page-167 (judgment delivered on 1 December, 2020) wherein it was held:-

“The power of quashment of the proceeding under section 561A of the Code of Criminal Procedure, 1898 lies with the High Court Division true, but before exercising this power the High Court Division must be satisfied that the other available remedies have been exhausted by the applicant. It was held in the Case of Habibur Rahman Mollah (Ex-Member of Parliament, Dhaka 4) Vs. State and another [62 DLR (AD), 233] that, “*Inherent power of the High Court Division is generally exercised where no other remedy is available for obtaining justice in the cause- it should not be invoked where another remedy is available. This power has not been vested upon the High Court Division where another remedy is available. This is an extraordinary power and is exercised in extraordinary circumstances in the interest of justice.*” In the present case, the respondents No. 1-3 had other remedy available before making application for quashment of the proceeding i.e. making prayer for discharge under Section 241A of the Code of Criminal Procedure, 1898.” This decision best fits to our present case.

22. For the foregoing discussion and observation our considered view is that the Rule so far it relates to the taking of cognizance against the accused-petitioner under section 501 of the Penal Code is devoid of substance and regarding the cognizance taken against her under section 500 of Penal Code the proceeding shall continue to proceed as per law.

23. The Rule is, accordingly, disposed of. The order of stay granted earlier by this court is hereby recalled and vacated.

24. The learned Metropolitan Magistrate, Court No. 30, Dhaka is directed to proceed with C.R Case No. 546 of 2021 pending before him in view of the observation made in this judgment.

25. Office is directed to communicate this judgment and order to the court concerned at once.