

**IN THE METROPOLITAN MAGISTRATE 8<sup>th</sup> COURT**

**ESPLANADE MUMBAI, AT MUMBAI**

**IN**

**CASE**

**OF 2010**

Shri Nitin Jairam Gadkari

An Indian inhabitant aged about yrs.

Residing at 1201, Sukhada A -Wing,

Pochkhanwala Marg, Worli,

Mumbai 400030

Having office at BJP Office,

Opp. LIC Headquarters / Yogakshema,

CDO Barrcks, off Nariman Point,

Mumbai 400020

.....Complainant

V\s

Mr. Manish Tiwari,

Indian inhabitant aged about \_\_\_yrs.

Spokesperson, Congress-I,

C-1/3, Lodhi Road, New Delhi-110003

Also having address:

228-A, SARABHA NAGAR,

PAKHOWAL ROAD

LUDHIANA – 141003, PUNJAB

Also having address:

B-5, 110, SAFDARJUNG ENCLAVE

NEW DELHI

..... Accused

**The Complaint for the offence**

**Under section 500 of I.P.C.**

**MAY IT PLEASE YOUR WORSHIP**

The Complainant most respectfully submits as under

1. That, the complaint is the National President of Bhartiya Janta Party and has been active in public life for the last three decades. The Complainant started his political career as a grass root level worker and by sheer dint of merit , inte and personal commitment, achieved the status of Leader of the Opposition of the Maharashtra Legislative Council, and

presently the National President of the BJP. He has always believed in and crusaded for a corruption free society.

2. That the Accused is a spokesperson of a political party the Congress –I and whose office and residential premises as situated at the address given hereinabove in the cause title of the present Complaint.
3. That the complainant raised serious objections regarding the recent multilevel corruption scam in the name of “Adarsh Housing Society” at Mumbai, which resulted in the Congress-I party removing Shri Ashok Chavan from the post of the Chief Minister of Maharashtra, the involvement of several politicians / high ranking officers / bureaucrats of the state machinery and the registration by the CBI of several cases in connection with the same.
4. As a result of the media outrage and public outcry that ensued on account of the said scam was in the ruling party found itself in a precarious situation and had to immediately initiate damage control measures to salvage the situation and to maintain their image in the public eye. It is needless to overstress that they

were aggrieved and annoyed at the Complainant for highlighting several critical aspects of the said scam and bringing to the notice of the public at large how corruption had eroded the Congress administration in the state of Maharashtra.

5. Accused as the spokesperson of the Congress – I party, had to daily face a barrage of uncomfortable questions from the media. The Accused thus being aggrieved by the uncomfortable situation he was placed and holding the Complainant responsible for the same had to somehow or the other launch a counter offensive so as to bring ill-repute to the complainant and the Bharitya Janta Party, of which the complainant is the National President.
6. That the accused in order to gain immediate media attention and in order to harm the clean and impeccable reputation and image of the Complainant intentionally indulged in defaming him by making false and malicious imputations against the Complainant.
7. That, on or about 10.11.2010, in furtherance of his ulterior motives and malicious intentions the accused herein above

arranged and addressed a press conference, which was attended by both the electronic and print media at which he made false, reckless, baseless, and malicious imputations against the complainant to the effect that the Complainant owned a benami flat in the above referred Adarsh Society. The Accused told the reporters

“Ajay Sancheti, whose only claim to the membership of the BJP national executive is his proximity to Gadkari, has a benami flat in Adarsh Housing Society in the name of his driver”

8. That the accused thereafter once again made false, reckless, baseless, and malicious imputations against the complainant in the course of Television debates conducted and aired by the Times Now, News Channel between 9 to 10 p.m. on 10.11.2010 stating that

“Mr. Sudhansu Mittal, who has been one of senior kingpin of Common Wealth Games Scam, why has not BJP taken action against him because he is a business partner of their President Mr. Nitin Gadkari

I am making direct charges, Bhartiya Janta Party Cheating, it is very easy he says, Sudhansu Mittal who?

What is the action Bhaitya Janta Party has taken against Mr. Sudhanshu Mittal who was a former member of Bhartiya Janta Party National Executive & continues to be the member of both the committees of BJP?”

The per se defamatory statements of the Accused were aired by electronic media time and again through out the nation and even internationally. The Complainant craves leave to refer to and rely upon the CD recording of the said program and of the News broadcast wherein the said defamatory statement of the accused was time and again broadcast.

9. The Complainant further states that the said per se defamatory statements were also published by the print media in almost all newspapers through out the Country and even internationally. The said per se defamatory statements were published in almost all editions of the Times of India issue of 11<sup>th</sup> November 2010 under the headline “Gadkari Owns Adarsh Flat by Proxy: Cong” wherein the defamatory imputation has been quoted as under:

*“Ajay Sancheti, whose only claim to membership of the BJP national executive is his proximity to Gadkari, has a benami flat in Adarsh Society in the name of his driver”, party spokesman Manish Tewari’s said. He said a driver*

*with a monthly salary of Rs.8,000/- could not purchase a Rs.60 lakh flat in tony Colaba. TOI had carried a report to this effect in its edition of November 7”.*

10. That in Mumbai edition of Times of India issue dated 11.11.10 the per se defamatory statement of the accused was published under Headlines

## **Gadkari holding benami flat in Adarsh: Congress”**

wherein the defamatory imputation has been quoted as under:

Rattled by the opposition battering treasury benches over corruption, the Congress on Wednesday retaliated by accusing BJP chief Nitin Gadkari of holding a benami flat in the scam-tainted Adarsh Housing Society.

*“Ajay Sancheti, whose only claim to the membership of the BJP national executive is his proximity to Gadkari, has a benami flat in Adarsh Housing Society in the name of his driver,” Congress spokesman Manish Tiwari told reporters. He said a driver with a monthly salary of a little over Rs 8,000 could not purchase a Rs 60-lakh flat in tony Colaba.*

*In Nagpur political circles, the Sanchetis are known to be close to the Gadkari family and Sancheti’s uncle, Chainsukh, is a BJP legislator from Malkapur in Buldhana district.”*

The Complainant craves leave to refer to and rely upon the said article published in Mumbai edition of Times of India issue dated 11.11.10 as and when required. Annexed hereto and marked as **Exhibit “A”** is the copy of the said article.

11. That the accused has uttered defamatory falsehoods against the Complainant maliciously and recklessly knowing the same to be false. The imputation against the Complainant has not been substantiated by an iota of evidence. They are the unfounded reckless assertions of a beleaguered spokesperson of a ruling party discredited by the several corrupt activities of its members and a shoddy attempt at salvaging the reputation of the ruling party by favoring leading political opponents with the same taint as afflicts the former. The allegations of the accused being without any factual basis are ex-facie defamatory of the Complainant. They have been made with the intention of lowering the reputation of the Complainant in the estimate of right thinking members of society and have infact damaged the Complainant's character in the estimate of viewers and readers alike of the Accused's widely published imputations against the Complainant in the print and electronic media. The Complainant neither owns nor has any interest in any flat in

Adarsh Co-operative building directly or indirectly, benami or ostensible. The Accuseds' assertions are manifestly false and the outcome of the manifest political malice.

12. The Complainant with a view to afford an opportunity to the accused to mitigate his misdeeds and criminal acts sent him a legal notice dated 11.11.10 through his Advocate Shri Bhupender Yadav, calling upon him to tender an unconditional apology within 72 hours of receiving the notice in the very Electronic and Print Media, in which he had defamed the Complainant. However the accused has to this day refused to tender any such unconditional apology. The accused has thus aggravated his liability , both civil and criminal . Annexed hereto and marked as **Exhibit "B"** is the copy of the said notice.
13. That in the facts afore stated, the accused is patently guilty of the offence of criminal defamation, punishable u/s. 500. The accused is thus liable to be summoned by this Hon'ble Court to answer a charge under the said section.
14. That as stated hereinabove the above referred defamatory statement was aired throughout India and were published in

print media throughout India including within the jurisdiction of this Hon'ble Court. This Hon'ble court can take cognizance of the offence committed by the accused.

The Complainant therefore prays that

- A. The accused be summoned, tried & punished in accordance with the law for the offence punishable u/s 499 & 500 of IPC & for such other offence as this Hon'ble Court finds him guilty in the course of the trial;
- B. For such further & other reliefs as this Hon'ble court may deem fit & proper.

Dated this    Day of November 2010

Complainant

At Bombay

**List of Witnesses**

1. The Complainant
2. Any other witness with the permission of this Hon'ble court.

### List of Documents

1. The articles referred hereinabove published in several news papers in their edition dated 11.11.2010 including the one published in Times of India Mumbai Edition.
2. Relevant video clippings of the accused making defamatory statements against the complainant aired in several news channel on 10.11.10 and 11.11.10
3. Legal notice dated 11.11.10 sent to the Accused
4. Any other documents with the permission of this Hon'ble Court.

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MAGISTRATE 8<sup>th</sup> COURT  
ESPLANADE MUMBAI, AT MUMBAI  
IN  
CASE OF 2010**

Nitin Gadkari .....

Complainant

Vs.

Manish Tiwai .....

Accused

**COMPLAINT U/S 500 OF IPC**  
**DATED THIS DAY OF DECEMBER**  
**2010**

SUNIL S. VICHARE

ADVOCATE FOR THE COMPLAINANT

Off. No.5, Saideep CHSL, Nr. Reliance

Fresh,

Vikhroli (E), Mumbai 400 083

Cell. 9324204592

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